

Physician Owned Pain Management Clinic Clarification Statement

As defined in statute and our emergency regulation 201 KAR 9:250, a pain management facility is defined as follows:

A Pain Management Facility means a facility where the majority of the patients receiving treatment from the practitioners at the facility are provided treatment for pain that includes the use of controlled substances, and:

- (i) The facility's practice component is the treatment of pain; or*
- (ii) The facility advertises in any medium for any type of pain management services.*

Section 9 of 201 KAR 9:250 then goes on to provide that the Board may establish that a particular practice is a pain management facility subject to the requirements of the regulation if the Board can show that:

1. For any 30-day period, the majority of patients listed on the daily sign-in sheets received controlled substances or a prescription for controlled substances during that period
AND
2. (a) A primary component of the practice was the treatment of pain; OR
3. (b) The facility advertised in any medium for any type of pain management services.

There has been some concern that a practice that never intended to be a "pain management facility" may qualify as one and be subject to all of the requirements of 201 KAR 9:250 simply because more than half of their patients received controlled substances or a prescription for controlled substances during a particular 30-day period selected by the Board. The Board would reassure those practices that is not the case.

Under the regulation, a practice does not become a "pain management facility" simply because half of its patients in any given 30-day period received a prescription for controlled substances. In order to establish that particular practice was, in fact, a "pain management facility," the Board would also have to establish one or both of the following facts:

- a. A primary component of that practice was the treatment of pain; or
- b. The facility advertised in any medium for any type of pain management services.

The Board must establish both of these qualifiers before a practice would be considered a "pain management facility" for purposes of this regulation.

The Board hopes that this statement helps to clarify this issue. In the event that you have additional questions, please feel free to contact our office.