STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL

April 23, 2014

Opinion No. 14-49

Administering Spinal Injections in Unlicensed Settings

QUESTION

Is a licensed physician who is permitted to administer spinal injections in a licensed health-care facility also permitted to give spinal injections in an unlicensed setting, even though the physician is not board certified as required by Tenn. Code Ann. § 63-6-244?

OPINION

No. Unless a licensed physician is board certified by one of the certifying organizations identified in Tenn. Code Ann. § 63-6-244, or meets one of the other statutory requirements, the physician may not practice "interventional pain management," which by definition involves administering spinal injections in an unlicensed setting.

ANALYSIS

Tenn. Code Ann. § 63-6-244 provides that a licensed physician may practice "interventional pain management" only if the licensee meets one of the five statutory requirements. Three of these involve some element of board certification through the American Board of Medical Specialties or the American Board of Physician Specialties/American Association of Physician Specialties. § 63-6-244(a)(1)-(3).[1] The other two would allow a licensed physician to practice interventional pain management if he or she serves as a clinical instructor in pain medicine at an accredited Tennessee training program or has an active pain-management practice in an accredited clinic. *Id.* § 63-6-244(a)(4)-(5). Interventional pain management under this statute is "the practice of performing invasive procedures involving any portion of the spine, spinal cord, sympathetic nerves of the spine or block of major

[1] Subdivision (a)(2) applies to a recent graduate who is not yet eligible for board certification, requiring a practice relationship with a physician who is board certified, and subdivision (a)(1)(F) allows for "other board certification" if the physician has completed an ABMS subspecialty board in pain medicine or a pain fellowship accredited by the Accreditation Council for Graduate Medical Education (ACGME).

peripheral nerves of the spine in any setting not licensed under title 68, chapter 11." *Id.* § 63-6-244(b).

A spinal injection is an invasive procedure involving the spine. *See* Tenn. Code Ann. §§ 63-7-126(f), 63-19-107(5)(A) (providing that advanced-practice nurses and physician assistants may perform invasive procedures involving the spine only under the direct supervision of a licensed physician "who is actively practicing spinal injections").[2] Practicing such a procedure in an unlicensed setting thus constitutes "interventional pain management," which a licensed physician may not do unless he or she is board certified as provided by the statute or meets one of the other statutory requirements.

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[2] Both of these statutory provisions were added as part of the legislation that added § 63-6-244. *See* 2012 Tenn. Pub. Acts,, ch. 961, §§ 1, 3-4; *see also* Tenn. Code Ann. § 63-6-244(d) (requiring physician who provides direct supervision of advanced-practice nurse or physician's assistant to meet the board-certification requirements of the statute).