



Appropriations Committee

Action Packet

Tuesday, April 12, 2011
9:00 AM – 12:00 PM
212 Knott Building

Dean Cannon
Speaker

Denise Grimsley
Chair

COMMITTEE MEETING REPORT

Appropriations Committee

4/12/2011 9:00:00AM

Location: Webster Hall (212 Knott)

Summary:

Appropriations Committee

Tuesday April 12, 2011 09:00 am

CS/CS/CS/HJR 381 Not Considered

CS/HB 567 Favorable Yeas: 23 Nays: 0

CS/HB 1125 Not Considered

CS/HB 1163 Not Considered

CS/HB 1231 Favorable Yeas: 23 Nays: 0

CS/HB 1277 Not Considered

CS/HB 7095 Favorable With Committee Substitute Yeas: 24 Nays: 0

Amendment 1 Adopted

Amendment 1a Withdrawn

Amd 1 to Amd 1

Amendment 2a Adopted

Amd 2 to Amd 1

Amendment 3a Failed to Adopt Yeas: 5 Nays: 19

Amd 3 to Amd 1

HB 7215 Not Considered

HJR 7221 Favorable Yeas: 14 Nays: 10

Committee meeting was reported out: Tuesday, April 12, 2011 2:57:09PM

COMMITTEE MEETING REPORT

Appropriations Committee

4/12/2011 9:00:00AM

Location: Webster Hall (212 Knott)

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Denise Grimsley (Chair)	X		
Leonard Bemby	X		
Charles Chestnut IV	X		
Marti Coley	X		
Joseph Gibbons	X		
Richard Glorioso	X		
Ed Hooper	X		
Mike Horner	X		
Matt Hudson	X		
Dorothy Hukill	X		
Mia Jones	X		
Martin Kiar	X		
Paige Kreegel	X		
John Legg	X		
Carlos Lopez-Cantera	X		
Seth McKeel	X		
H. Marlene O'Toole	X		
William Proctor	X		
Darryl Rouson	X		
Franklin Sands	X		
Ron Saunders	X		
Robert Schenck	X		
William Snyder	X		
Trudi Williams	X		
Totals:	24	0	0

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COMMITTEE MEETING REPORT

Appropriations Committee

4/12/2011 9:00:00AM

Location: Webster Hall (212 Knott)

CS/CS/CS/HJR 381 : Property Assessment, Homestead and Specified Nonhomestead Value Decline; Nonhomestead Increase Limitation Reduction; Additional Homestead Exemption; Scheduled Repeal Deletion

Not Considered

Committee meeting was reported out: Tuesday, April 12, 2011 2:57:09PM

COMMITTEE MEETING REPORT

Appropriations Committee

4/12/2011 9:00:00AM

Location: Webster Hall (212 Knott)

CS/HB 567 : Judgment Interest

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Leonard Bemby	X				
Charles Chestnut IV	X				
Marti Coley	X				
Joseph Gibbons	X				
Richard Glorioso	X				
Ed Hooper	X				
Mike Horner	X				
Matt Hudson	X				
Dorothy Hukill				X	
Mia Jones	X				
Martin Kiar	X				
Paige Kreegel	X				
John Legg	X				
Carlos Lopez-Cantera	X				
Seth McKeel	X				
H. Mariene O'Toole	X				
William Proctor	X				
Darryl Rouson	X				
Franklin Sands	X				
Ron Saunders	X				
Robert Schenck	X				
William Snyder	X				
Trudi Williams	X				
Denise Grimsley (Chair)	X				
Total Yeas: 23		Total Nays: 0			

Appearances:

CS/HB 567

Sanford, Paul (Lobbyist) - Waive In Support

JM Family Enterprises, Inc

106 S Monroe St

Tallahassee Florida 32301

Phone: (850)222-7200

CS/HB 567

Adams, Leticia M (Lobbyist) - Waive In Support

Florida Chamber of Commerce

136 South Bronough Street

Tallahassee Florida 32301

Phone: 850-521-1279

Committee meeting was reported out: Tuesday, April 12, 2011 2:57:09PM

COMMITTEE MEETING REPORT

Appropriations Committee

4/12/2011 9:00:00AM

Location: Webster Hall (212 Knott)

CS/HB 567

Perdue, Tammy (Lobbyist) - Waive In Support

Associated Industries of Florida

516 N Adams St

Tallahassee Florida 32301

Phone: 850-224-7173

Committee meeting was reported out: Tuesday, April 12, 2011 2:57:09PM

COMMITTEE MEETING REPORT

Appropriations Committee

4/12/2011 9:00:00AM

Location: Webster Hall (212 Knott)

CS/HB 1125 : Florida Health Choices Program

Not Considered

Committee meeting was reported out: Tuesday, April 12, 2011 2:57:09PM

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Appropriations Committee

4/12/2011 9:00:00AM

Location: Webster Hall (212 Knott)

CS/HB 1163 : Ad Valorem Taxation

Not Considered

Committee meeting was reported out: Tuesday, April 12, 2011 2:57:09PM

COMMITTEE MEETING REPORT

Appropriations Committee

4/12/2011 9:00:00AM

Location: Webster Hall (212 Knott)

CS/HB 1231 : Telecommunications

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Leonard Bemby	X				
Charles Chestnut IV	X				
Marti Coley	X				
Joseph Gibbons	X				
Richard Glorioso	X				
Ed Hooper	X				
Mike Horner	X				
Matt Hudson	X				
Dorothy Hukill				X	
Mia Jones	X				
Martin Klar	X				
Paige Kreegel	X				
John Legg	X				
Carlos Lopez-Cantera	X				
Seth McKeel	X				
H. Marlene O'Toole	X				
William Proctor	X				
Darryl Rouson	X				
Franklin Sands	X				
Ron Saunders	X				
Robert Schenck	X				
William Snyder	X				
Trudi Williams	X				
Denise Grimsley (Chair)	X				
Total Yeas: 23					
		Total Nays: 0			

Appearances:

CS/HB 1231

Johnson, Christina (Lobbyist) - Waive In Support
 Citizens for a Digital Future
 200 W. College Ave. Suite 210
 Tallahassee FL 32301
 Phone: (850)391-5040

CS/HB 1231

Perry, Gail Marie (General Public) - Opponent
 Communications Workers of America/Council of Florida
 PO Box 1766
 Pompano FL 33061
 Phone: (954)850-4055

CS/HB 1231

Haverlah, Mark Allen (General Public) - Opponent
 3435 Treaty Oak Trail
 Tallahassee FL 32312
 Phone: (850)509-4137

Committee meeting was reported out: Tuesday, April 12, 2011 2:57:09PM

COMMITTEE MEETING REPORT

Appropriations Committee

4/12/2011 9:00:00AM

Location: Webster Hall (212 Knott)

CS/HB 1231

McRay, Jack (Lobbyist) - Opponent

AARP

200 W College Ave Ste 304

Tallahassee FL 32301

Phone: (850)577-5187

CS/HB 1231

Adams, Leticia (Lobbyist) - Waive In Support

Florida Chamber of Commerce

136 S. Bronough St.

Tallahassee FL 32301

Phone: (850) 521-1279

CS/HB 1231

Landry, Dale (General Public) - Proponent

Tallahassee Branch NAACP

Tallahassee FL

Phone: (850)459-3460

CS/HB 1231

Watkins, Roosevelt (Lobbyist) - Proponent

Ministerial Allience Against Digital Divide

9231 S. Cottage Dr.

Chicago Illinois 60619

Phone: (773)569-8282

CS/HB 1231

Perdue, Tammy (Lobbyist) - Waive In Support

Associated Industries of Florida

516 N. Adams St.

Tallahassee FL 32301

Phone: (850)224-7173

CS/HB 1231

Robinson, Michelle (Lobbyist) - Waive In Support

Verizon

PO Box 110 MC: FLTP0195

Tampa FL 33601

Phone: (813)483-1285

CS/HB 1231

Kandrach, Matthew (General Public) - Proponent

60 PLYS Association

515 King St. Suite 315

Alexandria VA 22314

Phone: (703)807-2070

Committee meeting was reported out: Tuesday, April 12, 2011 2:57:09PM

COMMITTEE MEETING REPORT

Appropriations Committee

4/12/2011 9:00:00AM

Location: Webster Hall (212 Knott)

CS/HB 1277 : Sexual Offenders and Predators

Not Considered

Committee meeting was reported out: Tuesday, April 12, 2011 2:57:09PM

COMMITTEE MEETING REPORT

Appropriations Committee

4/12/2011 9:00:00AM

Location: Webster Hall (212 Knott)

CS/HB 7095 : Controlled Substances

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Leonard Bemby	X				
Charles Chestnut IV	X				
Marti Coley	X				
Joseph Gibbons	X				
Richard Glorioso	X				
Ed Hooper	X				
Mike Horner	X				
Matt Hudson	X				
Dorothy Hukill	X				
Mia Jones	X				
Martin Klar	X				
Paige Kreegel	X				
John Legg	X				
Carlos Lopez-Cantera	X				
Seth McKeel	X				
H. Marlene O'Toole	X				
William Proctor	X				
Darryl Rouson	X				
Franklin Sands	X				
Ron Saunders	X				
Robert Schenck	X				
William Snyder	X				
Trudi Williams	X				
Denise Grimsley (Chair)	X				
Total Yeas: 24		Total Nays: 0			

CS/HB 7095 Amendments

Amendment 1

Adopted

Amendment 1a - Amd 1 to Amd 1

Withdrawn

Amendment 2a - Amd 2 to Amd 1

Adopted

Committee meeting was reported out: Tuesday, April 12, 2011 2:57:09PM

COMMITTEE MEETING REPORT

Appropriations Committee

4/12/2011 9:00:00AM

Location: Webster Hall (212 Knott)

Amendment 3a - Amd 3 to Amd 1

Failed to Adopt

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Leonard Bemby	X				
Charles Chestnut IV	X				
Marti Coley		X			
Joseph Gibbons	X				
Richard Glorioso		X			
Ed Hooper		X			
Mike Horner		X			
Matt Hudson		X			
Dorothy Hukill		X			
Mia Jones		X			
Martin Klar		X			
Paige Kreegel		X			
John Legg		X			
Carlos Lopez-Cantera		X			
Seth McKeel		X			
H. Marlene O'Toole		X			
William Proctor		X			
Darryl Rouson	X				
Franklin Sands		X			
Ron Saunders	X				
Robert Schenck		X			
William Snyder		X			
Trudi Williams		X			
Denise Grimsley (Chair)		X			
Total Yays: 5		Total Nays: 19			

Appearances:

CS/HB 7095

Bondi, Pam (State Employee) - Proponent

Attorney General

PL 01, The Capitol

Tallahassee FL 32399

Phone: (850) 245-0184

Committee meeting was reported out: Tuesday, April 12, 2011 2:57:09PM

COMMITTEE MEETING REPORT

Appropriations Committee

4/12/2011 9:00:00AM

Location: Webster Hall (212 Knott)
CS/HB 7095 Strike - All Amendment
Driscoll, Jim - Waive In Opposition
Independent Pharmacy Cooperation
1550 Columbus St
Sun Prairie Wisconsin
Phone: 608-469-9913

CS/HB 7095 Strike - All Amendment
Large, Toni (Lobbyist) - Proponent
Florida Orthopaedic Society
519 E Park Ave
Tallahassee FL 32308
Phone: (850)201-0888

CS/HB 7095 Strike - All Amendment
West, Sally (Lobbyist) - Information Only
Florida Retail Federation
PO Box 10024
Tallahassee FL 32302-2024
Phone: (850)222-4082

CS/HB 7095 Strike - All Amendment
Jackson, Michael (Lobbyist) - Opponent
Florida Pharmacy Association
610 N Adams St
Tallahassee FL 32301
Phone: (850)222-2400

CS/HB 7095 Strike - All Amendment
Winn, Stephen (Lobbyist) - Waive In Opposition
Florida Osteopathic Medical Association
2007 Apalachee Pky
Tallahassee FL 32301
Phone: (850)878-7463

CS/HB 7095 Strike - All Amendment
LaGamba, William - Opponent
APS PHcy
5421 Karlsburg Place
Palm Harbor Florida 34685
Phone: 727-480-0094

CS/HB 7095 Strike - All Amendment
Abbott, Shane - Opponent
1337 US Hwy 90 West
Defuniak Springs Florida 32433
Phone: 850-892-6898

CS/HB 7095 Strike - All Amendment
Scott, Jeffery - Opponent
Florida Pharmacist
1500 Ohio Ave S
Live Oak Florida 32064
Phone: 386-362-2591

Committee meeting was reported out: Tuesday, April 12, 2011 2:57:09PM

COMMITTEE MEETING REPORT

Appropriations Committee

4/12/2011 9:00:00AM

Location: Webster Hall (212 Knott)

CS/HB 7095 Strike - All Amendment

Mincy, Bill - Information Only

1,200 Independent Pharmacies

2648 Bantry Bay Drive

Tallahassee Florida 32309

Phone: 850-322-7740

CS/HB 7095 Strike - All Amendment

Powers, Jim - Opponent

Independent Pharmacies

1349 Old Village Road

Tallahassee Florida 32312

Phone: 850-422-0079

CS/HB 7095 Strike - All Amendment

Adams, N. Lois - Opponent

FIPN - Independent Pharmacy Freedom & Cystic Fibrosis Pharmacy

3901 E. Colonial Dr

Orlando Florida 32803

Phone: 407-898-4427

CS/HB 7095 Strike - All Amendment

Biszick, Meryl - Waive In Opposition

Florida Pharmacy

3901 E Colonial Drive

Orlando Florida 32803

Phone: 407-898-4427

CS/HB 7095 Strike - All Amendment

Zoobi, Omar - Opponent

Metropharmacy, LLC

2238 Kettle Drive

Orlando Florida 32835

Phone: 321-438-6145

CS/HB 7095 Strike - All Amendment

Zoobi, Omar - Opponent

Metropharmacy, LLC

2238 Kettle Drive

Orlando Florida 32835

Phone: 321-438-6145

CS/HB 7095 Strike - All Amendment

Fisher-Bezick, Linda (At Request Of Chair) - Opponent

All North Florida Pharmacies

683 NW Garefowl St

Greenville Florida 32331

Phone: 850-464-7049

Committee meeting was reported out: Tuesday, April 12, 2011 2:57:09PM

COMMITTEE MEETING REPORT

Appropriations Committee

4/12/2011 9:00:00AM

Location: Webster Hall (212 Knott)
CS/HB 7095 Strike - All Amendment
Pratt, Kenneth (Lobbyist) - Waive In Support
Florida League of Cities
301 S Bronough St Suite 300
Tallahassee FL 32301
Phone: (850)701-3676

Committee meeting was reported out: Tuesday, April 12, 2011 2:57:09PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7095 (2011)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Adopted
4-12-11

1 Committee/Subcommittee hearing bill: Appropriations Committee
2 Representative(s) Schenck offered the following:

4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

7 Section 1. Paragraph (mm) is added to subsection (1) of
8 section 456.072, Florida Statutes, and subsection (7) is
9 amended, and subsection (8) is created, to read:

10 456.072 Grounds for discipline; penalties; enforcement.-

11 (1) The following acts shall constitute grounds for which
12 the disciplinary actions specified in subsection (2) may be
13 taken:

14 (mm) Failure to comply with controlled substance
15 prescribing requirements of s. 456.44.

16 (7) Any licensee who has been found to over-prescribe or
17 inappropriately prescribe controlled substances in violation of
18 ss. 456.44, 458.331(1)(t) or (q), 459.015(t) or (x),
19 461.013(1)(o) or (s), or 466.028(1)(p) or (x), shall be

Amendment No. 1

20 suspended for a period of no less than six months and pay a fine
21 of no less than \$10,000.00 per count. Repeated violations shall
22 result in increased penalties.

23 (8) The purpose of this section is to facilitate uniform
24 discipline for those actions made punishable under this section
25 and, to this end, a reference to this section constitutes a
26 general reference under the doctrine of incorporation by
27 reference.

28 Section 2. Section 456.42, Florida Statutes, is amended to
29 read:

30 456.42 Written prescriptions for medicinal drugs.-

31 (1) A written prescription for a medicinal drug issued by
32 a health care practitioner licensed by law to prescribe such
33 drug must be legibly printed or typed so as to be capable of
34 being understood by the pharmacist filling the prescription;
35 must contain the name of the prescribing practitioner, the name
36 and strength of the drug prescribed, the quantity of the drug
37 prescribed, and the directions for use of the drug; must be
38 dated; and must be signed by the prescribing practitioner on the
39 day when issued. ~~A written prescription for a controlled~~
40 ~~substance listed in chapter 893 must have the quantity of the~~
41 ~~drug prescribed in both textual and numerical formats and must~~
42 ~~be dated with the abbreviated month written out on the face of~~
43 ~~the prescription.~~ However, a prescription that is electronically
44 generated and transmitted must contain the name of the
45 prescribing practitioner, the name and strength of the drug
46 prescribed, the quantity of the drug prescribed in numerical
47 format, and the directions for use of the drug and must be dated

Amendment No. 1

48 and signed by the prescribing practitioner only on the day
49 issued, which signature may be in an electronic format as
50 defined in s. 668.003(4).

51 (2) A written prescription for a controlled substance
52 listed in chapter 893 must have the quantity of the drug
53 prescribed in both textual and numerical formats and must be
54 dated with the abbreviated month written out on the face of the
55 prescription, and must be either written on a standardized
56 counterfeit-proof prescription pad produced by a vendor approved
57 by the department, or electronically prescribed, as that term is
58 used in s. 408.0611. As a condition of being an approved vendor,
59 prescription pad vendors must submit a report monthly to the
60 department which, at a minimum, documents the number of
61 prescription pads sold and identifies the purchasers. The
62 department may require reporting of additional information by
63 rule.

64 Section 3. Section 456.44, Florida Statutes, is created to
65 read:

66 456.44 Controlled Substance Prescribing.-

67 (1) Definitions.

68 (a) "Adverse incident" means any incident set forth in s.
69 458.351(4)(a)-(e), or s. 459.026(4)(a)-(e).

70 (b) "Board-certified pain management physician" means a
71 physician who possesses board certification by a specialty board
72 recognized by the American Board of Medical Specialties and
73 holds a sub-specialty certification in pain medicine, or who
74 possesses board certification in pain medicine by the American
75 Board of Pain Medicine.

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76 (c) "Addiction medicine specialist" means a board-
77 certified psychiatrist with a sub-specialty certification in
78 addiction medicine or who is eligible for such subspecialty
79 certification in addiction medicine or an addiction medicine
80 physician certified or eligible for certification by the
81 American Society of Addiction Medicine.

82 (d) "Mental health addiction facility" means a facility
83 licensed pursuant to chapters 394 or 397.

84 (2) Registration. Effective January 1, 2012, a physician
85 licensed under chapters 458, 459, 461 or 466, who prescribes any
86 controlled substance, as defined in s. 893.03, for the treatment
87 of chronic, non-cancer pain, must:

88 (a) Register with her or his professional licensing board
89 as a controlled substance prescribing practitioner and pay a fee
90 of \$100 at the time of such registration and upon each renewal
91 of her or his license.

92 (b) Comply with the requirements of this section and
93 applicable board rules.

94 (3) Standards of Practice. The standards of practice as
95 set forth in this section shall not be construed to supersede
96 the level of care, skill, and treatment recognized in general
97 law related to healthcare licensure.

98 (a) Evaluation of Patient and Medical Diagnosis. A
99 complete medical history and a physical examination must be
100 conducted prior to commencement of any treatment and documented
101 in the medical record. The exact components of the physical
102 examination shall be left to the judgment of the clinician who
103 is expected to perform a physical examination proportionate to

Amendment No. 1

104 the diagnosis that justifies a treatment. The medical record
105 must, at a minimum, document the nature and intensity of the
106 pain, current and past treatments for pain, underlying or
107 coexisting diseases or conditions, the effect of the pain on
108 physical and psychological function, a review of prior medical
109 records, previous diagnostic studies, and history of alcohol and
110 substance abuse. The medical record shall also document the
111 presence of one or more recognized medical indications for the
112 use of a controlled substance. Each registrant must develop a
113 written plan for assessing each patient's risk of aberrant drug-
114 related behavior, which may include patient drug testing.
115 Registrants must assess each patient's risk for aberrant drug-
116 related behavior and monitor that risk on an ongoing basis, in
117 accordance with the plan.

118 (b) Treatment Plan. Each registrant must develop a written
119 individualized treatment plan for each patient. The treatment
120 plan shall state objectives that will be used to determine
121 treatment success, such as pain relief and improved physical and
122 psychosocial function, and shall indicate if any further
123 diagnostic evaluations or other treatments are planned. After
124 treatment begins, the physician shall adjust drug therapy to the
125 individual medical needs of each patient. Other treatment
126 modalities, including a rehabilitation program, shall be
127 considered depending on the etiology of the pain and the extent
128 to which the pain is associated with physical and psychosocial
129 impairment. The interdisciplinary nature of the treatment plan
130 shall be documented.

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131 (c) Informed Consent and Agreement for Treatment. The
132 physician shall discuss the risks and benefits of the use of
133 controlled substances including the risks of abuse and
134 addiction, as well as physical dependence and its consequences,
135 with the patient, persons designated by the patient, or with the
136 patient's surrogate or guardian if the patient is incompetent.
137 The physician shall employ the use of a written controlled
138 substance agreement between physician and patient outlining
139 patient responsibilities, including, but not limited to:

140 1. Number and frequency of controlled substance
141 prescriptions and refills;

142 2. Patient compliance and reasons for which drug therapy
143 may be discontinued (e.g., violation of agreement); and

144 3. Agreement that controlled substances for the treatment
145 of chronic nonmalignant pain shall be prescribed by a single
146 treating physician unless otherwise authorized by the treating
147 physician and documented in the medical record.

148 (d) Periodic Review. The patient shall be seen by the
149 physician at regular intervals, not to exceed three months, to
150 assess the efficacy of treatment, assure that controlled
151 substance therapy remains indicated, evaluate the patient's
152 progress toward treatment objectives, consider adverse drug
153 effects and review the etiology of the pain. Continuation or
154 modification of therapy shall depend on the physician's
155 evaluation of the patient's progress. If treatment goals are not
156 being achieved, despite medication adjustments, the physician
157 shall reevaluate the appropriateness of continued treatment. The
158 physician shall monitor patient compliance in medication usage,

Amendment No. 1

159 related treatment plans, controlled substance agreements, and
160 indications of substance abuse or diversion at a minimum of
161 three-month intervals.

162 (e) Consultation. The physician shall refer the patient as
163 necessary for additional evaluation and treatment in order to
164 achieve treatment objectives. Special attention shall be given
165 to those patients who are at risk for misusing their medications
166 and those whose living arrangements pose a risk for medication
167 misuse or diversion. The management of pain in patients with a
168 history of substance abuse or with a comorbid psychiatric
169 disorder requires extra care, monitoring, and documentation, and
170 requires consultation with or referral to an addictionologist or
171 psychiatrist.

172 (f) Patient Medical Records. A physician registered under
173 this section must maintain accurate, current and complete
174 records which are accessible and readily available for review
175 and comply with the requirements of this section, the applicable
176 practice act, and applicable board rules. The medical records
177 must include, but are not limited to:

- 178 1. The complete medical history and a physical examination,
179 including history of drug abuse or dependence;
- 180 2. Diagnostic, therapeutic, and laboratory results;
- 181 3. Evaluations and consultations;
- 182 4. Treatment objectives;
- 183 5. Discussion of risks and benefits;
- 184 6. Treatments;
- 185 7. Medications (including date, type, dosage, and quantity
186 prescribed);

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7095 (2011)

Amendment No. 1

- 187 8. Instructions and agreements;
188 9. Periodic reviews;
189 10. Results of any drug testing;
190 11. A photocopy of the patient's government-issued photo
191 identification; and
192 12. If a written prescription for a controlled substance is
193 given to the patient, a duplicate of said prescription;
194 13. The physician's full name presented in a legible
195 manner.
- 196 (g) Prescription Log. Registrants must maintain a current
197 and accurate log of all prescriptions for controlled substances.
198 The log must not contain patient identifiable information,
199 but must distinguish unduplicated patients. Registrants must
200 make the log available to the department and law enforcement
201 agencies upon request.
- 202 (h) Denial or Termination of Controlled Substance Therapy.
203 Patients with signs or symptoms of substance abuse, shall be
204 immediately referred to a board-certified pain management
205 physician, an addiction medicine specialist, or a mental health
206 addiction facility as it pertains to drug abuse or addiction
207 unless the physician is board-certified or board-eligible in
208 pain management. Throughout the period of time prior to
209 receiving the consultant's report, a prescribing physician shall
210 clearly and completely document medical justification for
211 continued treatment with controlled substances and those steps
212 taken to assure medically appropriate use of controlled
213 substances by the patient. Upon receipt of the consultant's
214 written report, the prescribing physician will incorporate the

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7095 (2011)

Amendment No. 1

215 consultant's recommendations for continuing, modifying, or
216 discontinuing controlled substance therapy. The resulting
217 changes in treatment shall be specifically documented in the
218 patient's medical record. Evidence or behavioral indications of
219 diversion shall be followed by discontinuation of controlled
220 substance therapy and the patient shall be discharged and all
221 results of testing and actions taken by the physician shall be
222 documented in the patient's medical record.

223

224 This subsection does not apply to a board-certified physician
225 who has completed a fellowship in pain medicine approved by the
226 American Accreditation Council for Graduate Medical Education or
227 who is board-certified in pain medicine by a board approved by
228 the American Board of Medical Specialties and performs
229 interventional pain procedures of the type routinely billed
230 using surgical codes.

231 Section 4. Section 458.3265, Florida Statutes, is amended
232 to read:

233 458.3265 Pain-management clinics.—

234 (1) REGISTRATION.—

235 (a) "Pain-management clinic", hereinafter referred to as
236 "clinic", means a publicly or privately owned facility where in
237 any month a majority of patients are prescribed opioids,
238 benzodiazepines, barbiturates, or carisoprodol, for the
239 treatment of chronic nonmalignant pain. "Chronic nonmalignant
240 pain is pain unrelated to cancer or rheumatoid arthritis which
241 persists beyond the usual course of disease or the injury that
242 is the cause of the pain or more than 90 days after surgery.All

Amendment No. 1

243 ~~privately owned pain management clinics, facilities, or offices,~~
244 ~~hereinafter referred to as "clinics," which advertise in any~~
245 ~~medium for any type of pain management services, or employ a~~
246 ~~physician who is primarily engaged in the treatment of pain by~~
247 ~~prescribing or dispensing controlled substance medications, All~~
248 pain-management clinics must register with the department
249 unless:

250 1. That clinic is licensed as a facility pursuant to
251 chapter 395;

252 2. The majority of the physicians who provide services in
253 the clinic primarily provide surgical services;

254 3. The clinic is owned by a publicly held corporation
255 whose shares are traded on a national exchange or on the over-
256 the-counter market and whose total assets at the end of the
257 corporation's most recent fiscal quarter exceeded \$50 million;

258 4. The clinic is affiliated with an accredited medical
259 school at which training is provided for medical students,
260 residents, or fellows;

261 5. The clinic does not prescribe ~~or dispense~~ controlled
262 substances for the treatment of pain; ~~or~~

263 6. The clinic is owned by a corporate entity exempt from
264 federal taxation under 26 U.S.C. s. 501(c)(3); or

265 7. The clinic is wholly owned and operated by a board-
266 certified anesthesiologist, physiatrist, neurologist, or another
267 medical specialist who has completed a fellowship in pain
268 medicine approved by the Accreditation Council for Graduate
269 Medical Education or who is board certified in pain medicine by
270 a board approved by the American Board of Medical Specialties,

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271 and that medical specialist performs interventional pain
272 procedures of the type routinely billed using surgical codes, or
273 is wholly owned and operated by a group of such specialists.

274 (b) Each clinic location shall be registered separately
275 regardless of whether the clinic is operated under the same
276 business name or management as another clinic.

277 (c) As a part of registration, a clinic must designate a
278 physician who is responsible for complying with all requirements
279 related to registration and operation of the clinic in
280 compliance with this section. Within 10 days after termination
281 of a designated physician, the clinic must notify the department
282 of the identity of another designated physician for that clinic.
283 The designated physician shall have a full, active, and
284 unencumbered license under this chapter or chapter 459 and shall
285 practice at the clinic location for which the physician has
286 assumed responsibility. Failing to have a licensed designated
287 physician practicing at the location of the registered clinic
288 may be the basis for a summary suspension of the clinic
289 registration certificate as described in s. 456.073(8) for a
290 license or s. 120.60(6).

291 (d) The department shall deny registration to any clinic
292 that is not fully owned by a physician licensed under this
293 chapter or chapter 459 or a group of physicians, each of whom is
294 licensed under this chapter or chapter 459; or that is not a
295 health care clinic licensed under part X of chapter 400.

296 (e) The department shall deny registration to any pain-
297 management clinic owned by or with any contractual or employment
298 relationship with a physician:

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299 1. Whose Drug Enforcement Administration number has ever
300 been revoked.

301 2. Whose application for a license to prescribe, dispense,
302 or administer a controlled substance has been denied by any
303 jurisdiction.

304 3. Who has been convicted of or pleaded guilty or nolo
305 contendere to, regardless of adjudication, an offense that
306 constitutes a felony for receipt of illicit and diverted drugs,
307 including a controlled substance listed in Schedule I, Schedule
308 II, Schedule III, Schedule IV, or Schedule V of s. 893.03, in
309 this state, any other state, or the United States.

310 (f) If the department finds that a pain-management clinic
311 does not meet the requirement of paragraph (d) or is owned,
312 directly or indirectly, by a person meeting any criteria listed
313 in paragraph (e), the department shall revoke the certificate of
314 registration previously issued by the department. As determined
315 by rule, the department may grant an exemption to denying a
316 registration or revoking a previously issued registration if
317 more than 10 years have elapsed since adjudication. As used in
318 this subsection, the term "convicted" includes an adjudication
319 of guilt following a plea of guilty or nolo contendere or the
320 forfeiture of a bond when charged with a crime.

321 (g) The department may revoke the clinic's certificate of
322 registration and prohibit all physicians associated with that
323 pain-management clinic from practicing at that clinic location
324 based upon an annual inspection and evaluation of the factors
325 described in subsection (3).

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326 (h) If the registration of a pain-management clinic is
327 revoked or suspended, the designated physician of the pain-
328 management clinic, the owner or lessor of the pain-management
329 clinic property, the manager, and the proprietor shall cease to
330 operate the facility as a pain-management clinic as of the
331 effective date of the suspension or revocation.

332 (i) If a pain-management clinic registration is revoked or
333 suspended, the designated physician of the pain-management
334 clinic, the owner or lessor of the clinic property, the manager,
335 or the proprietor is responsible for removing all signs and
336 symbols identifying the premises as a pain-management clinic.

337 (j) Upon the effective date of the suspension or
338 revocation, the designated physician of the pain-management
339 clinic shall advise the department of the disposition of the
340 medicinal drugs located on the premises. The disposition is
341 subject to the supervision and approval of the department.
342 Medicinal drugs that are purchased or held by a pain-management
343 clinic that is not registered may be deemed adulterated pursuant
344 to s. 499.006.

345 (k) If the clinic's registration is revoked, any person
346 named in the registration documents of the pain-management
347 clinic, including persons owning or operating the pain-
348 management clinic, may not, as an individual or as a part of a
349 group, apply to operate a pain-management clinic for 5 years
350 after the date the registration is revoked.

351 (l) The period of suspension for the registration of a
352 pain-management clinic shall be prescribed by the department,
353 but may not exceed 1 year.

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354 (m) A change of ownership of a registered pain-management
355 clinic requires submission of a new registration application.

356 (2) PHYSICIAN RESPONSIBILITIES.—These responsibilities
357 apply to any physician who provides professional services in a
358 pain-management clinic that is required to be registered in
359 subsection (1).

360 (a) A physician may not practice medicine in a pain-
361 management clinic, as described in subsection (4), if:

362 1. The pain-management clinic is not registered with the
363 department as required by this section; or

364 2. Effective July 1, 2012, the physician has not
365 successfully completed a pain-medicine fellowship that is
366 accredited by the Accreditation Council for Graduate Medical
367 Education or a pain-medicine residency that is accredited by the
368 Accreditation Council for Graduate Medical Education or, prior
369 to July 1, 2012, does not comply with rules adopted by the
370 board.

371

372 Any physician who qualifies to practice medicine in a pain-
373 management clinic pursuant to rules adopted by the Board of
374 Medicine as of July 1, 2012, may continue to practice medicine
375 in a pain-management clinic as long as the physician continues
376 to meet the qualifications set forth in the board rules. A
377 physician who violates this paragraph is subject to disciplinary
378 action by his or her appropriate medical regulatory board.

379 (b) A person may not dispense any medication, ~~including a~~
380 ~~controlled substance,~~ on the premises of a registered pain-

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381 management clinic unless he or she is a physician licensed under
382 this chapter or chapter 459.

383 (c) A physician must perform a physical examination of a
384 patient on the same day that he or she ~~dispenses or~~ prescribes a
385 controlled substance to a patient at a pain-management clinic.
386 If the physician prescribes ~~or dispenses~~ more than a 72-hour
387 dose of controlled substances for the treatment of chronic
388 nonmalignant pain, the physician must document in the patient's
389 record the reason for prescribing ~~or dispensing~~ that quantity.

390 (d) A physician authorized to prescribe controlled
391 substances who practices at a pain-management clinic is
392 responsible for maintaining the control and security of his or
393 her prescription blanks and any other method used for
394 prescribing controlled substance pain medication. The physician
395 shall comply with the requirements for counterfeit-resistant
396 prescription blanks in s. 893.065 and the rules adopted pursuant
397 to that section. The physician shall notify, in writing, the
398 department within 24 hours following any theft or loss of a
399 prescription blank or breach of any other method for prescribing
400 pain medication.

401 (e) The designated physician of a pain-management clinic
402 shall notify the applicable board in writing of the date of
403 termination of employment within 10 days after terminating his
404 or her employment with a pain-management clinic that is required
405 to be registered under subsection (1). All physicians
406 practicing in pain-management clinics shall advise the Board of
407 Medicine in writing, within 10 calendar days of beginning or
408 ending his or her practice at a pain-management clinic.

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409 (i) Each physician practicing in a pain management clinic
410 is responsible for ensuring compliance with the following
411 facility and physical operations requirements.

412 1. A pain management clinic shall be located and operated
413 at a publicly accessible fixed location and shall contain the
414 following:

415 a. A sign that can be viewed by the public that contains
416 the clinic name, hours of operations, and a street address;

417 b. A publicly listed telephone number and a dedicated phone
418 number to send and receive faxes with a fax machine that shall
419 be operational twenty-four hours per day;

420 c. Emergency lighting and communications;

421 d. Reception and waiting area;

422 e. Restroom;

423 f. Administrative area including room for storage of
424 medical records, supplies and equipment;

425 g. Private patient examination room(s);

426 h. Treatment room(s) if treatment is being provided to the
427 patient;

428 i. A printed sign located in a conspicuous place in the
429 waiting room viewable by the public disclosing the name and
430 contact information of the clinic designated physician, and the
431 names of all physicians practicing in the clinic;

432 j. Clinics that store and dispense prescription drugs shall
433 comply with ss. 499.0121 and 893.07.

434 2. Nothing in this section shall excuse a physician from
435 providing any treatment or performing any medical duty without
436 the proper equipment and materials as required by the standard

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437 of care. This section shall not be construed to supersede the
438 level of care, skill, and treatment recognized in general law
439 related to healthcare licensure.

440 (j) Each physician practicing in a pain management clinic
441 is responsible for ensuring compliance with the following
442 infection control requirements.

443 1. The clinic shall maintain equipment and supplies to
444 support infection prevention and control activities.

445 2. The clinic shall identify infection risks based on the
446 following:

447 a. Geographic location, community, and population served;

448 b. The care, treatment and services it provides; and

449 c. An analysis of its infection surveillance and control
450 data.

451 3. The clinic shall maintain written infection prevention
452 policies and procedures that address the following:

453 a. Prioritized risks;

454 b. Limiting unprotected exposure to pathogen;

455 c. Limiting the transmission of infections associated with
456 procedures performed in the clinic; and

457 d. Limiting the transmission of infections associated with
458 the clinic's use of medical equipment, devices, and supplies.

459 (k) Each physician practicing in a pain management clinic
460 is responsible for ensuring compliance with the following health
461 and safety requirements.

462 1. The clinic, including its grounds, buildings, furniture,
463 appliances and equipment shall be structurally sound, in good
464 repair, clean, and free from health and safety hazards.

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465 2. The clinic shall have evacuation procedures in the event
466 of an emergency which shall include provisions for the
467 evacuation of disabled patients and employees.

468 3. The clinic shall have a written facility-specific
469 disaster plan which sets forth actions that will be taken in the
470 event of clinic closure due to unforeseen disasters which shall
471 include provisions for the protection of medical records and any
472 controlled substances.

473 4. Each clinic shall have at least one employee on the
474 premises during patient care hours that is certified in Basic
475 Life Support and is trained in reacting to accidents and medical
476 emergencies until emergency medical personnel arrive.

477 (1) The designated physician is responsible for ensuring
478 compliance with the following quality assurance requirements.
479 Each pain management clinic shall have an ongoing quality
480 assurance program that objectively and systematically monitors
481 and evaluates the quality and appropriateness of patient care,
482 evaluates methods to improve patient care, identifies and
483 corrects deficiencies within the facility, alerts the designated
484 physician to identify and resolve recurring problems, and
485 provides for opportunities to improve the facility's performance
486 and to enhance and improve the quality of care provided to the
487 public. The designated physician shall establish a quality
488 assurance program that includes the following components:

489 1. The identification, investigation, and analysis of the
490 frequency and causes of adverse incidents to patients,

491 2. The identification of trends or patterns of incidents,

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492 3. The development of measures to correct, reduce,
493 minimize, or eliminate the risk of adverse incidents to
494 patients, and

495 4. The documentation of these functions and periodic review
496 no less than quarterly of such information by the designated
497 physician.

498 (m) The designated physician is responsible for ensuring
499 compliance with the following data collection and reporting
500 requirements.

501 1. The designated physician for each pain-management clinic
502 shall report all adverse incidents to the department as set
503 forth in s. 458.351.

504 2. The designated physician shall also report to the Board
505 of Medicine, in writing, on a quarterly basis the following
506 data:

507 a. Number of new and repeat patients seen and treated at
508 the clinic who are prescribed controlled substance medications
509 for the treatment of chronic, non-malignant pain.

510 b. The number of patients discharged due to drug abuse.

511 c. The number of patients discharged due to drug diversion.

512 d. The number of patients treated at the pain clinic whose
513 domicile is located somewhere other than in Florida. A patient's
514 domicile is the patient's fixed or permanent home to which he
515 intends to return even though he may temporarily reside
516 elsewhere.

517 (4) RULEMAKING.—

518 (a) The department shall adopt rules necessary to
519 administer the registration and inspection of pain-management

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520 clinics which establish the specific requirements, procedures,
521 forms, and fees.

522 ~~(b) The department shall adopt a rule defining what~~
523 ~~constitutes practice by a designated physician at the clinic~~
524 ~~location for which the physician has assumed responsibility, as~~
525 ~~set forth in subsection (1). When adopting the rule, the~~
526 ~~department shall consider the number of clinic employees, the~~
527 ~~location of the pain management clinic, the clinic's hours of~~
528 ~~operation, and the amount of controlled substances being~~
529 ~~prescribed, dispensed, or administered at the pain management~~
530 ~~clinic.~~

531 ~~(c) The Board of Medicine shall adopt a rule establishing~~
532 ~~the maximum number of prescriptions for Schedule II or Schedule~~
533 ~~III controlled substances or the controlled substance Alprazolam~~
534 ~~which may be written at any one registered pain management~~
535 ~~clinic during any 24 hour period.~~

536 (d) The Board of Medicine shall adopt rules setting forth
537 standards of practice for physicians practicing in privately
538 owned pain management clinics that primarily engage in the
539 treatment of pain by prescribing or dispensing controlled
540 substance medications. Such rules shall address, but need not be
541 limited to:

- 542 1. ~~Facility operations;~~
- 543 2. ~~Physical operations;~~
- 544 3. ~~Infection control requirements;~~
- 545 4. ~~Health and safety requirements;~~
- 546 5. ~~Quality assurance requirements;~~
- 547 6. ~~Patient records;~~

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548 ~~7. Training requirements for all facility health care~~
549 ~~practitioners who are not regulated by another board.~~

550 ~~8. Inspections; and~~

551 ~~9. Data collection and reporting requirements.~~

552

553 ~~A physician is primarily engaged in the treatment of pain by~~
554 ~~prescribing or dispensing controlled substance medications when~~
555 ~~the majority of the patients seen are prescribed or dispensed~~
556 ~~controlled substance medications for the treatment of chronic~~
557 ~~nonmalignant pain. Chronic nonmalignant pain is pain unrelated~~
558 ~~to cancer which persists beyond the usual course of the disease~~
559 ~~or the injury that is the cause of the pain or more than 90 days~~
560 ~~after surgery.~~

561 (6) This section expires January 1, 2016.

562 Section 5. Paragraph (f) of subsection (1) of section
563 458.327, Florida Statutes, is created to read:

564 458.327 Penalty for violations.—

565 (1) Each of the following acts constitutes a felony of the
566 third degree, punishable as provided in s. 775.082, s. 775.083,
567 or s. 775.084:

568 (f) Dispensing a controlled substance listed in Schedule
569 II or Schedule III in violation of s. 465.0276.

570 Section 6. Paragraph (rr) of subsection (1) of section
571 458.331, Florida Statutes, is created to read:

572 458.331 Grounds for disciplinary action; action by the
573 board and department.—

574 (1) The following acts constitute grounds for denial of a
575 license or disciplinary action, as specified in s. 456.072(2):

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576 (rr) Dispensing a controlled substance listed in Schedule
577 II or Schedule III in violation of s. 465.0276.

578 Section 7. Section 459.0137, Florida Statutes, is amended
579 to read:

580 459.0137 Pain-management clinics.—

581 (1) REGISTRATION.—

582 (a) "Pain-management clinic", hereinafter referred to as
583 "clinic", means a publicly or privately owned facility where in
584 any month a majority of patients are prescribed opioids,
585 benzodiazepines, barbiturates, or carisoprodol, for the
586 treatment of chronic nonmalignant pain. "Chronic nonmalignant
587 pain is pain unrelated to cancer or rheumatoid arthritis which
588 persists beyond the usual course of disease or the injury that
589 is the cause of the pain or more than 90 days after surgery.~~All~~
590 ~~privately owned pain management clinics, facilities, or offices,~~
591 ~~hereinafter referred to as "clinics," which advertise in any~~
592 ~~medium for any type of pain management services, or employ an~~
593 ~~osteopathic physician who is primarily engaged in the treatment~~
594 ~~of pain by prescribing or dispensing controlled substance~~
595 ~~medications, All pain-management clinics must register with the~~
596 department unless:

597 1. That clinic is licensed as a facility pursuant to
598 chapter 395;

599 2. The majority of the physicians who provide services in
600 the clinic primarily provide surgical services;

601 3. The clinic is owned by a publicly held corporation
602 whose shares are traded on a national exchange or on the over-

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603 the-counter market and whose total assets at the end of the
604 corporation's most recent fiscal quarter exceeded \$50 million;

605 4. The clinic is affiliated with an accredited medical
606 school at which training is provided for medical students,
607 residents, or fellows;

608 5. The clinic does not prescribe ~~or~~ ~~dispense~~ controlled
609 substances for the treatment of pain; ~~or~~

610 6. The clinic is owned by a corporate entity exempt from
611 federal taxation under 26 U.S.C. s. 501(c) (3); ~~or~~

612 7. The clinic is wholly owned and operated by a board-
613 certified anesthesiologist, physiatrist, neurologist, or another
614 medical specialist who has completed a fellowship in pain
615 medicine approved by the Accreditation Council for Graduate
616 Medical Education or who is board certified in pain medicine by
617 a board approved by the American Board of Medical Specialties,
618 and that medical specialist performs interventional pain
619 procedures of the type routinely billed using surgical codes, or
620 is wholly owned and operated by a group of such specialists.

621 (b) Each clinic location shall be registered separately
622 regardless of whether the clinic is operated under the same
623 business name or management as another clinic.

624 (c) As a part of registration, a clinic must designate an
625 osteopathic physician who is responsible for complying with all
626 requirements related to registration and operation of the clinic
627 in compliance with this section. Within 10 days after
628 termination of a designated osteopathic physician, the clinic
629 must notify the department of the identity of another designated
630 physician for that clinic. The designated physician shall have a

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631 full, active, and unencumbered license under chapter 458 or this
632 chapter and shall practice at the clinic location for which the
633 physician has assumed responsibility. Failing to have a licensed
634 designated osteopathic physician practicing at the location of
635 the registered clinic may be the basis for a summary suspension
636 of the clinic registration certificate as described in s.
637 456.073(8) for a license or s. 120.60(6).

638 (d) The department shall deny registration to any clinic
639 that is not fully owned by a physician licensed under chapter
640 458 or this chapter or a group of physicians, each of whom is
641 licensed under chapter 458 or this chapter; or that is not a
642 health care clinic licensed under part X of chapter 400.

643 (e) The department shall deny registration to any pain-
644 management clinic owned by or with any contractual or employment
645 relationship with a physician:

646 1. Whose Drug Enforcement Administration number has ever
647 been revoked.

648 2. Whose application for a license to prescribe, dispense,
649 or administer a controlled substance has been denied by any
650 jurisdiction.

651 3. Who has been convicted of or pleaded guilty or nolo
652 contendere to, regardless of adjudication, an offense that
653 constitutes a felony for receipt of illicit and diverted drugs,
654 including a controlled substance listed in Schedule I, Schedule
655 II, Schedule III, Schedule IV, or Schedule V of s. 893.03, in
656 this state, any other state, or the United States.

657 (f) If the department finds that a pain-management clinic
658 does not meet the requirement of paragraph (d) or is owned,

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659 directly or indirectly, by a person meeting any criteria listed
660 in paragraph (e), the department shall revoke the certificate of
661 registration previously issued by the department. As determined
662 by rule, the department may grant an exemption to denying a
663 registration or revoking a previously issued registration if
664 more than 10 years have elapsed since adjudication. As used in
665 this subsection, the term "convicted" includes an adjudication
666 of guilt following a plea of guilty or nolo contendere or the
667 forfeiture of a bond when charged with a crime.

668 (g) The department may revoke the clinic's certificate of
669 registration and prohibit all physicians associated with that
670 pain-management clinic from practicing at that clinic location
671 based upon an annual inspection and evaluation of the factors
672 described in subsection (3).

673 (h) If the registration of a pain-management clinic is
674 revoked or suspended, the designated physician of the pain-
675 management clinic, the owner or lessor of the pain-management
676 clinic property, the manager, and the proprietor shall cease to
677 operate the facility as a pain-management clinic as of the
678 effective date of the suspension or revocation.

679 (i) If a pain-management clinic registration is revoked or
680 suspended, the designated physician of the pain-management
681 clinic, the owner or lessor of the clinic property, the manager,
682 or the proprietor is responsible for removing all signs and
683 symbols identifying the premises as a pain-management clinic.

684 (j) Upon the effective date of the suspension or
685 revocation, the designated physician of the pain-management
686 clinic shall advise the department of the disposition of the

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687 medicinal drugs located on the premises. The disposition is
688 subject to the supervision and approval of the department.
689 Medicinal drugs that are purchased or held by a pain-management
690 clinic that is not registered may be deemed adulterated pursuant
691 to s. 499.006.

692 (k) If the clinic's registration is revoked, any person
693 named in the registration documents of the pain-management
694 clinic, including persons owning or operating the pain-
695 management clinic, may not, as an individual or as a part of a
696 group, make application for a permit to operate a pain-
697 management clinic for 5 years after the date the registration is
698 revoked.

699 (1) The period of suspension for the registration of a
700 pain-management clinic shall be prescribed by the department,
701 but may not exceed 1 year.

702 (m) A change of ownership of a registered pain-management
703 clinic requires submission of a new registration application.

704 (2) PHYSICIAN RESPONSIBILITIES.—These responsibilities
705 apply to any osteopathic physician who provides professional
706 services in a pain-management clinic that is required to be
707 registered in subsection (1).

708 (a) An osteopathic physician may not practice medicine in
709 a pain-management clinic, as described in subsection (4), if:

710 1. The pain-management clinic is not registered with the
711 department as required by this section; or

712 2. Effective July 1, 2012, the physician has not
713 successfully completed a pain-medicine fellowship that is
714 accredited by the Accreditation Council for Graduate Medical

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715 Education or the American Osteopathic Association or a pain-
716 medicine residency that is accredited by the Accreditation
717 Council for Graduate Medical Education or the American
718 Osteopathic Association or, prior to July 1, 2012, does not
719 comply with rules adopted by the board.

720

721 Any physician who qualifies to practice medicine in a pain-
722 management clinic pursuant to rules adopted by the Board of
723 Osteopathic Medicine as of July 1, 2012, may continue to
724 practice medicine in a pain-management clinic as long as the
725 physician continues to meet the qualifications set forth in the
726 board rules. An osteopathic physician who violates this
727 paragraph is subject to disciplinary action by his or her
728 appropriate medical regulatory board.

729 (b) A person may not dispense any medication, ~~including a~~
730 ~~controlled substance,~~ on the premises of a registered pain-
731 management clinic unless he or she is a physician licensed under
732 this chapter or chapter 458.

733 (c) An osteopathic physician must perform a physical
734 examination of a patient on the same day that he or she
735 ~~dispenses or~~ prescribes a controlled substance to a patient at a
736 pain-management clinic. If the osteopathic physician prescribes
737 ~~or dispenses~~ more than a 72-hour dose of controlled substances
738 for the treatment of chronic nonmalignant pain, the osteopathic
739 physician must document in the patient's record the reason for
740 prescribing ~~or dispensing~~ that quantity.

741 (d) An osteopathic physician authorized to prescribe
742 controlled substances who practices at a pain-management clinic

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743 is responsible for maintaining the control and security of his
744 or her prescription blanks and any other method used for
745 prescribing controlled substance pain medication. The
746 osteopathic physician shall comply with the requirements for
747 counterfeit-resistant prescription blanks in s. 893.065 and the
748 rules adopted pursuant to that section. The osteopathic
749 physician shall notify, in writing, the department within 24
750 hours following any theft or loss of a prescription blank or
751 breach of any other method for prescribing pain medication.

752 (e) The designated osteopathic physician of a pain-
753 management clinic shall notify the applicable board in writing
754 of the date of termination of employment within 10 days after
755 terminating his or her employment with a pain-management clinic
756 that is required to be registered under subsection (1). All
757 physicians practicing in pain-management clinics shall advise
758 the Board of Medicine in writing, within 10 calendar days of
759 beginning or ending his or her practice at a pain-management
760 clinic.

761 (f) Each physician practicing in a pain management clinic
762 is responsible for ensuring compliance with the following
763 facility and physical operations requirements.

764 1. A pain management clinic shall be located and operated
765 at a publicly accessible fixed location and shall contain the
766 following:

767 a. A sign that can be viewed by the public that contains
768 the clinic name, hours of operations, and a street address;

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769 b. A publicly listed telephone number and a dedicated phone
770 number to send and receive faxes with a fax machine that shall
771 be operational twenty-four hours per day;

772 c. Emergency lighting and communications;

773 d. Reception and waiting area;

774 e. Restroom;

775 f. Administrative area including room for storage of
776 medical records, supplies and equipment;

777 g. Private patient examination room(s);

778 h. Treatment room(s) if treatment is being provided to the
779 patient;

780 i. A printed sign located in a conspicuous place in the
781 waiting room viewable by the public disclosing the name and
782 contact information of the clinic designated physician, and the
783 names of all physicians practicing in the clinic;

784 j. Clinics that store and dispense prescription drug shall
785 comply with ss. 499.0121 and 893.07.

786 2. Nothing in this section shall excuse a physician from
787 providing any treatment or performing any medical duty without
788 the proper equipment and materials as required by the standard
789 of care. This section shall not be construed to supersede the
790 level of care, skill, and treatment recognized in general law
791 related to healthcare licensure.

792 (g) Each physician practicing in a pain management clinic
793 is responsible for ensuring compliance with the following ,
794 infection control requirements.

795 1. The clinic shall maintain equipment and supplies to
796 support infection prevention and control activities.

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797 2. The clinic shall identify infection risks based on the
798 following:

799 a. Geographic location, community, and population served;

800 b. The care, treatment and services it provides; and

801 c. An analysis of its infection surveillance and control
802 data.

803 3. The clinic shall maintain written infection prevention
804 policies and procedures that address the following:

805 a. Prioritized risks;

806 b. Limiting unprotected exposure to pathogen;

807 c. Limiting the transmission of infections associated with
808 procedures performed in the clinic; and

809 d. Limiting the transmission of infections associated with
810 the clinic's use of medical equipment, devices, and supplies.

811 (h) Each physician practicing in a pain management clinic
812 is responsible for ensuring compliance with the following health
813 and safety requirements.

814 1. The clinic, including its grounds, buildings, furniture,
815 appliances and equipment shall be structurally sound, in good
816 repair, clean, and free from health and safety hazards.

817 2. The clinic shall have evacuation procedures in the event
818 of an emergency which shall include provisions for the
819 evacuation of disabled patients and employees.

820 3. The clinic shall have a written facility-specific
821 disaster plan which sets forth actions that will be taken in the
822 event of clinic closure due to unforeseen disasters which shall
823 include provisions for the protection of medical records and any
824 controlled substances.

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825 4. Each clinic shall have at least one employee on the
826 premises during patient care hours that is certified in Basic
827 Life Support and is trained in reacting to accidents and medical
828 emergencies until emergency medical personnel arrive.

829 (i) The designated physician is responsible for ensuring
830 compliance with the following quality assurance requirements.
831 Each pain management clinic shall have an ongoing quality
832 assurance program that objectively and systematically monitors
833 and evaluates the quality and appropriateness of patient care,
834 evaluates methods to improve patient care, identifies and
835 corrects deficiencies within the facility, alerts the designated
836 physician to identify and resolve recurring problems, and
837 provides for opportunities to improve the facility's performance
838 and to enhance and improve the quality of care provided to the
839 public. The designated physician shall establish a quality
840 assurance program that includes the following components:

841 1. The identification, investigation, and analysis of the
842 frequency and causes of adverse incidents to patients,

843 2. The identification of trends or patterns of incidents,

844 3. The development of measures to correct, reduce,
845 minimize, or eliminate the risk of adverse incidents to
846 patients, and

847 4. The documentation of these functions and periodic review
848 no less than quarterly of such information by the designated
849 physician.

850 (j) The designated physician is responsible for ensuring
851 compliance with the following data collection and reporting
852 requirements.

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853 1. Reporting of adverse incidents. The designated physician
854 for each pain-management clinic shall report all adverse
855 incidents to the Department of Health as set forth in Section
856 459.026, F.S.

857 2. The designated physician shall also report to the Board
858 of Osteopathic Medicine, in writing, on a quarterly basis the
859 following data:

860 a. Number of new and repeat patients seen and treated at
861 the clinic who are prescribed controlled substance medications
862 for the treatment of chronic, non-malignant pain;

863 b. The number of patients discharged due to drug abuse;

864 c. The number of patients discharged due to drug diversion;

865 and

866 d. The number of patients treated at the pain clinic whose
867 domicile is located somewhere other than in Florida. A patient's
868 domicile is the patient's fixed or permanent home to which he
869 intends to return even though he may temporarily reside
870 elsewhere.

871 (4) RULEMAKING.—

872 (a) The department shall adopt rules necessary to
873 administer the registration and inspection of pain-management
874 clinics which establish the specific requirements, procedures,
875 forms, and fees.

876 (b) The department shall adopt a rule defining what
877 constitutes practice by a designated osteopathic physician at
878 the clinic location for which the physician has assumed
879 responsibility, as set forth in subsection (1). When adopting
880 the rule, the department shall consider the number of clinic

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881 employees, the location of the pain-management clinic, the
882 clinic's hours of operation, and the amount of controlled
883 substances being prescribed, ~~dispensed,~~ or administered at the
884 pain-management clinic.

885 ~~(c) The Board of Osteopathic Medicine shall adopt a rule~~
886 ~~establishing the maximum number of prescriptions for Schedule II~~
887 ~~or Schedule III controlled substances or the controlled~~
888 ~~substance Alprazolam which may be written at any one registered~~
889 ~~pain-management clinic during any 24-hour period.~~

890 (d) The Board of Osteopathic Medicine shall adopt rules
891 setting forth standards of practice for osteopathic physicians
892 practicing in privately owned pain-management clinics that
893 primarily engage in the treatment of pain by prescribing or
894 dispensing controlled substance medications. Such rules shall
895 address, but need not be limited to:

- 896 1. ~~Facility operations;~~
- 897 ~~2. Physical operations;~~
- 898 ~~3. Infection control requirements;~~
- 899 ~~4. Health and safety requirements;~~
- 900 ~~5. Quality assurance requirements;~~
- 901 ~~6. Patient records;~~
- 902 ~~7. Training requirements for all facility health care~~
903 ~~practitioners who are not regulated by another board.~~
- 904 ~~8. Inspections; and~~
- 905 ~~9. Data collection and reporting requirements.~~

906
907 ~~An osteopathic physician is primarily engaged in the treatment~~
908 ~~of pain by prescribing or dispensing controlled substance~~

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909 ~~medications when the majority of the patients seen are~~
910 ~~prescribed or dispensed controlled substance medications for the~~
911 ~~treatment of chronic nonmalignant pain. Chronic nonmalignant~~
912 ~~pain is pain unrelated to cancer which persists beyond the usual~~
913 ~~course of the disease or the injury that is the cause of the~~
914 ~~pain or more than 90 days after surgery.~~

915 (6) This section expires January 1, 2016.

916 Section 8. Paragraph (f) of subsection (1) of section
917 459.013, Florida Statutes, is created to read:

918 459.013 Penalty for violations.—

919 (1) Each of the following acts constitutes a felony of the
920 third degree, punishable as provided in s. 775.082, s. 775.083,
921 or s. 775.084:

922 (f) Dispensing a controlled substance listed in Schedule
923 II or Schedule III in violation of s. 465.0276.

924 Section 9. Paragraph (tt) of subsection (1) of section
925 459.015, Florida Statutes, is created to read:

926 459.015 Grounds for disciplinary action; action by the
927 board and department.—

928 (1) The following acts constitute grounds for denial of a
929 license or disciplinary action, as specified in s. 456.072(2):

930 (tt) Dispensing a controlled substance listed in Schedule
931 II or Schedule III in violation of s. 465.0276.

932 Section 10. Subsections (3) and (4) of section 465.015,
933 Florida Statutes, are renumbered as subsections (4) and (5),
934 respectively, a new subsection (3) is added to that section, and
935 present subsection (4) of that section is amended, to read:

936 465.015 Violations and penalties.—

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937 (3) It is unlawful for any pharmacist to fail to report to
938 the sheriff of the county where the pharmacy is located within
939 24 hours after learning of any instance in which a person
940 obtained or attempted to obtain a controlled substance, as
941 defined in s. 893.02, that the pharmacist knew or reasonably
942 should have known was obtained or attempted to be obtained from
943 the pharmacy through fraudulent methods or representations. Any
944 pharmacist who fails to make such a report within 24 hours after
945 learning of the fraud or attempted fraud commits a misdemeanor
946 of the first degree, punishable as provided in s. 775.082 or s.
947 775.083. A sufficient report of the fraudulent obtaining of
948 controlled substances under this subsection shall contain, at a
949 minimum, a copy of the prescription used or presented and a
950 narrative, including all information available to the pharmacy
951 concerning the transaction, such as the name and telephone
952 number of the prescribing physician; the name, description, and
953 any personal identification information pertaining to the person
954 who presented the prescription; and all other material
955 information, such as photographic or video surveillance of the
956 transaction.

957 (5)~~(4)~~ Any person who violates any provision of subsection
958 (1) or subsection (4) ~~(3)~~ commits a misdemeanor of the first
959 degree, punishable as provided in s. 775.082 or s. 775.083. Any
960 person who violates any provision of subsection (2) commits a
961 felony of the third degree, punishable as provided in s.
962 775.082, s. 775.083, or s. 775.084. In any warrant, information,
963 or indictment, it shall not be necessary to negative any

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964 exceptions, and the burden of any exception shall be upon the
965 defendant.

966 Section 11. Paragraph (t) is added to subsection (1) of
967 section 465.016, Florida Statutes, to read:

968 465.016 Disciplinary actions.—

969 (1) The following acts constitute grounds for denial of a
970 license or disciplinary action, as specified in s. 456.072(2):

971 (t) Committing an error or omission during the performance
972 of a specific function of prescription drug processing which
973 includes for purposes of this provision:

974 1. Receiving, interpreting, or clarifying a prescription;

975 2. Entering prescription data into the pharmacy's record;

976 3. Verifying or validating a prescription;

977 4. Performing pharmaceutical calculations;

978 5. Performing prospective drug review as defined by the
979 board;

980 6. Obtaining refill and substitution authorizations;

981 7. Interpreting or acting on clinical data;

982 8. Performing therapeutic interventions;

983 9. Providing drug information concerning a patient's
984 prescription;

985 10. Providing patient counseling.

986 Section 12. Section 465.018, Florida Statutes, is amended
987 to read:

988 465.018 Community pharmacies; permits.—

989 (1) Any person desiring a permit to operate a community
990 pharmacy shall apply to the department.

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991 (2) If the board office certifies that the application
992 complies with the laws of the state and the rules of the board
993 governing pharmacies, the department shall issue the permit. No
994 permit shall be issued unless a licensed pharmacist is
995 designated as the prescription department manager. ~~responsible~~
996 ~~for maintaining all drug records, providing for the security of~~
997 ~~the prescription department, and following such other rules as~~
998 ~~relate to the practice of the profession of pharmacy. The~~
999 ~~permittee and the newly designated prescription department~~
1000 ~~manager shall notify the department within 10 days of any change~~
1001 ~~in prescription department manager.~~

1002 (3) The board may suspend or revoke the permit of, or may
1003 refuse to issue a permit to:

1004 (a) Any person which has been disciplined, abandoned, or
1005 has become null and void after written notice that disciplinary
1006 proceedings had been or would be brought against the permit; or

1007 (b) Any person who is an officer, director, or person
1008 interested directly or indirectly in the person or business
1009 entity has had her or his permit disciplined, abandoned, or has
1010 become null and void after written notice that disciplinary
1011 proceedings had been or would be brought against her or his
1012 permit; or

1013 (c) Any person who is or has been an officer of a business
1014 entity, or who was interested directly or indirectly in a
1015 business entity, the permit of which has been disciplined,
1016 abandoned or has become null and void after written notice that
1017 disciplinary proceedings had been or would be brought against
1018 the license.

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1019 (4) In addition to any other remedies provided by law, the
1020 board may deny each application or suspend or revoke each
1021 license, registration, or certificate of entities regulated or
1022 licensed by it if the applicant, licensee, registrant, or
1023 license holder, or, in the case of a corporation, partnership,
1024 or other business entity, if any officer, director, agent, or
1025 managing employee of that business entity or any affiliated
1026 person, partner, or shareholder having an ownership interest
1027 equal to 5 percent or greater in that business entity, has
1028 failed to pay all outstanding fines, liens, or overpayments
1029 assessed by final order of the department, unless a repayment
1030 plan is approved by the department; or for failure to comply
1031 with any repayment plan.

1032 (5) In reviewing any application requesting a change of
1033 ownership, or change of licensee or registrant, the transferor
1034 shall, prior to board approval of the change, repay or make
1035 arrangements to repay any amounts owed to the department. Should
1036 the transferor fail to repay or make arrangements to repay the
1037 amounts owed to the department, the license or registration
1038 shall not be issued to the transferee until repayment or until
1039 arrangements for repayment are made.

1040 (6) Passing an onsite inspection is a prerequisite of
1041 issuing an initial permit or a permit for a change of location.
1042 The department must make the inspection within ninety days prior
1043 to issuance of the permit.

1044 (7) Effective January 1, 2012, a pharmacy permitted under
1045 this section may not dispense a controlled substance listed in

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1046 Schedule II or Schedule III as provided in s. 893.03 unless the
1047 pharmacy:

1048 (a) Is wholly owned by a corporation whose shares are
1049 publicly traded on a recognized stock exchange; or

1050 (b) Is wholly owned by a corporation having more than \$100
1051 million of business taxable assets in this state;

1052 (c) Is wholly owned or operated by a licensed hospice,
1053 hospital or nursing facility, or provides services exclusively
1054 to patients of a licensed hospice, hospital or nursing facility;
1055 or

1056 (d) Has been continuously permitted for at least 10 years;
1057 or

1058 (e) Received or renewed a permit pursuant to the
1059 requirements of this section. ~~or~~

1060
1061 Community pharmacies which dispense controlled substances must
1062 maintain a record of all controlled substance dispensing
1063 consistent with the requirements of s. 893.07, and must make the
1064 record available to the department and law enforcement agencies
1065 upon request.

1066 Section 13. Section 465.022, Florida Statutes, is amended
1067 to read:

1068 465.022 Pharmacies; general requirements; fees.—

1069 (1) The board shall adopt rules pursuant to ss. 120.536(1)
1070 and 120.54 to implement the provisions of this chapter. Such
1071 rules shall include, but shall not be limited to, rules relating
1072 to:

1073 (a) General drug safety measures.

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1074 (b) Minimum standards for the physical facilities of
1075 pharmacies.

1076 (c) Safe storage of floor-stock drugs.

1077 (d) Functions of a pharmacist in an institutional
1078 pharmacy, consistent with the size and scope of the pharmacy.

1079 (e) Procedures for the safe storage and handling of
1080 radioactive drugs.

1081 (f) Procedures for the distribution and disposition of
1082 medicinal drugs distributed pursuant to s. 499.028.

1083 (g) Procedures for transfer of prescription files and
1084 medicinal drugs upon the change of ownership or closing of a
1085 pharmacy.

1086 (h) Minimum equipment which a pharmacy shall at all times
1087 possess to fill prescriptions properly.

1088 (i) Procedures for dispensing of controlled substances to
1089 minimize dispensing based on fraudulent representations or
1090 invalid practitioner-patient relationships.

1091 (2) A pharmacy permit shall be issued only to a natural
1092 person who is at least 18 years of age, or to a partnership
1093 comprised of at least one natural person and whose partners are
1094 all at least 18 years of age, or to a business entity that is
1095 properly registered with the Florida Secretary of State, if
1096 required by law, and has been issued a federal employer tax
1097 identification number; or to a government agency corporation
1098 that is registered pursuant to chapter 607 or chapter 617 whose
1099 officers, directors, and shareholders are at least 18 years of
1100 age. Permits issued to business entities shall be issued only to
1101 entities whose affiliated persons, members, partners, officers,

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1102 directors, agents, including persons required to be
1103 fingerprinted under s. 465.022(3), are not less than 18 years of
1104 age.

1105 (3) Any person, or business entity, partnership, or
1106 corporation before engaging in the operation of a pharmacy shall
1107 file with the board a sworn application on forms provided by the
1108 department. For purposes of this section any person required to
1109 provide fingerprints under this subsection is an affiliated
1110 person within the meaning of s. 465.023(1).

1111 (a) An application for a pharmacy permit must include a
1112 set of fingerprints from each person having an ownership
1113 interest of 5 percent or greater and from any person who,
1114 directly or indirectly, manages, oversees, or controls the
1115 operation of the applicant, including officers and members of
1116 the board of directors of an applicant that is a corporation.
1117 The applicant must provide payment in the application for the
1118 cost of state and national criminal history records checks.

1119 1. For corporations having more than \$100 million of
1120 business taxable assets in this state, in lieu of these
1121 fingerprint requirements, the department shall require the
1122 prescription department manager or consultant pharmacist of
1123 record who will be directly involved in the management and
1124 operation of the pharmacy to submit a set of fingerprints.

1125 2. A representative of a corporation described in
1126 subparagraph 1. satisfies the requirement to submit a set of his
1127 or her fingerprints if the fingerprints are on file with the
1128 department or the Agency for Health Care Administration, meet

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1129 the fingerprint specifications for submission by the Department
1130 of Law Enforcement, and are available to the department.

1131 (b) The department shall submit the fingerprints provided
1132 by the applicant to the Department of Law Enforcement for a
1133 state criminal history records check. The Department of Law
1134 Enforcement shall forward the fingerprints to the Federal Bureau
1135 of Investigation for a national criminal history records check.

1136 (c) In addition to those documents required by the
1137 department or board, each applicant with any financial or
1138 ownership interest greater than five percent in the subject of
1139 the application shall submit a signed affidavit disclosing any
1140 financial or ownership interest greater than five percent in any
1141 pharmacy permitted in the past five years, which pharmacy has
1142 closed voluntarily or involuntarily; has filed a voluntary
1143 relinquishment of its permit; has had its permit suspended or
1144 revoked; or has had an injunction issued against it by a
1145 regulatory agency. The affidavit must disclose the reason such
1146 entity was closed whether, voluntary or involuntary.

1147 (4) An application for a pharmacy permit must include the
1148 applicant's written policies and procedures for preventing
1149 controlled substance dispensing based on fraudulent
1150 representations or invalid practitioner-patient relationships.
1151 The board must review the policies and procedures and may deny a
1152 permit if the policies and procedures are insufficient to
1153 reasonably prevent such dispensing.

1154 (5)-(4) The department or board shall deny an application
1155 for a pharmacy permit if the applicant or an affiliated person,

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1156 partner, officer, director, or prescription department manager
1157 or consultant pharmacist of record, of the applicant has:

1158 (a) Obtained a permit by misrepresentation or fraud;

1159 (b) Attempted to procure, or has procured, a permit for
1160 any other person by making, or causing to be made, any false
1161 representation;

1162 (c) Been convicted of, or entered a plea of guilty or nolo
1163 contendere to, regardless of adjudication, a crime in any
1164 jurisdiction which relates to the practice of, or the ability to
1165 practice, the profession of pharmacy;

1166 (d) Been convicted of, or entered a plea of guilty or nolo
1167 contendere to, regardless of adjudication, a crime in any
1168 jurisdiction which relates to health care fraud;

1169 (e) Has been convicted of, or entered a plea of guilty or
1170 nolo contendere to, regardless of adjudication, a felony under:
1171 chapter 409, chapter 817, chapter 893, or a similar felony
1172 offense committed in another state or jurisdiction since July 1,
1173 2009. ~~Been terminated for cause, pursuant to the appeals~~
1174 ~~procedures established by the state or Federal Government, from~~
1175 ~~any state Medicaid program or the federal Medicare program,~~
1176 ~~unless the applicant has been in good standing with a state~~
1177 ~~Medicaid program or the federal Medicare program for the most~~
1178 ~~recent 5 years and the termination occurred at least 20 years~~
1179 ~~ago; or~~

1180 (f) Has been convicted of, or entered a plea of guilty or
1181 nolo contendere to, regardless of adjudication, a felony under
1182 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396 since July
1183 1, 2009.

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1184 (g) Has been terminated for cause from the Florida Medicaid
1185 program pursuant to s. 409.913, unless the applicant has been in
1186 good standing with the Florida Medicaid program for the most
1187 recent 5 years.

1188 (h) Has been terminated for cause, pursuant to the appeals
1189 procedures established by the state, from any other state
1190 Medicaid program, unless the applicant has been in good standing
1191 with a state Medicaid program for the most recent 5 years and
1192 the termination occurred at least 20 years before the date of
1193 the application.

1194 (i) Is currently listed on the United States Department of
1195 Health and Human Services Office of Inspector General's List of
1196 Excluded Individuals and Entities.

1197 (j) For felonies in which the defendant entered a plea of
1198 guilty or nolo contendere in an agreement with the court to
1199 enter a pretrial intervention or drug diversion program, the
1200 department shall not approve or deny the application for a
1201 renewal of a license, certificate, or registration until the
1202 final resolution of the case.

1203 (k) Dispensed any medicinal drug based upon a
1204 communication that purports to be a prescription as defined by
1205 s. 465.003(14) or s. 893.02 when the pharmacist knows or has
1206 reason to believe that the purported prescription is not based
1207 upon a valid practitioner-patient relationship that includes a
1208 documented patient evaluation, including history and a physical
1209 examination adequate to establish the diagnosis for which any
1210 drug is prescribed and any other requirement established by

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1211 board rule under chapter 458, chapter 459, chapter 461, chapter
1212 463, chapter 464, or chapter 466.

1213 (1) Has violated or failed to comply with any provision of
1214 this chapter; chapter 499, known as the "Florida Drug and
1215 Cosmetic Act"; chapter 893; 21 U.S.C. ss. 301-392, known as the
1216 "Federal Food Drug and Cosmetic Act"; 21 U.S.C. ss. 821 et seq,
1217 known as the Comprehensive Drug Abuse Prevention and Control
1218 Act; or any rules or regulations promulgated under any of them.

1219 ~~(6)-(5)~~ After the application has been filed with the board
1220 and the permit fee provided in this section has been received,
1221 the board shall cause the application to be fully investigated,
1222 both as to the qualifications of the applicant and the
1223 prescription department manager or consultant pharmacist
1224 designated to be in charge and as to the premises and location
1225 described in the application.

1226 ~~(7)-(6)~~ The Board of Pharmacy shall have the authority to
1227 determine whether a bona fide transfer of ownership is present
1228 and that the sale of a pharmacy is not being accomplished for
1229 the purpose of avoiding an administrative prosecution.

1230 ~~(8)-(7)~~ Upon the completion of the investigation of an
1231 application, the board shall approve or ~~deny~~disapprove the
1232 application. If approved, the permit shall be issued by the
1233 department.

1234 ~~(9)-(8)~~ ~~Permits issued by the department are not~~
1235 ~~transferable.~~The permittee shall notify the department, on a
1236 form approved by the board, within 10 days of any change in
1237 prescription department manager or consultant pharmacist of
1238 record.

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1239 (10)-(9) Permittees shall notify the department of the
1240 identity of the prescription department manager within 10 days
1241 of employment. The prescription department manager comply with
1242 the following requirements.

1243 (a) The prescription department manager must obtain and
1244 maintain all drug records required by any state or federal law
1245 to be obtained by a pharmacy, including but not limited to
1246 records required by or under chapters 465, 499, or 893. The
1247 prescription department manager must ensure the permittee's
1248 compliance with all rules promulgated thereunder as they relate
1249 to the practice of the profession of pharmacy and the sale of
1250 prescription drugs.

1251 (c) The prescription department manager must ensure the
1252 security of the prescription department. The prescription
1253 department manager shall notify the board of any theft or
1254 significant loss of any controlled substances within one
1255 business day of discovery.

1256 (d) A registered pharmacist shall not serve as the
1257 prescription department manager in more than one location unless
1258 approved by the board.

1259 ~~The board shall set the fees for the following:~~

- 1260 ~~(a) Initial permit fee not to exceed \$250.~~
1261 ~~(b) Biennial permit renewal not to exceed \$250.~~
1262 ~~(c) Delinquent fee not to exceed \$100.~~
1263 ~~(d) Change of location fee not to exceed \$100.~~

1264 (11) The board shall adopt rules that require keeping of
1265 such records of prescription drugs as are necessary for the
1266 protection of public health, safety, and welfare.

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1267 (a) All required records documenting prescription drug
1268 distributions shall be readily available or immediately
1269 retrievable during an inspection by the department

1270 (b) The records must be maintained four (4) years from the
1271 creation or receipt of the record which ever date is later.

1272 (12) Permits issued by the department are not
1273 transferable.

1274 (13) The board shall set the fees for the following:

1275 (a) Initial permit fee not to exceed \$250.

1276 (b) Biennial permit renewal not to exceed \$250.

1277 (c) Delinquent fee not to exceed \$100.

1278 (d) Change of location or change of ownership fee not to
1279 exceed \$250.

80 Section 14. Paragraph (b) of subsection (1) of section
1281 465.0276, Florida Statutes, is amended to read:

1282 465.0276 Dispensing practitioner.—

1283 (1)

1284 (b) A practitioner registered under this section may not
1285 dispense a controlled substance listed in Schedule II or
1286 Schedule III as provided in s. 893.03. A practitioner registered
1287 under this section may not dispense more than a 72-hour supply
1288 of a controlled substance listed in Schedule II, Schedule III,
1289 Schedule IV, or Schedule V of s. 893.03 for any patient who pays
1290 for the medication by cash, check, or credit card in a clinic
1291 registered under s. 458.3265 or s. 459.0137. A practitioner who
1292 violates this paragraph commits a felony of the third degree,
1293 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
1294 This paragraph does not apply to:

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1295 ~~1. A practitioner who dispenses medication to a workers'~~
1296 ~~compensation patient pursuant to chapter 440.~~

1297 ~~2. A practitioner who dispenses medication to an insured~~
1298 ~~patient who pays by cash, check, or credit card to cover any~~
1299 ~~applicable copayment or deductible.~~

1300 1.3. The dispensing of complimentary packages of medicinal
1301 drugs to the practitioner's own patients in the regular course
1302 of her or his practice without the payment of a fee or
1303 remuneration of any kind, whether direct or indirect, as
1304 provided in subsection (5).

1305 2. The dispensing of controlled substances in the health
1306 care system of the Department of Corrections.

1307 Section 15. Subsections (16) and (17) are added to section
1308 499.0051, Florida Statutes, to read:

1309 499.0051 Criminal acts.—

1310 (16) FALSE REPORT.— Any person who submits a report
1311 required by s. 499.0121(14) knowing that such report contains a
1312 false statement shall be guilty of a felony of the third degree,
1313 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1314 (17) CONTROLLED SUBSTANCE DISTRIBUTION.--Any wholesale
1315 distributor who distributes controlled substances in violation
1316 of s. 499.0121(14) this provision shall be guilty of a felony of
1317 the third degree, punishable as provided in s. 775.082, s.
1318 775.083, or s. 775.084. In addition to any other fine that may
1319 be imposed, a wholesale distributor convicted of violating this
1320 provision may be sentenced to pay a fine that does not exceed
1321 three times the gross monetary value gained from such violation,

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1322 plus court costs and the costs of investigation and prosecution,
1323 reasonably incurred.

1324 Section 16. Paragraph (o) is added to subsection (8) of
1325 section 499.012, Florida Statutes, to read:

1326 499.012 Permit application requirements.—

1327 (8) An application for a permit or to renew a permit for a
1328 prescription drug wholesale distributor or an out-of-state
1329 prescription drug wholesale distributor submitted to the
1330 department must include:

1331 (o) Documentation of the credentialing policies and
1332 procedures required by s. 499.0121(14).

1333 Section 17. Subsections (14) and (15) are added to section
1334 499.0121, Florida Statutes, to read:

1335 499.0121 Storage and handling of prescription drugs;
1336 recordkeeping.—The department shall adopt rules to implement
1337 this section as necessary to protect the public health, safety,
1338 and welfare. Such rules shall include, but not be limited to,
1339 requirements for the storage and handling of prescription drugs
1340 and for the establishment and maintenance of prescription drug
1341 distribution records.

1342 (14) DISTRIBUTION REPORTING.—Each wholesale distributor
1343 shall submit a report to the department of its receipts and
1344 distributions of controlled substances listed in Schedule II,
1345 Schedule III, Schedule IV, or Schedule V as provided in s.
1346 893.03. Wholesale distributor facilities located within this
1347 state shall report all transactions involving controlled
1348 substances and wholesale distributor facilities located outside
1349 this state shall report all distributions to entities located in

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1350 this state. If the wholesale distributor did not have any
1351 controlled substance distributions for the month, a report shall
1352 be sent indicating no distributions occurred in the period. The
1353 report shall be submitted monthly by the 20th of the next month,
1354 in the electronic format used for controlled substance reporting
1355 to the Automation of Reports and Consolidated Orders System
1356 division of the federal Drug Enforcement Administration.
1357 Submission of electronic data must be made in a secured web
1358 environment that allows for manual or automated transmission.
1359 Upon successful transmission, an acknowledgement page must be
1360 displayed to confirm receipt. The report must contain the
1361 following information:

1362 (a) The federal Drug Enforcement Administration
1363 registration number of the wholesale distributing location.

1364 (b) The federal Drug Enforcement Administration
1365 registration number of the entity to which the drugs are
1366 distributed or from which the drugs are received.

1367 (c) The transaction code that indicates the type of
1368 transaction.

1369 (d) The National Drug Code identifier of the product and
1370 the quantity distributed or received.

1371 (e) The Drug Enforcement Administration Form 222 number or
1372 Controlled Substance Ordering System Identifier on all schedule
1373 II transactions.

1374 (f) The date of the transaction.

1375

1376 The department must share the reported data with the Department
1377 of Law Enforcement and local law enforcement agencies upon

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1378 request, and must monitor purchasing to identify purchasing
1379 levels that are inconsistent with the purchasing entity's
1380 clinical needs. The Department of Law Enforcement shall
1381 investigate purchases at levels that are inconsistent with the
1382 purchasing entity's clinical needs to determine whether
1383 violations of chapter 893 have occurred.

1384 (15) DUE DILIGENCE OF PURCHASERS.-

1385 (a) Each wholesale distributor must establish and maintain
1386 policies and procedures to credential physicians licensed under
1387 chapter 459, chapter 459, chapter 461, or chapter 466 and
1388 pharmacies that would purchase or otherwise receive from the
1389 wholesale distributor controlled substances listed in Schedule
1390 II or Schedule III as provided in s. 893.03. The wholesale
1391 distributor shall maintain records of such credentialing and
1392 make the records available to the department upon request. Such
1393 credentialing must, at a minimum, include:

1394 1. A determination of the clinical nature of the receiving
1395 entity, including any specialty practice area.

1396 2. A review of the receiving entity's history of Schedule
1397 II and Schedule III controlled substance purchasing from the
1398 wholesale distributor.

1399 3. A determination that the receiving entity's Schedule II
1400 and Schedule III controlled substance purchasing history, if
1401 any, is consistent with and reasonable for that entity's
1402 clinical business needs.

1403 4. Documentation of a level 2 background screening
1404 pursuant to chapter 435 through the department on any person who
1405 owns a controlling interest in or, directly or indirectly,

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1406 manages, oversees, or controls the operation of the entity,
1407 including officers and members of the board of directors of an
1408 entity that is a corporation. This requirement does not apply to
1409 publicly traded entities or entities having more than \$100
1410 million of business taxable assets in this state. For such
1411 entities, wholesale distributors must require current
1412 documentation of all state and federal licenses and permits.

1413 (b) Wholesale distributors must take reasonable measures
1414 to identify their customers, understand the normal and expected
1415 transactions conducted by those customers, and identify thos
1416 transactions which are suspicious in nature. Wholesale
1417 distributors must establish internal policies and procedures for
1418 identifying suspicious orders and preventing suspicious
1419 transactions. Wholesale distributors must assess orders for
1420 greater than 5,000 unit doses of any one controlled substance in
1421 any one month to determine whether the purchase is reasonable.
1422 In making such assessments, wholesale distributors may consider
1423 the purchasing entity's clinical business needs, location and
1424 population served, in addition to other factors established in
1425 their policies and procedures. Wholesale distributors must
1426 report to the department any regulated transaction involving an
1427 extraordinary quantity of a listed chemical, an uncommon method
1428 of payment or delivery, or any other circumstance that the
1429 regulated person believes may indicate that the listed chemical
1430 will be used in violation of the law. For each reported
1431 transaction which is completed, wholesale distributors must
1432 document the basis for determining the transaction was
1433 reasonable.

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1434 (c) Wholesale distributors may not distribute controlled
1435 substances to an entity if any criminal history record check for
1436 any person associated with that entity shows the person has been
1437 convicted of, or entered a plea of guilty or nolo contendere to,
1438 regardless of adjudication, a crime in any jurisdiction related
1439 to controlled substances, the practice of pharmacy, or the
1440 dispensing of medicinal drugs.

1441 (d) Wholesale distributors may not distribute more than
1442 5,000 unit doses each of hydrocodone, morphine, oxycodone,
1443 methadone, or any one benzodiazepine, or any derivative,
1444 precursor or component of these drugs, to a retail pharmacy in
1445 any given month.

1446 Section 18. Paragraphs (o) and (p) are added to subsection
1447 (1) of section 499.05, Florida Statutes, to read:

1448 499.05 Rules.—

1449 (1) The department shall adopt rules to implement and
1450 enforce this part with respect to:

1451 (o) Wholesale distributor reporting requirements of s.
1452 499.0121(14).

1453 (p) Wholesale distributor credentialing and distribution
1454 requirements of s. 499.0121(15).

1455 Section 19. Subsections (8) and (9) are added to section
1456 499.067, Florida Statutes, to read:

1457 499.067 Denial, suspension, or revocation of permit,
1458 certification, or registration.—

1459 (8) The department shall deny, suspend, or revoke a permit
1460 if it finds the permittee has not complied with the
1461 credentialing requirements of s. 499.0121(15).

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1462 (9) The department shall deny, suspend, or revoke a permit
1463 if it finds the permittee has not complied with the reporting
1464 requirements of, or knowingly made a false statement in a report
1465 required by, s. 499.0121(14).

1466 Section 20. Paragraph (f) is added to subsection (3) of
1467 section 810.02, Florida Statutes, to read:

1468 810.02 Burglary.—

1469 (3) Burglary is a felony of the second degree, punishable
1470 as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the
1471 course of committing the offense, the offender does not make an
1472 assault or battery and is not and does not become armed with a
1473 dangerous weapon or explosive, and the offender enters or
1474 remains in a:

1475 (f) Structure or conveyance when the offense intended to
1476 be committed therein is theft of a controlled substance as
1477 defined in s. 893.02. Notwithstanding any other law, separate
1478 judgments and sentences for burglary with the intent to commit
1479 theft of a controlled substance under this paragraph and for any
1480 applicable possession of controlled substance offense under s.
1481 893.13 or trafficking in controlled substance offense under s.
1482 893.135 may be imposed when all such offenses involve the same
1483 amount or amounts of a controlled substance.

1484

1485 However, if the burglary is committed within a county that is
1486 subject to a state of emergency declared by the Governor under
1487 chapter 252 after the declaration of emergency is made and the
1488 perpetration of the burglary is facilitated by conditions
1489 arising from the emergency, the burglary is a felony of the

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1490 first degree, punishable as provided in s. 775.082, s. 775.083,
1491 or s. 775.084. As used in this subsection, the term "conditions
1492 arising from the emergency" means civil unrest, power outages,
1493 curfews, voluntary or mandatory evacuations, or a reduction in
1494 the presence of or response time for first responders or
1495 homeland security personnel. A person arrested for committing a
1496 burglary within a county that is subject to such a state of
1497 emergency may not be released until the person appears before a
1498 committing magistrate at a first appearance hearing. For
1499 purposes of sentencing under chapter 921, a felony offense that
1500 is reclassified under this subsection is ranked one level above
1501 the ranking under s. 921.0022 or s. 921.0023 of the offense
1502 committed.

1503 Section 21. Paragraph (c) of subsection (2) of section
1504 812.014, Florida Statutes, is amended to read:

1505 812.014 Theft.—

1506 (2)

1507 (c) It is grand theft of the third degree and a felony of
1508 the third degree, punishable as provided in s. 775.082, s.
1509 775.083, or s. 775.084, if the property stolen is:

- 1510 1. Valued at \$300 or more, but less than \$5,000.
- 1511 2. Valued at \$5,000 or more, but less than \$10,000.
- 1512 3. Valued at \$10,000 or more, but less than \$20,000.
- 1513 4. A will, codicil, or other testamentary instrument.
- 1514 5. A firearm.
- 1515 6. A motor vehicle, except as provided in paragraph (a).
- 1516 7. Any commercially farmed animal, including any animal of
1517 the equine, bovine, or swine class, or other grazing animal, and

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1518 including aquaculture species raised at a certified aquaculture
1519 facility. If the property stolen is aquaculture species raised
1520 at a certified aquaculture facility, then a \$10,000 fine shall
1521 be imposed.

1522 8. Any fire extinguisher.

1523 9. Any amount of citrus fruit consisting of 2,000 or more
1524 individual pieces of fruit.

1525 10. Taken from a designated construction site identified
1526 by the posting of a sign as provided for in s. 810.09(2)(d).

1527 11. Any stop sign.

1528 12. Anhydrous ammonia.

1529 13. Any amount of a controlled substance as defined in s.
1530 893.02. Notwithstanding any other law, separate judgments and
1531 sentences for theft of a controlled substance under this
1532 subparagraph and for any applicable possession of controlled
1533 substance offense under s. 893.13 or trafficking in controlled
1534 substance offense under s. 893.135 may be imposed when all such
1535 offenses involve the same amount or amounts of a controlled
1536 substance.

1537

1538 However, if the property is stolen within a county that is
1539 subject to a state of emergency declared by the Governor under
1540 chapter 252, the property is stolen after the declaration of
1541 emergency is made, and the perpetration of the theft is
1542 facilitated by conditions arising from the emergency, the
1543 offender commits a felony of the second degree, punishable as
1544 provided in s. 775.082, s. 775.083, or s. 775.084, if the
1545 property is valued at \$5,000 or more, but less than \$10,000, as

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1546 provided under subparagraph 2., or if the property is valued at
1547 \$10,000 or more, but less than \$20,000, as provided under
1548 subparagraph 3. As used in this paragraph, the term "conditions
1549 arising from the emergency" means civil unrest, power outages,
1550 curfews, voluntary or mandatory evacuations, or a reduction in
1551 the presence of or the response time for first responders or
1552 homeland security personnel. For purposes of sentencing under
1553 chapter 921, a felony offense that is reclassified under this
1554 paragraph is ranked one level above the ranking under s.
1555 921.0022 or s. 921.0023 of the offense committed.

1556 Section 22. Section 893.055, Florida Statutes, is amended
1557 to read:

1558 893.055 Prescription drug monitoring program.—

1559 (2) (a) ~~By December 1, 2010, t~~The department shall design
1560 and establish a comprehensive electronic database system that
1561 has controlled substance prescriptions provided to it and that
1562 provides prescription information to a patient's health care
1563 practitioner and pharmacist who inform the department that they
1564 wish the patient advisory report provided to them. Otherwise,
1565 the patient advisory report will not be sent to the
1566 practitioner, pharmacy, or pharmacist. The system shall be
1567 designed to provide information regarding dispensed
1568 prescriptions of controlled substances and shall not infringe
1569 upon the legitimate prescribing or dispensing of a controlled
1570 substance by a prescriber or dispenser acting in good faith and
1571 in the course of professional practice. The system shall be
1572 consistent with standards of the American Society for Automation
1573 in Pharmacy (ASAP). The electronic system shall also comply with

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1574 the Health Insurance Portability and Accountability Act (HIPAA)
1575 as it pertains to protected health information (PHI), electronic
1576 protected health information (EPHI), and all other relevant
1577 state and federal privacy and security laws and regulations. The
1578 department shall establish policies and procedures as
1579 appropriate regarding the reporting, accessing the database,
1580 evaluation, management, development, implementation, operation,
1581 storage, and security of information within the system. The
1582 reporting of prescribed controlled substances shall include a
1583 dispensing transaction with a dispenser pursuant to chapter 465
1584 or through a dispensing transaction to an individual or address
1585 in this state with a pharmacy that is not located in this state
1586 but that is otherwise subject to the jurisdiction of this state
1587 as to that dispensing transaction. The reporting of patient
1588 advisory reports refers only to reports to patients, pharmacies,
1589 and practitioners. Separate reports that contain patient
1590 prescription history information and that are not patient
1591 advisory reports are provided to persons and entities as
1592 authorized in paragraphs (7)(b) and (c) and s. 893.0551.

1593 (b) The department, when the direct support organization
1594 receives at least \$20,000 in nonstate moneys or the state
1595 receives at least \$20,000 in federal grants for the prescription
1596 drug monitoring program, ~~and in consultation with the Office of~~
1597 ~~Drug Control,~~ shall adopt rules as necessary concerning the
1598 reporting, accessing the database, evaluation, management,
1599 development, implementation, operation, security, and storage of
1600 information within the system, including rules for when patient
1601 advisory reports are provided to pharmacies and prescribers. The

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1602 patient advisory report shall be provided in accordance with s.
1603 893.13(7)(a)8. The department shall work with the professional
1604 health care licensure boards, such as the Board of Medicine, the
1605 Board of Osteopathic Medicine, and the Board of Pharmacy; other
1606 appropriate organizations, such as the Florida Pharmacy
1607 Association, ~~the Office of Drug Control,~~ the Florida Medical
1608 Association, the Florida Retail Federation, and the Florida
1609 Osteopathic Medical Association, including those relating to
1610 pain management; and the Attorney General, the Department of Law
1611 Enforcement, and the Agency for Health Care Administration to
1612 develop rules appropriate for the prescription drug monitoring
1613 program.

1614 (c) All dispensers and prescribers subject to these
1615 reporting requirements shall be notified by the department of
1616 the implementation date for such reporting requirements.

1617 (d) The program manager shall work with professional
1618 health care licensure boards and the stakeholders listed in
1619 paragraph (b) to develop rules appropriate for identifying
1620 indicators of controlled substance abuse.

1621 (3) The pharmacy dispensing the controlled substance and
1622 each prescriber who directly dispenses a controlled substance
1623 shall submit to the electronic system, by a procedure and in a
1624 format established by the department and consistent with an
1625 ASAP-approved format, the following information for inclusion in
1626 the database:

1627 (a) The name of the prescribing practitioner, the
1628 practitioner's federal Drug Enforcement Administration
1629 registration number, the practitioner's National Provider

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1630 Identification (NPI) or other appropriate identifier, and the
1631 date of the prescription.

1632 (b) The date the prescription was filled and the method of
1633 payment, such as cash by an individual, insurance coverage
1634 through a third party, or Medicaid payment. This paragraph does
1635 not authorize the department to include individual credit card
1636 numbers or other account numbers in the database.

1637 (c) The full name, address, and date of birth of the
1638 person for whom the prescription was written.

1639 (d) The name, national drug code, quantity, and strength
1640 of the controlled substance dispensed.

1641 (e) The full name, federal Drug Enforcement Administration
1642 registration number, and address of the pharmacy or other
1643 location from which the controlled substance was dispensed. If
1644 the controlled substance was dispensed by a practitioner other
1645 than a pharmacist, the practitioner's full name, federal Drug
1646 Enforcement Administration registration number, and address.

1647 (f) The name of the pharmacy or practitioner, other than a
1648 pharmacist, dispensing the controlled substance and the
1649 practitioner's National Provider Identification (NPI).

1650 (g) Other appropriate identifying information as
1651 determined by department rule.

1652 (4) Each time a controlled substance is dispensed to an
1653 individual, the controlled substance shall be reported to the
1654 department through the system as soon thereafter as possible,
1655 but not more than ~~715~~ days after the date the controlled
1656 substance is dispensed unless an extension is approved by the
1657 department for cause as determined by rule. A dispenser must

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1658 meet the reporting requirements of this section by providing the
1659 required information concerning each controlled substance that
1660 it dispensed in a department-approved, secure methodology and
1661 format. Such approved formats may include, but are not limited
1662 to, submission via the Internet, on a disc, or by use of regular
1663 mail.

1664 (5) When the following acts of dispensing or administering
1665 occur, the following are exempt from reporting under this
1666 section for that specific act of dispensing or administration:

1667 (a) A health care practitioner when administering a
1668 controlled substance directly to a patient if the amount of the
1669 controlled substance is adequate to treat the patient during
1670 that particular treatment session.

1671 (b) A pharmacist or health care practitioner when
1672 administering a controlled substance to a patient or resident
1673 receiving care as a patient at a hospital, nursing home,
1674 ambulatory surgical center, hospice, or intermediate care
1675 facility for the developmentally disabled which is licensed in
1676 this state.

1677 (c) A practitioner when administering or dispensing a
1678 controlled substance in the health care system of the Department
1679 of Corrections.

1680 (d) A practitioner when administering a controlled
1681 substance in the emergency room of a licensed hospital.

1682 (e) A health care practitioner when administering or
1683 dispensing a controlled substance to a person under the age of
1684 16.

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1685 (f) A pharmacist or a dispensing practitioner when
1686 dispensing a one-time, 72-hour emergency resupply of a
1687 controlled substance to a patient.

1688 (6) The department may establish when to suspend and when
1689 to resume reporting information during a state-declared or
1690 nationally declared disaster.

1691 (7) (a) A practitioner or pharmacist who dispenses a
1692 controlled substance must submit the information required by
1693 this section in an electronic or other method in an ASAP format
1694 approved by rule of the department unless otherwise provided in
1695 this section. The cost to the dispenser in submitting the
1696 information required by this section may not be material or
1697 extraordinary. Costs not considered to be material or
1698 extraordinary include, but are not limited to, regular postage,
1699 electronic media, regular electronic mail, and facsimile
1700 charges.

1701 (b) A pharmacy, prescriber, or dispenser shall have access
1702 to information in the prescription drug monitoring program's
1703 database which relates to a patient of that pharmacy,
1704 prescriber, or dispenser in a manner established by the
1705 department as needed for the purpose of reviewing the patient's
1706 controlled substance prescription history. Other access to the
1707 program's database shall be limited to the program's manager and
1708 to the designated program and support staff, who may act only at
1709 the direction of the program manager or, in the absence of the
1710 program manager, as authorized. Access by the program manager or
1711 such designated staff is for prescription drug program
1712 management only or for management of the program's database and

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1713 its system in support of the requirements of this section and in
1714 furtherance of the prescription drug monitoring program.

1715 Confidential and exempt information in the database shall be
1716 released only as provided in paragraph (c) and s. 893.0551.

1717 (c) The following entities shall not be allowed direct
1718 access to information in the prescription drug monitoring
1719 program database but may request from the program manager and,
1720 when authorized by the program manager, the program manager's
1721 program and support staff, information that is confidential and
1722 exempt under s. 893.0551. Prior to release, the request shall be
1723 verified as authentic and authorized with the requesting
1724 organization by the program manager, the program manager's
1725 program and support staff, or as determined in rules by the
1726 department as being authentic and as having been authorized by
1727 the requesting entity:

1728 1. The department or its relevant health care regulatory
1729 boards responsible for the licensure, regulation, or discipline
1730 of practitioners, pharmacists, or other persons who are
1731 authorized to prescribe, administer, or dispense controlled
1732 substances and who are involved in a specific controlled
1733 substance investigation involving a designated person for one or
1734 more prescribed controlled substances.

1735 2. The Attorney General for Medicaid fraud cases involving
1736 prescribed controlled substances.

1737 3. A law enforcement agency during active investigations
1738 regarding potential criminal activity, fraud, or theft regarding
1739 prescribed controlled substances.

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1740 4. A patient or the legal guardian or designated health
1741 care surrogate of an incapacitated patient as described in s.
1742 893.0551 who, for the purpose of verifying the accuracy of the
1743 database information, submits a written and notarized request
1744 that includes the patient's full name, address, and date of
1745 birth, and includes the same information if the legal guardian
1746 or health care surrogate submits the request. The request shall
1747 be validated by the department to verify the identity of the
1748 patient and the legal guardian or health care surrogate, if the
1749 patient's legal guardian or health care surrogate is the
1750 requestor. Such verification is also required for any request to
1751 change a patient's prescription history or other information
1752 related to his or her information in the electronic database.

1753
1754 Information in the database for the electronic prescription drug
1755 monitoring system is not discoverable or admissible in any civil
1756 or administrative action, except in an investigation and
1757 disciplinary proceeding by the department or the appropriate
1758 regulatory board.

1759 (d) Department staff ~~The following entities~~ shall not be
1760 allowed direct access to information in the prescription drug
1761 monitoring program database but may request from the program
1762 manager and, when authorized by the program manager, the program
1763 manager's program and support staff, information that contains
1764 no identifying information of any patient, physician, health
1765 care practitioner, prescriber, or dispenser and that is not
1766 confidential and exempt,+

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1767 ~~1. Department staff for the purpose of calculating~~
1768 ~~performance measures pursuant to subsection (8).~~

1769 ~~2. The Program Implementation and Oversight Task Force for~~
1770 ~~its reporting to the Governor, the President of the Senate, and~~
1771 ~~the Speaker of the House of Representatives regarding the~~
1772 ~~prescription drug monitoring program. This subparagraph expires~~
1773 ~~July 1, 2012.~~

1774 (e) All transmissions of data required by this section
1775 must comply with relevant state and federal privacy and security
1776 laws and regulations. However, any authorized agency or person
1777 under s. 893.0551 receiving such information as allowed by s.
1778 893.0551 may maintain the information received for up to 24
1779 months before purging it from his or her records or maintain it
1780 for longer than 24 months if the information is pertinent to
1781 ongoing health care or an active law enforcement investigation
1782 or prosecution.

1783 (f) The program manager, upon determining a pattern
1784 consistent with the rules established under paragraph (2)(d) and
1785 having cause to believe a violation of s. 893.13(7)(a)8.,
1786 (8)(a), or (8)(b) has occurred, may provide relevant information
1787 to the applicable law enforcement agency.

1788 (8) To assist in fulfilling program responsibilities,
1789 performance measures shall be reported annually to the Governor,
1790 the President of the Senate, and the Speaker of the House of
1791 Representatives by the department each December 1, beginning in
1792 2011. Data that does not contain patient, physician, health care
1793 practitioner, prescriber, or dispenser identifying information
1794 may be requested during the year by department employees so that

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1795 the department may undertake public health care and safety
1796 initiatives that take advantage of observed trends. Performance
1797 measures may include, but are not limited to, efforts to achieve
1798 the following outcomes:

1799 (a) Reduction of the rate of inappropriate use of
1800 prescription drugs through department education and safety
1801 efforts.

1802 (b) Reduction of the quantity of pharmaceutical controlled
1803 substances obtained by individuals attempting to engage in fraud
1804 and deceit.

1805 (c) Increased coordination among partners participating in
1806 the prescription drug monitoring program.

1807 (d) Involvement of stakeholders in achieving improved
1808 patient health care and safety and reduction of prescription
1809 drug abuse and prescription drug diversion.

1810 (9) Any person who willfully and knowingly fails to report
1811 the dispensing of a controlled substance as required by this
1812 section commits a misdemeanor of the first degree, punishable as
1813 provided in s. 775.082 or s. 775.083.

1814 (10) All costs incurred by the department in administering
1815 the prescription drug monitoring program shall be funded through
1816 federal grants or private funding applied for or received by the
1817 state. The department may not commit funds for the monitoring
1818 program without ensuring funding is available. The prescription
1819 drug monitoring program and the implementation thereof are
1820 contingent upon receipt of the nonstate funding. The department
1821 and state government shall cooperate with the direct-support
1822 organization established pursuant to subsection (11) in seeking

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1823 federal grant funds, other nonstate grant funds, gifts,
1824 donations, or other private moneys for the department so long as
1825 the costs of doing so are not considered material. Nonmaterial
1826 costs for this purpose include, but are not limited to, the
1827 costs of mailing and personnel assigned to research or apply for
1828 a grant. Notwithstanding the exemptions to competitive-
1829 solicitation requirements under s. 287.057(3)(f), the department
1830 shall comply with the competitive-solicitation requirements
1831 under s. 287.057 for the procurement of any goods or services
1832 required by this section. Funds provided, directly or
1833 indirectly, by prescription drug manufacturers may not be used
1834 to implement the program.

1835 ~~(11) The Office of Drug Control, in coordination with the~~
1836 ~~department,~~ may establish a direct-support organization that has
1837 a board consisting of at least five members to provide
1838 assistance, funding, and promotional support for the activities
1839 authorized for the prescription drug monitoring program.

1840 (a) As used in this subsection, the term "direct-support
1841 organization" means an organization that is:

1842 1. A Florida corporation not for profit incorporated under
1843 chapter 617, exempted from filing fees, and approved by the
1844 Department of State.

1845 2. Organized and operated to conduct programs and
1846 activities; raise funds; request and receive grants, gifts, and
1847 bequests of money; acquire, receive, hold, and invest, in its
1848 own name, securities, funds, objects of value, or other
1849 property, either real or personal; and make expenditures or
1850 provide funding to or for the direct or indirect benefit of the

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1851 department in the furtherance of the prescription drug
1852 monitoring program.

1853 (b) The direct-support organization is not considered a
1854 lobbying firm within the meaning of s. 11.045.

1855 (c) The state surgeon general~~director of the Office of~~
1856 ~~Drug Control~~ shall appoint a board of directors for the direct-
1857 support organization. ~~The director may designate employees of~~
1858 ~~the Office of Drug Control, state employees other than state~~
1859 ~~employees from the department, and any other nonstate employees~~
1860 ~~as appropriate, to serve on the board.~~ Members of the board
1861 shall serve at the pleasure of ~~the director of the~~ state surgeon
1862 general~~Office of Drug Control~~. The state surgeon general~~director~~
1863 shall provide guidance to members of the board to ensure that
1864 moneys received by the direct-support organization are not
1865 received from inappropriate sources. Inappropriate sources
1866 include, but are not limited to, donors, grantors, persons, or
1867 organizations that may monetarily or substantively benefit from
1868 the purchase of goods or services by the department in
1869 furtherance of the prescription drug monitoring program.

1870 (d) The direct-support organization shall operate under
1871 written contract with the department~~Office of Drug Control~~. The
1872 contract must, at a minimum, provide for:

1873 1. Approval of the articles of incorporation and bylaws of
1874 the direct-support organization by the department~~Office of Drug~~
1875 ~~Control~~.

1876 2. Submission of an annual budget for the approval of the
1877 department~~Office of Drug Control~~.

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1878 3. Certification by the ~~department~~Office of Drug Control
1879 in consultation with the department that the direct-support
1880 organization is complying with the terms of the contract in a
1881 manner consistent with and in furtherance of the goals and
1882 purposes of the prescription drug monitoring program and in the
1883 best interests of the state. Such certification must be made
1884 annually and reported in the official minutes of a meeting of
1885 the direct-support organization.

1886 4. ~~The reversion, without penalty, to the Office of Drug~~
1887 ~~Control, or to the state if the Office of Drug Control ceases to~~
1888 ~~exist,~~ of all moneys and property held in trust by the direct-
1889 support organization for the benefit of the prescription drug
1890 monitoring program if the direct-support organization ceases to
91 exist or if the contract is terminated.

1892 5. The fiscal year of the direct-support organization,
1893 which must begin July 1 of each year and end June 30 of the
1894 following year.

1895 6. The disclosure of the material provisions of the
1896 contract to donors of gifts, contributions, or bequests,
1897 including such disclosure on all promotional and fundraising
1898 publications, and an explanation to such donors of the
1899 distinction between the ~~department~~Office of Drug Control and the
1900 direct-support organization.

1901 7. The direct-support organization's collecting,
1902 expending, and providing of funds to the department for the
1903 development, implementation, and operation of the prescription
1904 drug monitoring program as described in this section and s. 2,
1905 chapter 2009-198, Laws of Florida, as long as the task force is

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1906 authorized. The direct-support organization may collect and
1907 expend funds to be used for the functions of the direct-support
1908 organization's board of directors, as necessary and approved by
1909 ~~the department~~~~the director of the Office of Drug Control~~. In
1910 addition, the direct-support organization may collect and
1911 provide funding to the department in furtherance of the
1912 prescription drug monitoring program by:

1913 a. Establishing and administering the prescription drug
1914 monitoring program's electronic database, including hardware and
1915 software.

1916 b. Conducting studies on the efficiency and effectiveness
1917 of the program to include feasibility studies as described in
1918 subsection (13).

1919 c. Providing funds for future enhancements of the program
1920 within the intent of this section.

1921 d. Providing user training of the prescription drug
1922 monitoring program, including distribution of materials to
1923 promote public awareness and education and conducting workshops
1924 or other meetings, for health care practitioners, pharmacists,
1925 and others as appropriate.

1926 e. Providing funds for travel expenses.

1927 f. Providing funds for administrative costs, including
1928 personnel, audits, facilities, and equipment.

1929 g. Fulfilling all other requirements necessary to
1930 implement and operate the program as outlined in this section.

1931 (e) The activities of the direct-support organization must
1932 be consistent with the goals and mission of the ~~department~~~~Office~~
1933 ~~of Drug Control~~, as determined by the ~~office in consultation~~

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1934 ~~with the department~~, and in the best interests of the state. The
1935 direct-support organization must obtain a written approval from
1936 the department~~director of the Office of Drug Control~~ for any
1937 activities in support of the prescription drug monitoring
1938 program before undertaking those activities.

1939 (f) ~~The Office of Drug Control, in consultation with the~~
1940 ~~department,~~ may permit, without charge, appropriate use of
1941 administrative services, property, and facilities of ~~the Office~~
1942 ~~of Drug Control and the department~~ by the direct-support
1943 organization, subject to this section. The use must be directly
1944 in keeping with the approved purposes of the direct-support
1945 organization and may not be made at times or places that would
1946 unreasonably interfere with opportunities for the public to use
1947 such facilities for established purposes. Any moneys received
1948 from rentals of facilities and properties managed by the ~~Office~~
1949 ~~of Drug Control and the department~~ may be held by ~~the Office of~~
1950 ~~Drug Control~~ or in a separate depository account in the name of
1951 the direct-support organization and subject to the provisions of
1952 the letter of agreement with the department~~Office of Drug~~
1953 ~~Control~~. The letter of agreement must provide that any funds
1954 held in the separate depository account in the name of the
1955 direct-support organization must revert to the department~~Office~~
1956 ~~of Drug Control~~ if the direct-support organization is no longer
1957 approved by the department~~Office of Drug Control~~ to operate in
1958 the best interests of the state.

1959 (g) ~~The Office of Drug Control, in consultation with the~~
1960 ~~department,~~ may adopt rules under s. 120.54 to govern the use of

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1961 administrative services, property, or facilities of the
1962 department or office by the direct-support organization.

1963 (h) The ~~departmentOffice of Drug Control~~ may not permit
1964 the use of any administrative services, property, or facilities
1965 of the state by a direct-support organization if that
1966 organization does not provide equal membership and employment
1967 opportunities to all persons regardless of race, color,
1968 religion, gender, age, or national origin.

1969 (i) The direct-support organization shall provide for an
1970 independent annual financial audit in accordance with s.
1971 215.981. Copies of the audit shall be provided to the
1972 ~~departmentOffice of Drug Control~~ and the Office of Policy and
1973 Budget in the Executive Office of the Governor.

1974 (j) The direct-support organization may not exercise any
1975 power under s. 617.0302(12) or (16).

1976 (12) A prescriber or dispenser may have access to the
1977 information under this section which relates to a patient of
1978 that prescriber or dispenser as needed for the purpose of
1979 reviewing the patient's controlled drug prescription history. A
1980 prescriber or dispenser acting in good faith is immune from any
1981 civil, criminal, or administrative liability that might
1982 otherwise be incurred or imposed for receiving or using
1983 information from the prescription drug monitoring program. This
1984 subsection does not create a private cause of action, and a
1985 person may not recover damages against a prescriber or dispenser
1986 authorized to access information under this subsection for
1987 accessing or failing to access such information.

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1988 (13) To the extent that funding is provided for such
1989 purpose through federal or private grants or gifts and other
1990 types of available moneys, the department, ~~in collaboration with~~
1991 ~~the Office of Drug Control,~~ shall study the feasibility of
1992 enhancing the prescription drug monitoring program for the
1993 purposes of public health initiatives and statistical reporting
1994 that respects the privacy of the patient, the prescriber, and
1995 the dispenser. Such a study shall be conducted in order to
1996 further improve the quality of health care services and safety
1997 by improving the prescribing and dispensing practices for
1998 prescription drugs, taking advantage of advances in technology,
1999 reducing duplicative prescriptions and the overprescribing of
2000 prescription drugs, and reducing drug abuse. The requirements of
2001 the National All Schedules Prescription Electronic Reporting
2002 (NASPER) Act are authorized in order to apply for federal NASPER
2003 funding. In addition, the direct-support organization shall
2004 provide funding for the department, ~~in collaboration with the~~
2005 ~~Office of Drug Control,~~ to conduct training for health care
2006 practitioners and other appropriate persons in using the
2007 monitoring program to support the program enhancements.

2008 (14) A pharmacist, pharmacy, or dispensing health care
2009 practitioner or his or her agent, before releasing a controlled
2010 substance to any person not known to such dispenser, shall
2011 require the person purchasing, receiving, or otherwise acquiring
2012 the controlled substance to present valid photographic
2013 identification or other verification of his or her identity to
2014 the dispenser. If the person does not have proper
2015 identification, the dispenser may verify the validity of the

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2016 prescription and the identity of the patient with the prescriber
2017 or his or her authorized agent. Verification of health plan
2018 eligibility through a real-time inquiry or adjudication system
2019 will be considered to be proper identification. This subsection
2020 does not apply in an institutional setting or to a long-term
2021 care facility, including, but not limited to, an assisted living
2022 facility or a hospital to which patients are admitted. As used
2023 in this subsection, the term "proper identification" means an
2024 identification that is issued by a state or the Federal
2025 Government containing the person's photograph, printed name, and
2026 signature or a document considered acceptable under 8 C.F.R. s.
2027 274a.2(b)(1)(v)(A) and (B).

2028 (15) The Agency for Health Care Administration shall
2029 continue the promotion of electronic prescribing by health care
2030 practitioners, health care facilities, and pharmacies under s.
2031 408.0611.

2032 (16) ~~By October 1, 2010, t~~The department shall adopt rules
2033 pursuant to ss. 120.536(1) and 120.54 to administer the
2034 provisions of this section, which shall include as necessary the
2035 reporting, accessing, evaluation, management, development,
2036 implementation, operation, and storage of information within the
2037 monitoring program's system.

2038 Section 23. Section 893.065, Florida Statutes, is amended
2039 to read:

2040 893.065 Counterfeit-resistant prescription blanks for
2041 controlled substances listed in Schedule II, Schedule III, or
2042 Schedule IV.—The Department of Health shall develop and adopt by
2043 rule the form and content for a counterfeit-resistant

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2044 prescription blank which ~~must~~ may be used by practitioners for
2045 the purpose of prescribing a controlled substance listed in
2046 Schedule II, Schedule III, ~~or~~ Schedule IV or Schedule V pursuant
2047 to s. 456.42. The Department of Health may require the
2048 prescription blanks to be printed on distinctive, watermarked
2049 paper and to bear the preprinted name, address, and category of
2050 professional licensure of the practitioner and that
2051 practitioner's federal registry number for controlled
2052 substances. The prescription blanks may not be transferred.

2053 Section 24. Subsections (4) and (5) of section 893.07,
2054 Florida Statutes, are amended to read:

2055 893.07 Records.—

2056 (4) Every inventory or record required by this chapter,
2057 including prescription records, shall be maintained:

2058 (a) Separately from all other records of the registrant,
2059 or

2060 (b) Alternatively, in the case of Schedule III, IV, or V
2061 controlled substances, in such form that information required by
2062 this chapter is readily retrievable from the ordinary business
2063 records of the registrant.

2064
2065 In either case, the records described in this subsection shall
2066 be kept and made available for a period of at least 2 years for
2067 inspection and copying by law enforcement officers whose duty it
2068 is to enforce the laws of this state relating to controlled
2069 substances. Law enforcement officers are not required to obtain
2070 a subpoena, court order, or search warrant in order to obtain
2071 access to or copies of such records.

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2072 (5) Each person described in subsection (1) shall:

2073 (a) Maintain a record which shall contain a detailed list
2074 of controlled substances lost, destroyed, or stolen, if any; the
2075 kind and quantity of such controlled substances; and the date of
2076 the discovering of such loss, destruction, or theft.

2077 (b) In the event of the discovery of the theft or loss of
2078 controlled substances, report such theft or loss to the sheriff
2079 of that county within 24 hours after its discovery. A person who
2080 fails to report a theft or loss of a substance listed in s.
2081 893.03(3), (4), or (5) within 24 hours after discovery as
2082 required in this paragraph commits a misdemeanor of the second
2083 degree, punishable as provided in s. 775.082 or s. 775.083. A
2084 person who fails to report a theft or loss of a substance listed
2085 in s. 893.03(2) within 24 hours after discovery as required in
2086 this paragraph commits a misdemeanor of the first degree,
2087 punishable as provided in s. 775.082 or s. 775.083.

2088 Section 25. Section 2 of chapter 2009-198, Laws of
2089 Florida, is repealed.

2090 Section 26.

2091 (1) BUY-BACK PROGRAM.—Within 10 days after the effective
2092 date of this act, each physician licensed under chapter 458,
2093 chapter 459, chapter 461, or chapter 466, Florida Statutes,
2094 shall ensure that undispensed inventory of controlled substances
2095 listed in Schedule II or Schedule III as provided in s. 893.03,
2096 Florida Statutes, purchased under the physician's Drug
2097 Enforcement Administration number for dispensing is:

2098 (a) Returned to the wholesale distributor, as defined in
2099 s. 499.003, Florida Statutes, which distributed them; or

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2100 (b) Turned in to local law enforcement agencies and
2101 abandoned.

2102
2103 Wholesale distributors shall buy back the undispensed inventory
2104 of controlled substances listed in Schedule II or Schedule III
2105 as provided in s. 893.03, Florida Statutes, at the purchase
2106 price paid by the physician, physician practice, clinic, or
2107 other paying entity. Each wholesale distributor shall submit a
2108 report of its activities under this section to the Department of
2109 Health by August 1, 2011. The report shall include the following
2110 information:

2111 1. The name and address of the returning entity.
2112 2. The Florida license, registration, or permit number and
2113 Drug Enforcement Administration number of the entity that
2114 originally ordered the drugs.

2115 3. The drug name and number of unit doses returned.
2116 4. The date of return.

2117 (2) PUBLIC HEALTH EMERGENCY.—

2118 (a) The Legislature finds that:

2119 1. Prescription drug overdose has been declared a public
2120 health epidemic by the United States Centers for Disease Control
2121 and Prevention.

2122 2. Prescription drug abuse results in an average of 7
2123 deaths in this state each day.

2124 3. Physicians in this state purchased over 85 percent of
2125 the oxycodone purchased by all practitioners in the United
2126 States in 2006.

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2127 4. Physicians in this state purchased over 93 percent of
2128 the methadone purchased by all practitioners in the United
2129 States in 2006.

2130 5. Some physicians in this state dispense medically
2131 unjustifiable amounts of controlled substances to addicts and
2132 people who intend to illegally sell the drugs.

2133 6. Physicians in this state who have purchased large
2134 quantities of controlled substances may have significant
2135 inventory on the effective date of this act.

2136 7. On the effective date of this act, the only legal
2137 method for a dispensing practitioner to sell or otherwise
2138 transfer controlled substances listed in Schedule II or Schedule
2139 III as provided in s. 893.03, Florida Statutes, purchased for
2140 dispensing is through the buy-back procedure or abandonment
2141 procedures of subsection (1).

2142 8. It is likely that the same physicians who purchase and
2143 dispense medically unjustifiable amounts of drugs will not
2144 legally dispose of remaining inventory.

2145 9. The actions of such dispensing practitioners may result
2146 in substantial injury to the public health.

2147 (b) Immediately on the effective date of this act, the
2148 State Health Officer shall declare a public health emergency
2149 pursuant to s. 381.00315, Florida Statutes. Pursuant to that
2150 declaration, the Department of Health, the Attorney General, the
2151 Department of Law Enforcement, and local law enforcement
2152 agencies shall take the following actions:

2153 1. Within 2 days after the effective date of this act, in
2154 consultation with wholesale distributors as defined in s.

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2155 499.003, Florida Statutes, the Department of Health shall
2156 identify dispensing practitioners that purchased more than an
2157 average of 2,000 unit doses of controlled substances listed in
2158 Schedule II or Schedule III as provided in s. 893.03, Florida
2159 Statutes, per month in the previous 6 months, and shall identify
2160 the dispensing practitioners in that group who pose the greatest
2161 threat to the public health based on an assessment of:

- 2162 a. The risk of noncompliance with subsection (1).
2163 b. Purchase amounts.
2164 c. Manner of medical practice.
2165 d. Any other factor set by the State Health Officer.
2166

2167 The Attorney General shall consult and coordinate with federal
2168 law enforcement agencies. The Department of Law Enforcement
2169 shall coordinate the efforts of local law enforcement agencies.

2170 2. On the 3rd day after the effective date of this act,
2171 the Department of Law Enforcement or local law enforcement
2172 agencies shall enter the business premises of the dispensing
2173 practitioners identified as posing the greatest threat to public
2174 health and quarantine the inventory of controlled substances
2175 listed in Schedule II or Schedule III as provided in s. 893.03,
2176 Florida Statutes, of such dispensing practitioners on site.

2177 3. The Department of Law Enforcement or local law
2178 enforcement agencies shall ensure the security of such inventory
2179 24 hours a day through the 10th day after the effective date of
2180 this act or until the inventory is validly transferred pursuant
2181 to subsection (1), whichever is earlier.

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2182 4. On the 11th day after the effective date of this act,
2183 any remaining inventory of controlled substances listed in
2184 Schedule II or Schedule III as provided in s. 893.03, Florida
2185 Statutes, purchased for dispensing by practitioners is deemed
2186 contraband under s. 893.12, Florida Statutes. The Department of
2187 Law Enforcement or local law enforcement agencies shall seize
2188 the inventory and comply with the provisions of s. 893.12,
2189 Florida Statutes, to destroy it.

2190 (c) In order to implement the provisions of this section,
2191 the sum of \$3 million of nonrecurring funds from the General
2192 Revenue Fund is appropriated to the Department of Law
2193 Enforcement for the 2010-2011 fiscal year. The Department of Law
2194 Enforcement shall expend the appropriation by reimbursing local
2195 law enforcement agencies for the overtime-hour costs associated
2196 with securing the quarantined controlled substance inventory as
2197 provided in paragraph (b) and activities related to
2198 investigation and prosecution of crimes related to prescribed
2199 controlled substances. If requests for reimbursement exceed the
2200 amount appropriated, the reimbursements shall be prorated by the
2201 hours of overtime per requesting agency at a maximum of one law
2202 enforcement officer per quarantine site.

2203 (3) This section is repealed January 1, 2013.

2204 Section 27. Except as otherwise expressly provided in this
2205 act, this act shall take effect July 1, 2011.

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2210 T I T L E A M E N D M E N T

2211 Remove the entire title and insert:
2212 amending s. 456.072, F.S.; making failure to comply with the
2213 requirements of s. 456.44 grounds for disciplinary action;
2214 providing mandatory administrative penalties for certain
2215 violations related to prescribing; amending s. 456.42, F.S. ;
2216 requiring prescriptions for controlled substances to be written
2217 on a counterfeit-resistant pad produced by an approved vendor or
2218 electronically prescribed; creating s. 456.44, F.S. related to
2219 controlled substance prescribing; creating definitions;
2220 requiring certain physicians to register with the appropriate
2221 board to prescribe controlled substances for the treatment of
2222 chronic, non-cancer pain; providing an effective date; requiring
2223 a fee; requiring registered physicians to meet certain standards
2224 of practice; requiring a physical exam; requiring a written
2225 protocol; requiring an assessment of risk for aberrant behavior;
2226 requiring a treatment plan; requiring specified informed
2227 consent; requiring consultation and referral in certain
2228 circumstances; requiring medical records meeting certain
2229 criteria; requiring a prescription log; providing an exemption
2230 for physicians meeting certain criteria; amending s. 458.3265,
2231 F.S., relating to regulation of pain-management clinics and
2232 medical doctors; amending the definition of a pain-management
2233 clinic; providing an exemption from registration for clinics
2234 owned and operated by physicians meeting certain criteria;
2235 requiring physicians in pain-management clinics to ensure
2236 compliance with certain requirements; imposing facility and
2237 physical operations requirements; imposing infection control

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2238 requirements; imposing health and safety requirements; imposing
2239 quality assurance requirements; imposing data collection and
2240 reporting requirements; amending rulemaking authority; making
2241 conforming changes; providing for expiration of the section on
2242 January 1, 2016; amending s. 458.327, F.S.; providing that
2243 dispensing certain controlled substances in violation of
2244 specified provisions is a third-degree felony; amending s.
2245 458.331, F.S.; providing that dispensing certain controlled
2246 substances in violation of specified provisions is grounds for
2247 disciplinary action; amending s. 459.0137, F.S., relating to
2248 regulation of pain-management clinics and osteopathic
2249 physicians; amending the definition of a pain-management clinic;
2250 providing an exemption from registration for clinics owned and
2251 operated by physicians meeting certain criteria; requiring
2252 physicians in pain-management clinics to ensure compliance with
2253 certain requirements; imposing facility and physical operations
2254 requirements; imposing infection control requirements; imposing
2255 health and safety requirements; imposing quality assurance
2256 requirements; imposing data collection and reporting
2257 requirements; amending rulemaking authority; making conforming
2258 changes; providing for expiration of the section on January 1,
2259 2016; amending s. 459.013, F.S., relating to penalties for
2260 violations; providing that dispensing certain controlled
2261 substances in violation of specified provisions is a third-
2262 degree felony; amending s. 459.015, F.S.; providing that
2263 dispensing certain controlled substances in violation of
2264 specified provisions is ground for disciplinary action; amending
2265 s. 465.015, F.S.; requiring a pharmacist to report to the

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2266 sheriff within a specified period any instance in which a person
2267 fraudulently obtained or attempted to fraudulently obtain a
2268 controlled substance; providing criminal penalties; providing
2269 requirements for reports; amending s. 456.016, F.S.; providing
2270 additional grounds for denial of or disciplinary action against
2271 a pharmacist license; amending s. 465.018, F.S.; providing
2272 grounds for permit denial or discipline; requiring applicants to
2273 pay or make arrangements to pay amounts owed to the Department
2274 of Health; requiring an inspection; limiting the community
2275 pharmacies that may dispense controlled substances; providing an
2276 effective date; providing exemptions; providing an effective
2277 date; requiring permittees to maintain certain records; amending
2278 s. 465.022, F.S.; requiring the Department of Health to adopt
2279 rules related to procedures for dispensing controlled
2280 substances; providing requirements for the issuance of a
2281 pharmacy permit; requiring disclosure of financial interests;
2282 requiring submission of policies and procedures and providing
2283 for grounds for permit denial based on them; requiring the
2284 Department of Health to deny a permit to applicants under
2285 certain circumstances; requiring permittees to provide notice of
2286 certain management changes; requiring prescription department
2287 managers to meet certain criteria; imposing duties on
2288 prescription department managers; limiting the number of
2289 locations a prescription department manager may manage;
2290 requiring the board to adopt rules related to record-keeping;
2291 amending s. 465.0276, F.S.; prohibiting registered dispensing
2292 practitioners from dispensing certain controlled substances;
2293 providing an exception; repealing a 72-hour supply limit on

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2294 dispensing certain controlled substances to certain patients in
2295 registered pain-management clinics; providing an exception for
2296 dispensing controlled substances in the health care system of
2297 the Department of Corrections; amending s. 499.0051, F.S.;
2298 creating two third degree felonies for violations of certain
2299 provisions of s. 499.0121; amending s. 499.012, F.S.; requiring
2300 wholesale distributor permit applicants to submit documentation
2301 of credentialing policies; amending s. 499.0121, F.S.; providing
2302 reporting requirements for wholesale distributors of certain
2303 controlled substances; requiring the Department of Health to
2304 share the reported data with law enforcement agencies; requiring
2305 the Department of Law Enforcement to make investigations based
2306 on the reported data; providing credentialing requirements for
2307 distribution of controlled substances to certain entities by
2308 wholesale distributors; requiring distributors to identify
2309 suspicious transactions; requiring distributors to determine the
2310 reasonableness of orders for controlled substances over certain
2311 amounts; requiring distributors to report certain transactions
2312 to the Department of Health; prohibiting distribution to
2313 entities with certain criminal histories; limiting monthly
2314 distribution amounts of certain controlled substances to retail
2315 pharmacies; prohibiting distribution to entities with certain
2316 criminal backgrounds; amending s. 499.05, F.S.; authorizing
2317 rulemaking concerning specified controlled substance wholesale
2318 distributor reporting requirements and credentialing
2319 requirements; amending s. 499.067, F.S.; requiring the
2320 Department of Health to take disciplinary action against
2321 wholesale distributors failing to comply with specified

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2322 credentialing requirements; amending s. 810.02, F.S.;

2323 authorizing separate judgments and sentences for burglary with

2324 the intent to commit theft of a controlled substance under

2325 specified provisions and for any applicable possession of

2326 controlled substance offense under specified provisions in

2327 certain circumstances; amending s. 812.014, F.S.; authorizing

2328 separate judgments and sentences for theft of a controlled

2329 substance under specified provisions and for any applicable

2330 possession of controlled substance offense under specified

2331 provisions in certain circumstances; amending s. 893.055, F.S.;

2332 deleting obsolete dates; deleting references to the Office of

2333 Drug Control; making conforming changes; requiring the state

2334 surgeon general to appoint a board of directors for a direct-

2335 support organization; requiring reports to the prescription drug

2336 monitoring system to be made in 7 days; amending s. 893.065,

2337 F.S.; conforming to changes made to s. 456.42; amending s.

2338 893.07, F.S.; providing that law enforcement officers are not

2339 required to obtain a subpoena, court order, or search warrant in

2340 order to obtain access to or copies of specified controlled

2341 substance inventory records; requiring reporting discovery of

2342 the theft or loss of controlled substances to the sheriff within

2343 a specified period; providing criminal penalties; repealing s. 2

2344 of chapter 2009-198, Laws of Florida, relating to Program

2345 Implementation and Oversight Task Force in the Executive Office

2346 of the Governor concerning the electronic system established for

2347 the prescription drug monitoring program; providing a buyback

2348 program for undispensed controlled substance inventory held by

2349 specified licensed physicians; requiring reports of program;

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2350 providing for a declaration of a public health emergency;
2351 requiring certain actions relating to dispensing practitioners
2352 identified as posing the greatest threat to public health;
2353 providing an appropriation; providing for future repeal of
2354 program provisions; providing an effective date.
2355

Committee on _____



Date

4-12-11

Withdrawn 4/12/11
Action _____

~~Amended~~

HOUSE AMENDMENT FOR DRAFTING PURPOSES ONLY

(may be used in Committee, but not on House Floor)

Amendment No. 1 to Strike all

Bill No. _____

(For filing with the Clerk, Committee and Member Amendments **must** be prepared on computer)

Representative(s)/The Committee on _____

Krege

offered the following amendment: to the strike all amendment

Amendment

on page 4, line _____,

Remove Lines 88-91

Line 92 change (B) → (A)

Adopted
4-12-11



Committee on Appropriations
Date 4/12/11

Action _____

HOUSE AMENDMENT FOR DRAFTING PURPOSES ONLY

(may be used in Committee, but not on House Floor)

Amendment No. 1a (am2 to STRICKLAND) Bill No. 7095

(For filing with the Clerk, Committee and Member Amendments **must** be prepared on computer)

Representative(s)/The Committee on Schenck

offered the following amendment: to the strikeall amendment:

Amendment

on page 4, line 89-91,

Remove lines 89-91 and insert:
as a controlled substance prescribing practitioner.

3A



Committee on _____

Date 4-12-11

Failed to adopt
4-12-11

Action _____

HOUSE AMENDMENT FOR DRAFTING PURPOSES ONLY

(may be used in Committee, but not on House Floor)

Amendment No. 3 to Strike all

Bill No. 7095

(For filing with the Clerk, Committee and Member Amendments **must** be prepared on computer)

Representative(s)/The Committee on _____

~~Krause~~ Samuelers

offered the following amendment: to the strike all amendnat

Amendment

on page 4, line _____,

Remove Lines 88-91

Line 92 change (B) → (A)

COMMITTEE MEETING REPORT

Appropriations Committee

4/12/2011 9:00:00AM

Location: Webster Hall (212 Knott)

HB 7215 : Department of Agriculture and Consumer Services

Not Considered

Committee meeting was reported out: Tuesday, April 12, 2011 2:57:09PM

COMMITTEE MEETING REPORT

Appropriations Committee

4/12/2011 9:00:00AM

Location: Webster Hall (212 Knott)

HJR 7221 : State Revenue Limitation

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Leonard Bemby		X			
Charles Chestnut IV		X			
Marti Coley	X				
Joseph Gibbons		X			
Richard Glorioso	X				
Ed Hooper	X				
Mike Horner	X				
Matt Hudson	X				
Dorothy Hukill	X				
Mia Jones		X			
Martin Kiar		X			
Paige Kreegel		X			
John Legg	X				
Carlos Lopez-Cantera	X				
Seth McKeel	X				
H. Marlene O'Toole	X				
William Proctor	X				
Darryl Rouson		X			
Franklin Sands		X			
Ron Saunders		X			
Robert Schenck	X				
William Snyder	X				
Trudi Williams		X			
Denise Grimsley (Chair)	X				
Total Yeas: 14		Total Nays: 10			

Appearances:

HJR 7221

Jarnett, Ray A. (General Public) - Opponent

FOPE Business Rep.
1744 NW 83rd Ave
Coral Springs FL 33071
Phone: (954)684-6220

HJR 7221

Harris, Shea (General Public) - Waive In Opposition

1456 Cane Road
Tallahassee FL 32305

HJR 7221

McRay, Jack (Lobbyist) - Opponent

AARP
200 W College Ave Ste 304
Tallahassee FL 32301
Phone: (850)577-5187

Committee meeting was reported out: Tuesday, April 12, 2011 2:57:09PM

COMMITTEE MEETING REPORT

Appropriations Committee

4/12/2011 9:00:00AM

Location: Webster Hall (212 Knott)

HJR 7221

Steward, Dawn (General Public) - Waive In Opposition

2130 Blossom Lane
Winter Park FL 32789
Phone: (407)645-0273

HJR 7221

Wilcox, Benjamin (Lobbyist) - Opponent

League of Women Voters of Florida
540 Beverly Ct
Tallahassee FL 32301
Phone: (850)544-4448

HJR 7221

Hunte, Sidney R. (General Public) - Opponent

8250 Sands Point Blvd. E 110
Tamarac FL 33321
Phone: (754)381-3653

HJR 7221

Templin, Rich (Lobbyist) - Opponent

Florida AFL-CIO
135 S. Monroe
Tallahassee FL 32301
Phone: 850-224-6926

HJR 7221

Taylor, Maryann (General Public) - Opponent

10730 Windsor Place
Orlando FL 32821
Phone: (407)748-0849

HJR 7221

Steckroat, William (General Public) - Waive In Opposition

626 SE 11th Place
Cape Coral FL 33990

HJR 7221

Greenwell, Lora - Waive In Opposition

621 SW 29th St
Cape Coral FL 33914
Phone: (239)872-2872

HJR 7221

Meiners, H. (Lobbyist) - Waive In Support

Associated Industries of Florida
516 N Adams St
Tallahassee FL 32301
Phone: (850)591-0177

Committee meeting was reported out: Tuesday, April 12, 2011 2:57:09PM

COMMITTEE MEETING REPORT

Appropriations Committee

4/12/2011 9:00:00AM

Location: Webster Hall (212 Knott)

HJR 7221

Harbisen, Jacki (General Public) - Opponent

1029 NE 35th Ave.

Cape Coral FL 33909

Phone: (239)770-2577

HJR 7221

Bryant, David (General Public) - Waive In Opposition

8853 Atter Lane

Jacksonville FL 32216

Phone: (904)233-4040

HJR 7221

Cole, Anna (General Public) - Waive In Opposition

261 Kettle Court

Casselberry FL 32707

Phone: (407)446-4431

HJR 7221

Perry, Gail Marie (General Public) - Opponent

Communications Workers of America/Council of Florida

PO Box 1766

Pompano FL 33061

Phone: (954)850-4055

HJR 7221

Clark, Bart (General Public) - Waive In Opposition

2071 Cynthia Drive

Tallahassee FL 32303

Phone: (850)559-4348

HJR 7221

Woodall, Karen (Lobbyist) - Opponent

Florida Center for Fiscal & Economic Policy

545 E. Tennessee Street

Tallahassee FL 32308

Phone: 850-321-9386

HJR 7221

Reeder, Glynn (General Public) - Opponent

2847 SE 113th Way

Starke FL 32091

Phone: (904)449-4770

HJR 7221

Pruett, Brett (State Employee) - Waive In Opposition

6415 Ashborough Court Apt. D

Milton FL 32570

Phone: (850)313-6682

Committee meeting was reported out: Tuesday, April 12, 2011 2:57:09PM

COMMITTEE MEETING REPORT

Appropriations Committee

4/12/2011 9:00:00AM

Location: Webster Hall (212 Knott)

HJR 7221

Schlipf, Maureen (State Employee) - Waive In Opposition

6671 SW CR 791

Lake Butler FL 32054

Phone: (386)466-9004

HJR 7221

Schlipf, Kevin (State Employee) - Waive In Opposition

6671 SW CR 791

Lake Butler FL 32054

Phone: (386)466-9880

HJR 7221

Stepanovich, Stacy (General Public) - Waive In Opposition

3610 Cardinal Blvd.

Daytona Beach Shores FL 32118

Phone: (386)235-5751

HJR 7221

Reeder, Penny (State Employee) - Opponent

2847 SE 113th Way

Starke FL 32091

Phone: (904)364-6340

HJR 7221

Williams, Ken (General Public) - Waive In Opposition

7411 Meadow Drive

Tampa FL 33634

Phone: (813)886-1753

HJR 7221

Jenkins, Tiffany (General Public) - Waive In Opposition

4804 Jacobs Glenn Drive

Tampa FL

Phone: (813)506-4193

HJR 7221

Cephus, Vanessa (General Public) - Opponent

421 Big Cedar Way Apt. B

Brandon FL 33510

Phone: (813)495-7190

HJR 7221

Dupree, Larry (General Public) - Waive In Opposition

8301 N River Highlands Pl.

Tampa FL 33617

Phone: (813)984-8828

HJR 7221

Murray, Leo (General Public) - Waive In Opposition

6418 10 St. North

St. Petersburg FL 33702

Phone: (727)460-0029

Committee meeting was reported out: Tuesday, April 12, 2011 2:57:09PM

COMMITTEE MEETING REPORT

Appropriations Committee

4/12/2011 9:00:00AM

Location: Webster Hall (212 Knott)

HJR 7221

DelGuercio, Vincent (General Public) - Opponent

1474 Admiral Nimitz Ave.

Daytona Beach FL 32124

Committee meeting was reported out: Tuesday, April 12, 2011 2:57:09PM