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# Health Quality Subcommittee

## Meeting Packet

Wednesday, February 5, 2014  
9:30 AM – 11:30 AM  
306 HOB

Will Weatherford  
Speaker

Kenneth L. "Ken" Roberson  
Chair

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Health Quality Subcommittee

**Start Date and Time:** Wednesday, February 05, 2014 09:30 am  
**End Date and Time:** Wednesday, February 05, 2014 11:30 am  
**Location:** 306 HOB  
**Duration:** 2.00 hrs

**Consideration of the following bill(s):**

HB 301 Medical Examiners by Spano  
HB 323 Pharmacy Technicians by La Rosa

Presentation by the Department of Health on the Impact of Regulatory Reform Relating to Prescription Drugs

Pursuant to rule 7.12, the deadline for amendments to bills on the agenda by non-appointed members is 6:00 p.m., Tuesday, February 4, 2014.

By request of the chair, all committee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Tuesday, February 4, 2014.

**NOTICE FINALIZED on 01/29/2014 14:20 by Villar.Melissa**



# Health Quality Subcommittee



Controlled Substance Regulatory  
Update

Lucy C. Gee, M.S., Director  
Medical Quality Assurance  
Department of Health  
February 5 , 2014

# Outline



- Overview of HB 7095 (2011)
- Results
  - Pain Management Clinics (PMC)
  - Prescribers
  - Dispensers
  - Patients

# HB 7095 (2011) Overview



- Increased penalties for violations of controlled substance prescribing requirements
- Counterfeit-proof prescriptions pads
- Physicians and dentists to register on profile if prescribe controlled substances for pain
- Standards for controlled substance prescribing



# HB 7095 Overview (2011)



- Pain management clinic registration
  - Physical examination
  - Designated physician
  - Exemptions from registration
- Prohibition on physician dispensing of CS II and III

# HB 7095 (2011) Overview



- Public Health Emergency declared July 1, 2011
  - July 5 law enforcement and department investigators quarantined 105,579 drugs
- Pharmacies required to re-register with criminal background screening

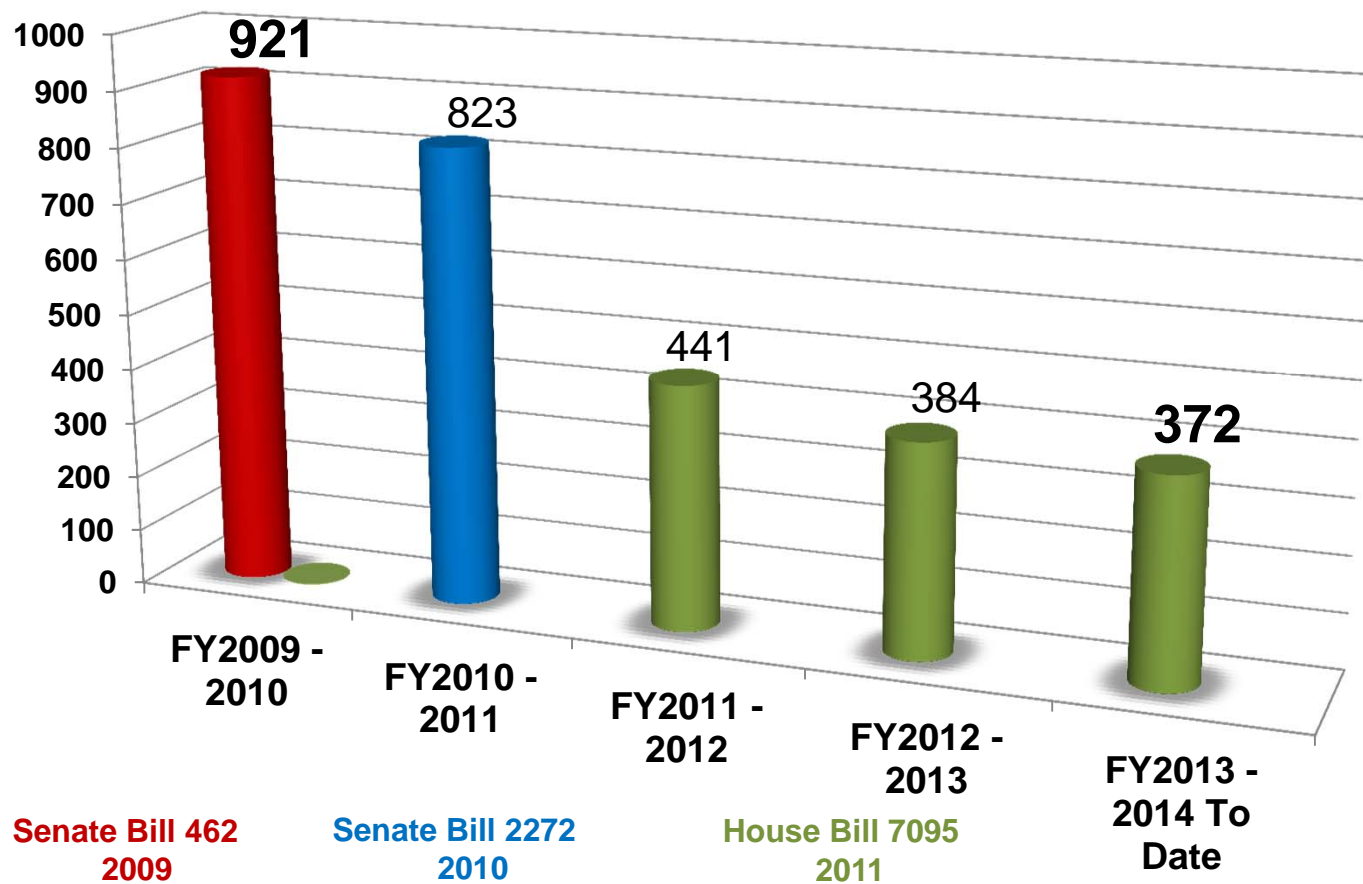


# HB 7095 (2011) Overview

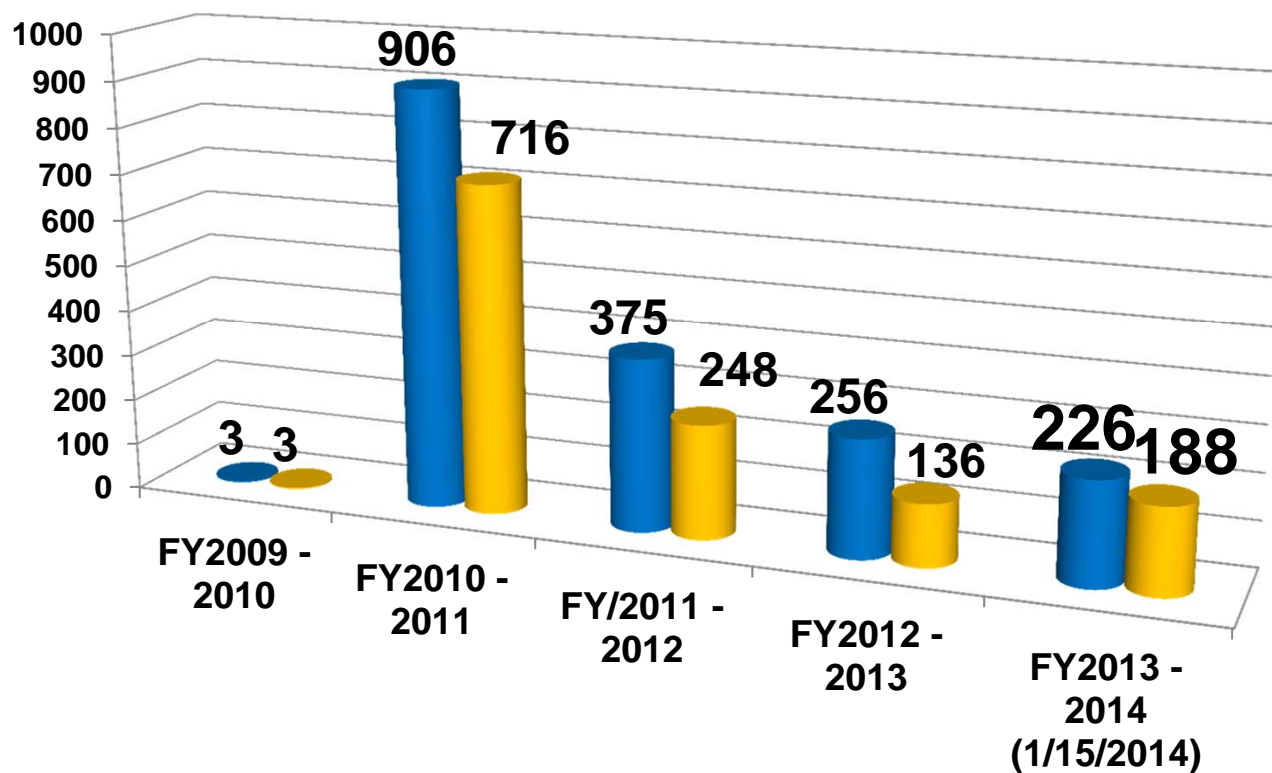


- Days to report dispensing information to PDMP decreased from 15 days to 7
- Changes to Chapter 499-Drug, Cosmetic and Household Products
  - Increased criminal acts
  - Wholesalers required to report distribution of controlled substances to database
  - Wholesalers required to credential physicians and pharmacies

# Pain Management Clinics Registered



# Pain Management Clinic Inspections



■ # of inspections completed

■ # passed on first inspection

# Prescriber Registration



- **Chronic Nonmalignant Pain (CNMP)**

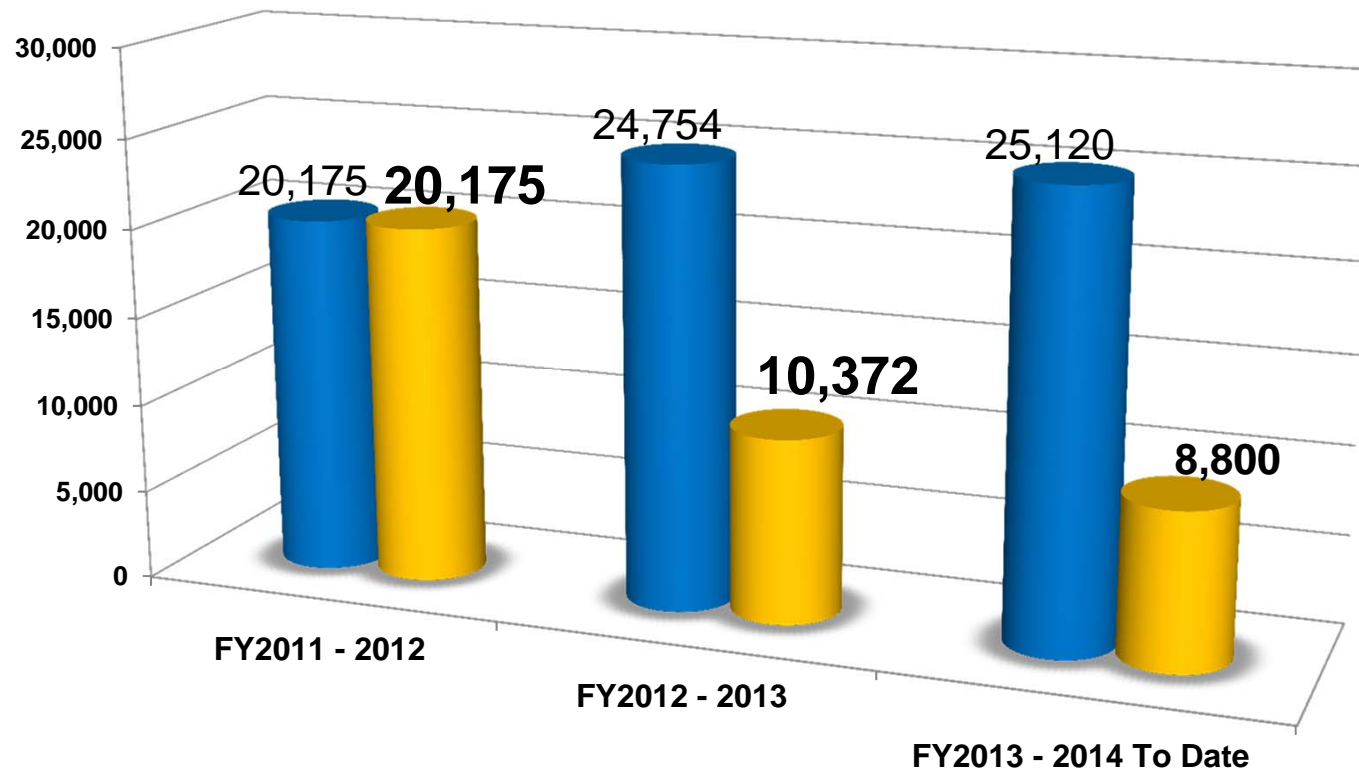
Pain unrelated to cancer or rheumatoid arthritis that persists for more than 90 days after injury/surgery

- **Required Registration to Prescribe CNMP**

Health Care Practitioners who prescribe controlled substances for the treatment of **CNMP**

- Medical Doctors
- Osteopathic Physicians
- Dentists
- Podiatrists

# Prescriber Registration



- # of registered prescribers of controlled substances for the treatment of CNMP
- # of new registrations issued

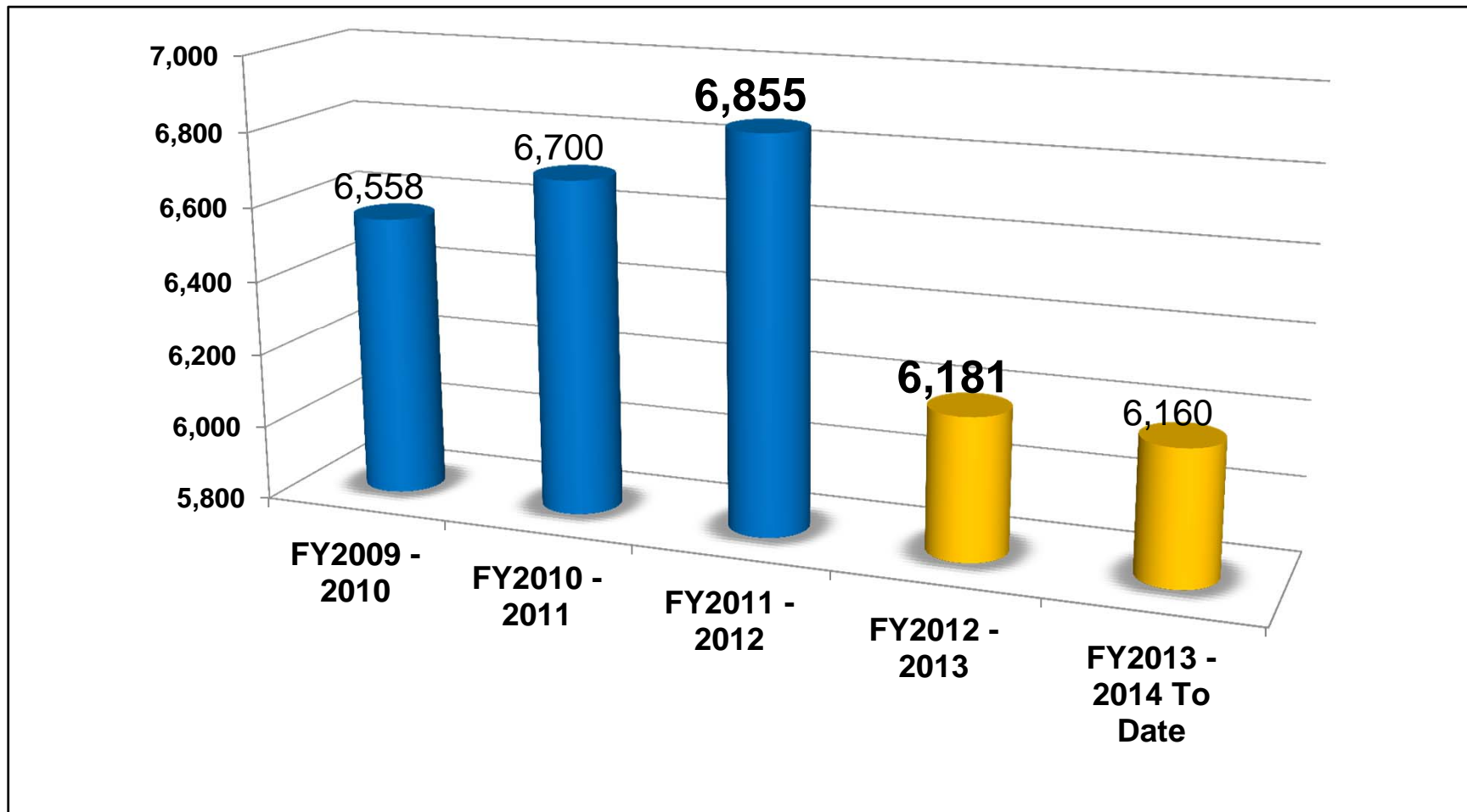
# Prescribers Dispensing Practitioners



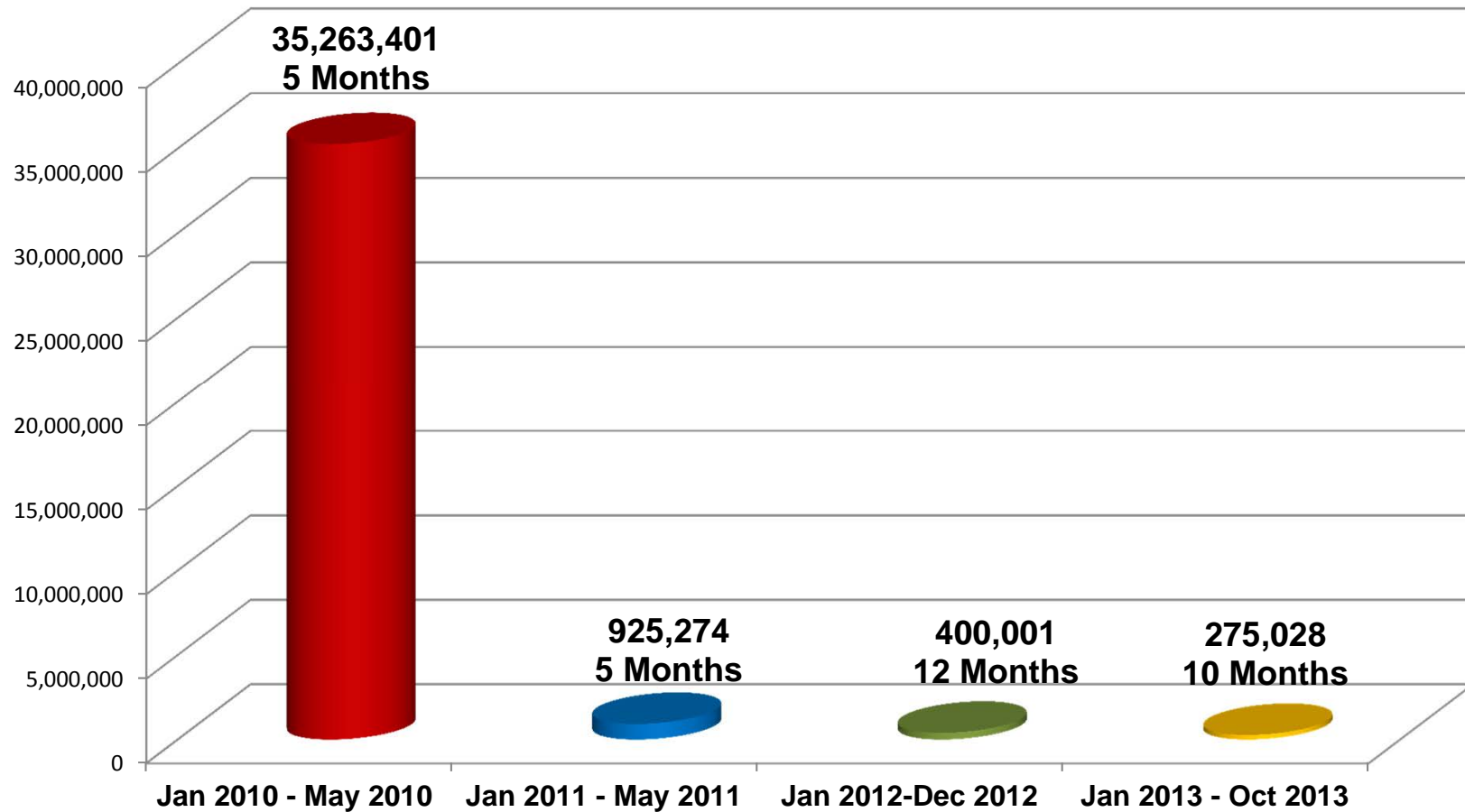
- **Prior to 2011:**  
Registered Dispensing Practitioners could dispense **any medicinal drugs** that they were legally permitted to prescribe **including Schedule II and III Controlled Substances.**
- **As of July 2011:**  
Registered Dispensing Practitioners are **prohibited** from dispensing **Schedule II or Schedule III Controlled Substances.**



# Prescribers 10% Decrease in Registered Dispensing Practitioners



# Prescribers Oxycodone Dosage Units Purchased by Florida Practitioners

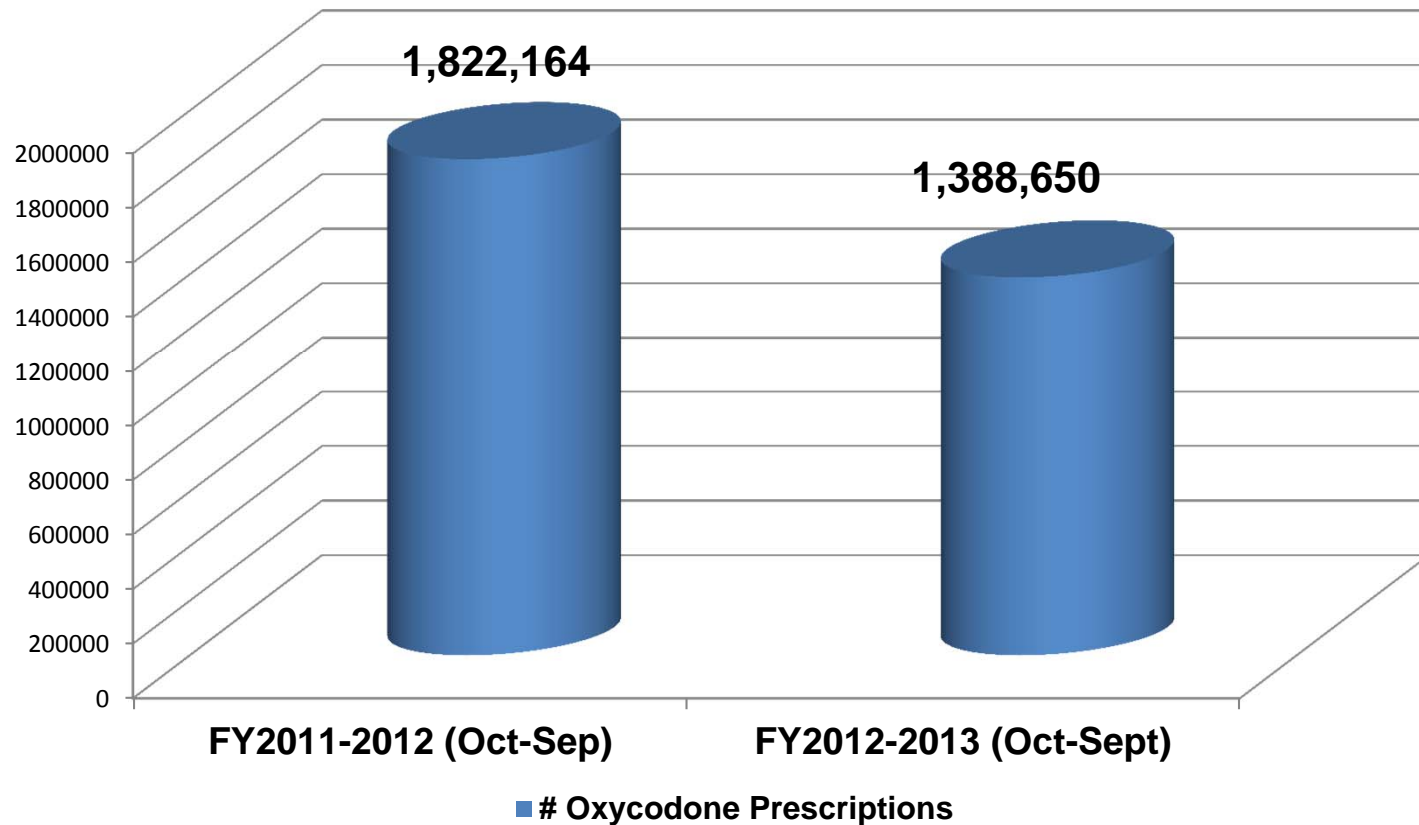


Source: ARCOS DEA Registration

# Prescribers Oxycodone Prescriptions Issued

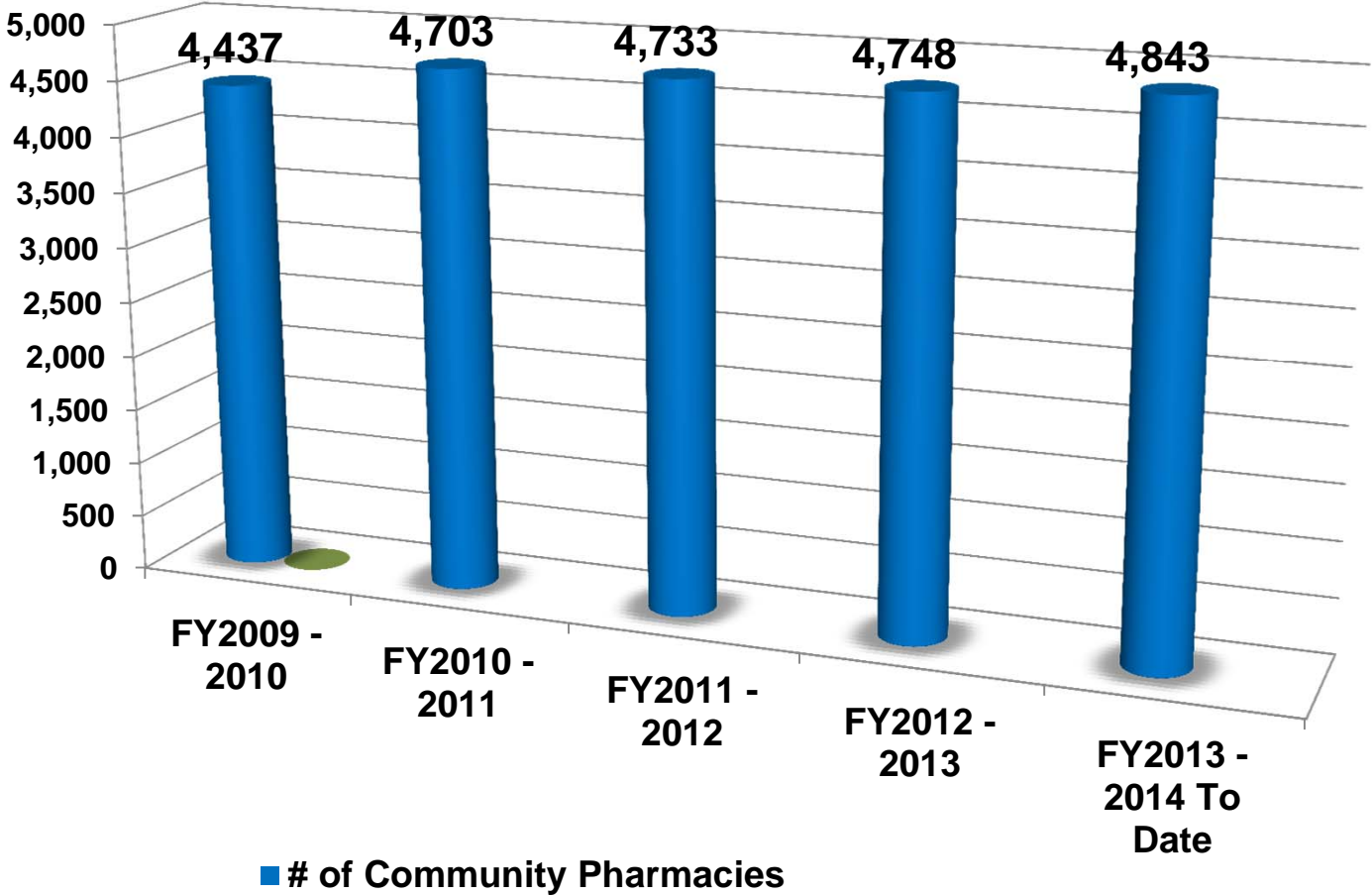


# Oxycodone Prescriptions

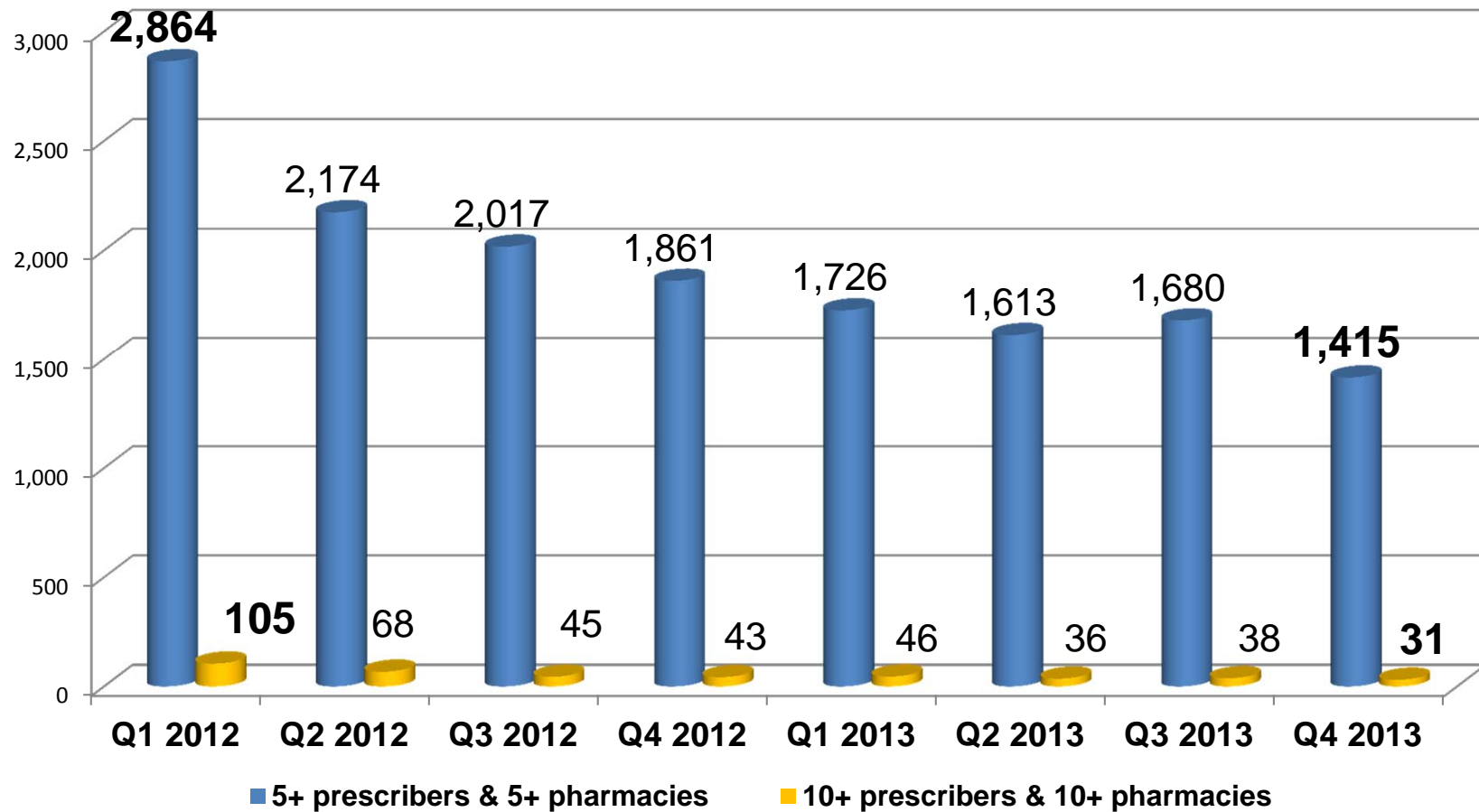


Source: Prescription Drug Monitoring Program

# Dispensers Community Pharmacies

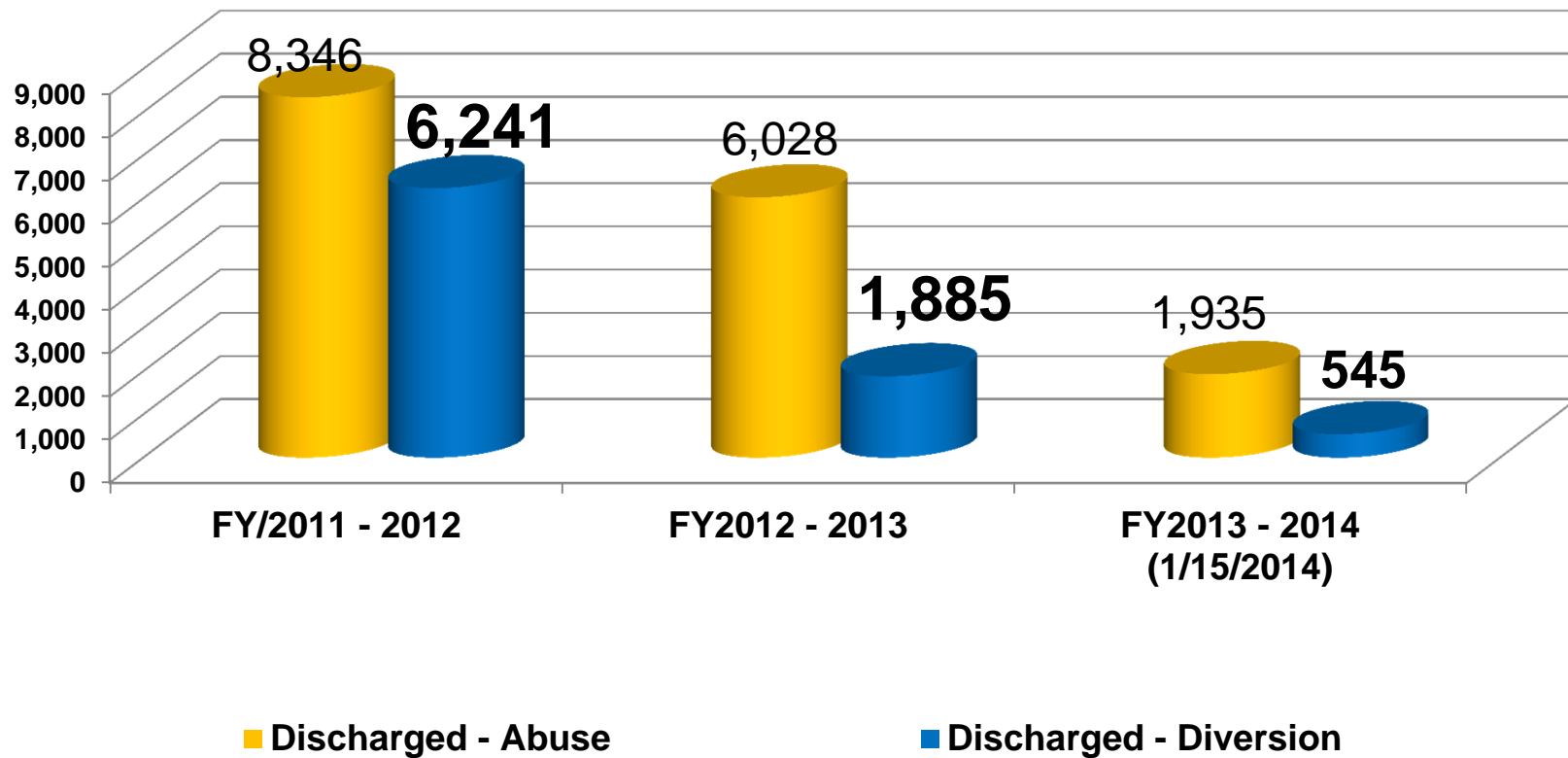


# 51% Decrease in Doctor Shopping



Source: Prescription Drug Monitoring Program

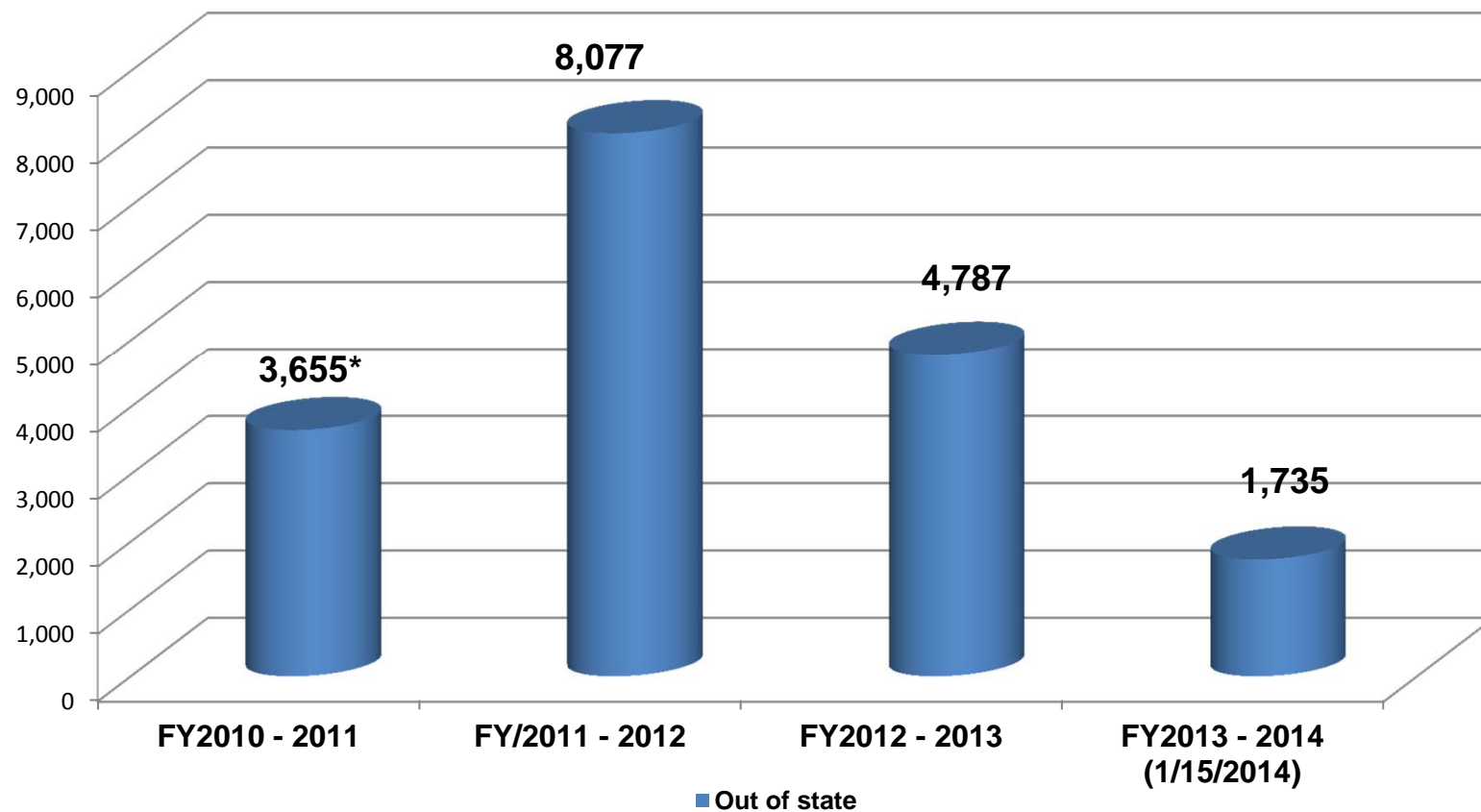
# Pain Management Clinic Abuse or Diversion Discharges



Source: Rebecca Poston, PDMP

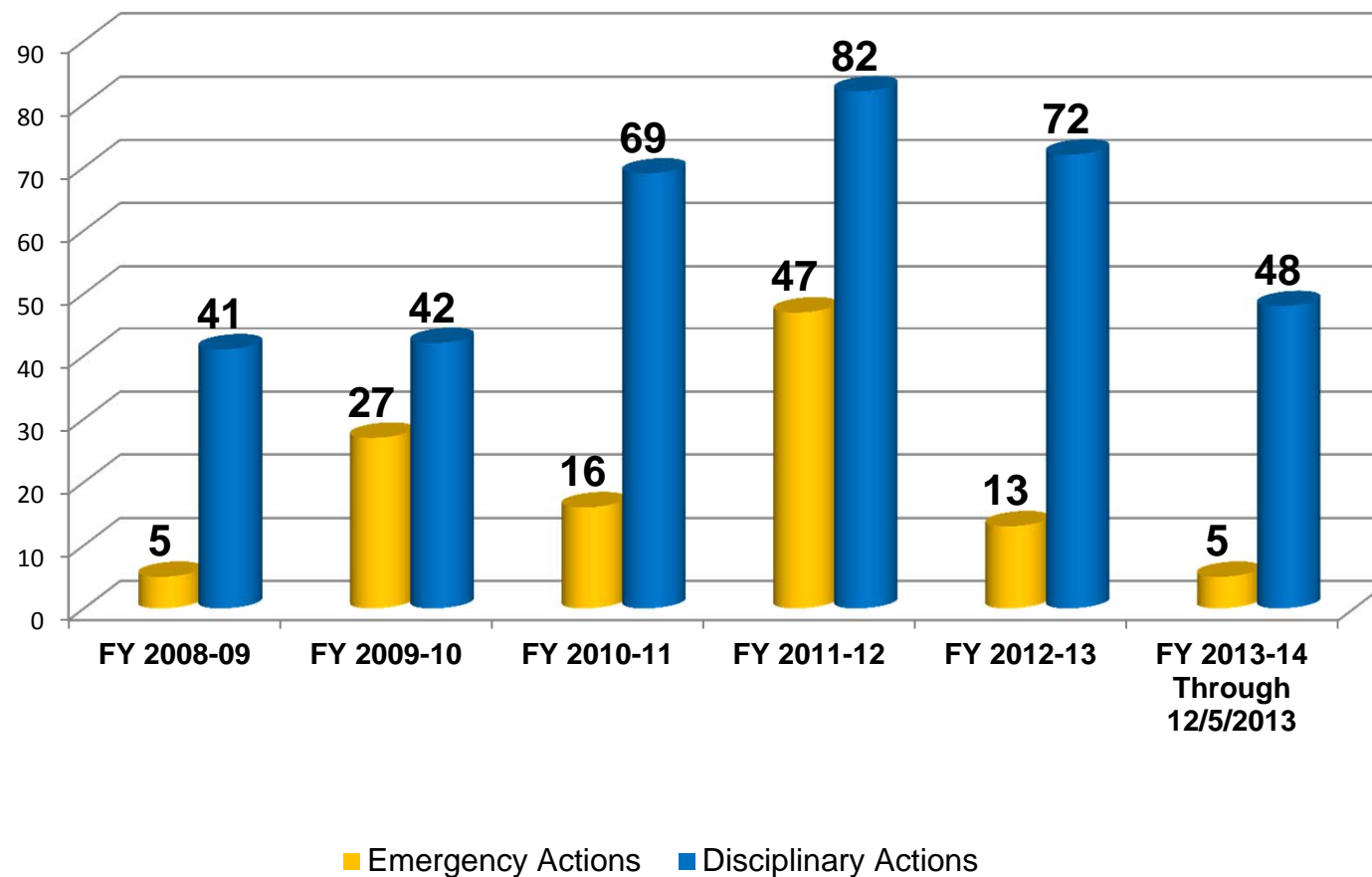


# Pain Management Clinic "Oxycontin Express" Derailed

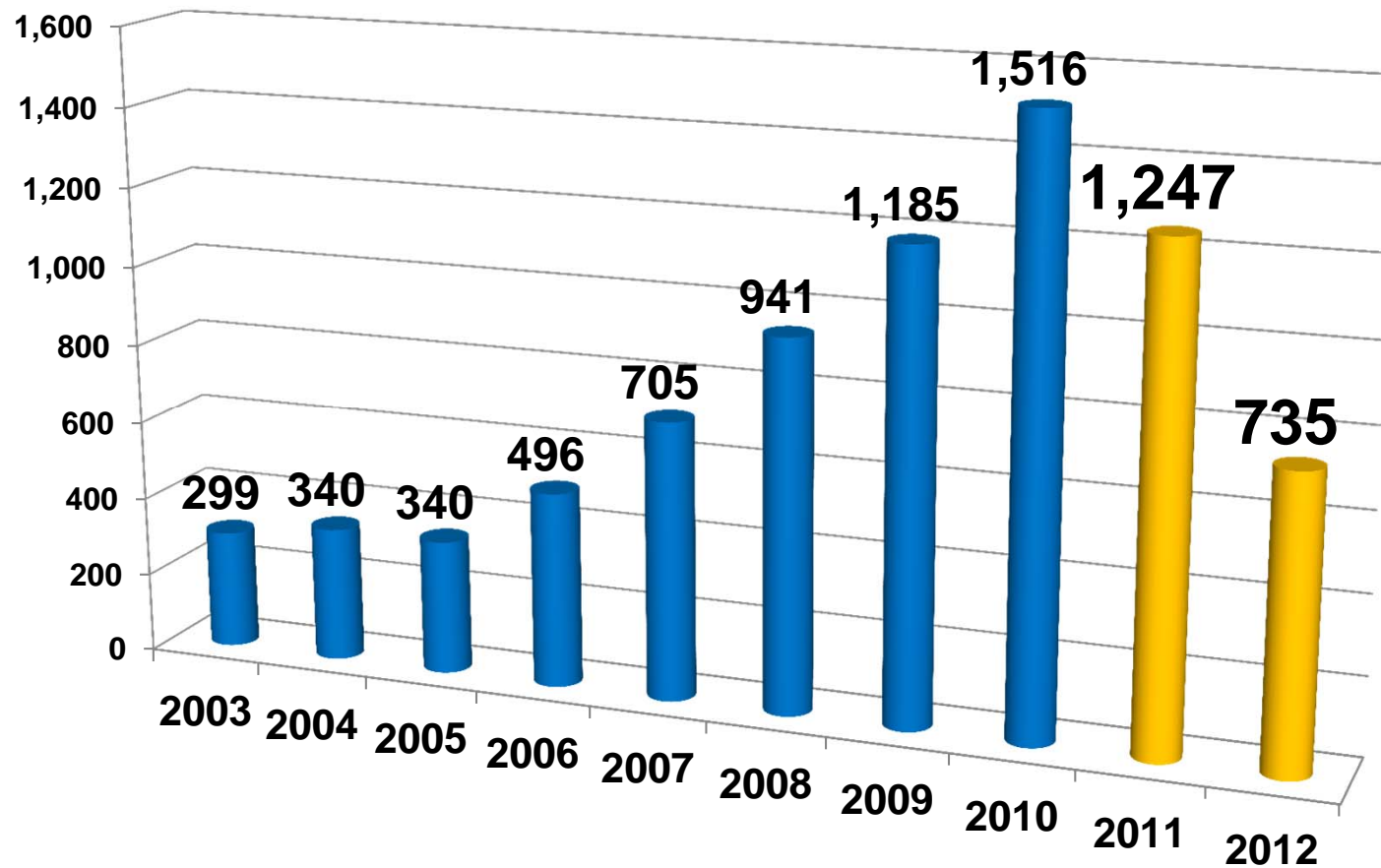


\*Figures are from Jan-June 2011 and required at that time only from Osteopathic Physicians

# Discipline and Emergency Actions



# 41% Decrease in Oxycodone Deaths in Florida in 2012



Source: *Drugs Identified in Deceased Persons by Florida Medical Examiners 2012 Report*

\*The interim report for the first six months of 2013 will be available in late Spring, early Summer 2014.

# Legislative Regulatory Tools



- Pain management clinic registration
- Prohibitions on dispensing
- Practice standards for prescribing
- Implementation of PDMP
- Counterfeit-proof prescription pads
- Re-permitting of pharmacies

# Summary Results



- 60% decrease in pain management clinics
- 83% pain management clinics pass stricter standards on the first inspection
- 24% reduction in Oxycodone prescriptions written by Florida doctors since 2011-12

# Summary Results



- Annual Oxycodone purchases reduced from >35 million to <500,000
- 27% decrease in patients discharged for drug abuse
- 70% decrease in patients discharged for drug diversion



# Summary Results



- 41% decrease in out-of-state patients
- 51% decrease in doctor shopping ≥5

## Summary Results



**41% decrease in Oxycodone deaths in Florida.**



# Questions?

Lucy C. Gee, M.S., Director  
Medical Quality Assurance  
Department of Health

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850-245-4224



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 301 Medical Examiners  
**SPONSOR(S):** Spano and others  
**TIED BILLS:** IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee		McElroy <i>CM</i>	O'Callaghan <i>ms</i>
2) Local & Federal Affairs Committee			
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

Section 382.011, F.S., requires any case in which a death or fetal death resulted from the causes or conditions listed in s. 406.011, F.S., to be referred to the district medical examiner for the determination of the cause of death. The bill corrects a citation in s. 382.011, F.S., to clarify that only deaths and fetal deaths involving circumstances set forth in subsection (1) of s. 406.11, F.S., are required to be referred to the district medical examiner for the determination of the cause of death. The remaining provisions in s. 406.11, F.S., are not related to causes or conditions of death upon which a medical examiner can make a determination.

Section 406.06, F.S., entitles a medical examiner to compensation, and a reasonable salary and fees as established by a board of county commissioners. A number of counties and district medical examiners have interpreted this provision as authorizing a medical examiner to collect a user fee for a determination of cause of death performed pursuant to s. 406.11(1)(c), F.S. The bill amends s. 406.06, F.S., to prohibit a medical examiner from charging a user fee for the determination of a cause of death performed pursuant to s. 406.011, F.S.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2014.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

###### *Medical Examiners Act*

The Medical Examiners Act (Act), ch. 406, F.S., establishes minimum and uniform requirements for statewide medical examiner services. The Act created the Medical Examiners Commission (Commission) which is composed of seven persons appointed by the Governor, the Attorney General and the State Surgeon General. The Commission is responsible for establishing, by rule, minimum and uniform standards of excellence, performance of duties, and maintenance of records requirements for medical examiners.<sup>1</sup> The Commission is additionally responsible for the creation of medical examiner districts throughout the state.<sup>2</sup> There are currently 24 medical examiner districts.<sup>3</sup>

###### *Determination of Cause of Death*

Each district medical examiner is responsible for conducting investigations, examinations and autopsies and reporting vital statistics to the Department of Health for their district. Section 382.011, F.S. currently requires that any case of death or fetal death due to causes or conditions listed in s. 406.11, F.S., be referred to the district medical examiner for investigation and determination of the cause of death.

The causes and conditions of death listed in s. 406.11(1), F.S., can be separated into two categories. Section 406.11(1)(a), F.S., sets forth causes and conditions related to the circumstances surrounding the death and requires a determination of the cause when any person dies in the state:

- Of criminal violence;
- By accident;
- By suicide;
- Suddenly, when in apparent good health;
- Unattended by a practicing physician or other recognized practitioner;
- In any prison or penal institution;
- In police custody;
- In any suspicious or unusual circumstance;
- By criminal abortion;
- By poison;
- By disease constituting a threat to public health; or
- By disease, injury, or toxic agent resulting from employment.

Sections 406.11(1)(b) and (c), F.S., relate to transport and disposal of the decedent's remains and require a determination of the cause of death when a dead body is:

- Brought into the state without proper medical certification; or
- To be cremated, dissected, or buried at sea.

Under s. 406.11(1) F.S., the district medical examiner is authorized to perform any such examinations, investigations, and autopsies as he or she deems necessary to determine the cause of death. The

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<sup>1</sup> Section 406.04, F.S.

<sup>2</sup> Section 406.05, F.S.

<sup>3</sup> A map of the medical examiner districts in Florida is available at <http://myfloridamedicalexaminer.com/>.



complexity of the determination of the cause of death, however, can differ greatly depending on whether the investigation is required pursuant to s. 406.11(1)(a), F.S., or s. 406.11(1)(c), F.S.

A determination pursuant to s. 406.11(1)(a), F.S., requires a comprehensive review to determine the cause of a death that occurred under unusual circumstances. Physical inspection of the decedent's remains is typically required. As such, a district medical examiner usually performs autopsies or other necessary physical examinations. A district medical examiner also typically requests and reviews any pertinent documentation related to the person's death.

When a death occurs under ordinary circumstances, the district medical examiner does not perform an autopsy or investigation. The disposition of the remains occurs and no further issues arise. On occasion, issues arise after disposition which raise the question of whether a death actually occurred under ordinary circumstances. In these situations the body is exhumed and the district medical examiner performs a determination of cause of death. This examination cannot occur if the body has been cremated, dissected or buried at sea. Thus, s. 406.11(1)(c), F.S., requires the medical examiner to make a determination of cause of death in situations where there is an irretrievable disposal of the remains.

Determinations of the cause of death performed pursuant to s. 406.11(1)(c), F.S., are generally administrative in nature and less comprehensive than determinations under s. 406.11(1)(a), F.S. The process begins with the funeral home or crematorium completing the death certificate and forwarding it to the decedent's attending or primary physician for signature.<sup>4</sup> Once the funeral home or crematorium receives the signed death certificate, it forwards it to the district medical examiner for review. Unless the medical examiner identifies an issue on the face of the death certificate, he or she grants approval and the funeral home or crematorium may proceed with the disposal of the remains. The medical examiner may conduct a more thorough investigation if he or she identifies an issue on the face of the death certificate. For example, if a secondary cause of death is a fractured hip, the medical examiner may request additional information to ensure that it was not related to abuse or neglect. Even in that situation, the investigation is generally less comprehensive than the investigation performed under s. 406.11(1)(a), F.S.

Prior to 2012, the approval process for a death certificate was a slow and arduous paper process. It required the manual entry and the transmittal of information through numerous offices within county and state departments. However, in 2012, Florida's Department of Health automated the process through the Electronic Death Registration System. The electronic transmittal of the information has made the approval process more efficient by reducing reporting time and allows for more timely issuances of death certificates.

#### *Medical Examiner User Fees*

Pursuant to s. 406.06(3), F.S., district medical examiners and associate medical examiners are entitled to compensation and such reasonable salary and fees as are established by the board of county commissioners. There are currently 24 medical examiner districts, 19 of which have determined that this provision authorizes the collection of a user fee. The user fee is for the approval of a cremation, dissection, or burial at sea of a decedent's body as required by s. 406.11(1)(c), F.S. The user fees range from no charge in 24 counties to \$63 per approval in Miami-Dade County. Assuming medical examiners charged user fees for every death that occurred within their medical examiner districts in 2012, the medical examiners charges would have totaled approximately \$3,883,784.<sup>5</sup>

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<sup>4</sup> Section 382.008, F.S.

<sup>5</sup> The total amount was calculated using each medical examiner district's fee amount and the death census for 2012 provided by the Department of Health (on file with the Florida House of Representatives Health Quality Subcommittee).

## Effect of Proposed Changes

Section 382.011, F.S., requires any case in which a death or fetal death resulted from the causes or conditions listed in s. 406.011, F.S., to be referred to the district medical examiner for the determination of the cause of death. The bill corrects a citation in s. 382.011, F.S., to clarify that only deaths and fetal deaths involving circumstances set forth in subsection (1) of s. 406.11, F.S., are required to be referred to the district medical examiner for the determination of the cause of death. The remaining provisions in s. 406.11, F.S., are not related to causes or conditions of death upon which a medical examiner can make a determination. Instead, the remaining provisions:

- Grant medical examiners discretion to perform autopsies and other laboratory examinations necessary to determine the cause of death;
- Require the Commission to adopt rules to require a medical examiner to notify the decedent's next of kin of a medical examiner investigation;
- Prohibit a medical examiner from retaining or furnishing a body part of the deceased for research or other purposes without approval by the next of kin; and
- Provide rulemaking authority for the Commission.

Currently under s. 406.06(3), F.S., district medical examiners and associate medical examiners are entitled to compensation and such reasonable salary and fees as are established by the board of county commissioners. This provision has been interpreted by some counties and district medical examiners as allowing a user fee for performing determinations of deaths pursuant to s. 406.11, F.S. The bill prohibits district medical examiners and counties from charging a user fee for any determination of death performed pursuant to s. 406.11, F.S.

The bill provides an effective date of July 1, 2014.

### B. SECTION DIRECTORY:

**Section 1:** Amends s. 382.011, F.S., relating to medical examiner determination of cause of death.

**Section 2:** Amends s. 406.06, F.S., relating to district medical examiners, associates, and suspension of medical examiners.

**Section 3:** Provides an effective date of July 1, 2014.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

Currently 19 of the 24 medical examiner districts, which represents 42 counties, charge user fees for any determination of the cause of death performed pursuant to s. 406.11(1)(c), F.S. The user fees vary from district to district. Assuming medical examiners charged a user fee for every death

that occurred within their medical examiner districts in 2012, the medical examiners charges would have totaled approximately \$3,883,784.<sup>6</sup> The bill prohibits the collection of these fees.

2. Expenditures:

Indeterminate. The actual cost to the counties is unclear as there is a broad discrepancy in the user fees currently charged (fees range from no charge to \$63 per approval), and there does not seem to be a correlation between the fees charged to services being provided by the medical examiner.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Because the bill prohibits medical examiners and counties from charging user fees, it is likely that the private sector will achieve some cost-savings.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1                                   A bill to be entitled  
 2           An act relating to medical examiners; amending s.  
 3           382.011, F.S.; clarifying the circumstances under  
 4           which a case must be referred to the district medical  
 5           examiner for the determination of cause of death;  
 6           amending s. 406.06, F.S.; prohibiting user fees for  
 7           specified services; providing an effective date.  
 8

9   Be It Enacted by the Legislature of the State of Florida:

10  
 11           Section 1. Subsection (1) of section 382.011, Florida  
 12   Statutes, is amended to read:

13           382.011 Medical examiner determination of cause of death.—

14           (1) In the case of any death or fetal death involving the  
 15   circumstances ~~due to causes or conditions~~ listed in s. 406.11(1)  
 16   ~~406.11~~, any death that occurred more than 12 months after the  
 17   decedent was last treated by a primary or attending physician as  
 18   defined in s. 382.008(3), or any death for which there is reason  
 19   to believe that the death may have been due to an unlawful act  
 20   or neglect, the funeral director or other person to whose  
 21   attention the death may come shall refer the case to the  
 22   district medical examiner of the county in which the death  
 23   occurred or the body was found for investigation and  
 24   determination of the cause of death.

25           Section 2. Subsection (3) of section 406.06, Florida  
 26   Statutes, is amended to read:

HB 301

2014

27           406.06 District medical examiners; associates; suspension  
28 of medical examiners.—

29           (3) District medical examiners and associate medical  
30 examiners shall be entitled to compensation and such reasonable  
31 salary and fees as are established by the board of county  
32 commissioners in the respective districts; however, a medical  
33 examiner or a county may not charge a user fee for an  
34 examination, investigation, or autopsy performed pursuant to s.  
35 406.11.

36           Section 3. This act shall take effect July 1, 2014.



Amendment No.

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	_____	

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1 Committee/Subcommittee hearing bill: Health Quality  
2 Subcommittee  
3 Representative Spano offered the following:

**Amendment**

6 Remove lines 33-36 and insert:  
7 examiner or a county may not charge a member of the public or  
8 any person licensed under chapter 497 a fee for an examination,  
9 investigation, or autopsy performed pursuant to s. 406.11.

10 Section 3. This act shall take effect October 1, 2014.





HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 323 Pharmacy Technicians  
SPONSOR(S): La Rosa  
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee		Guzzo <i>GG</i>	O'Callaghan <i>MO</i>
2) Health & Human Services Committee			

SUMMARY ANALYSIS

Currently, Florida's laws prohibit a licensed pharmacist from supervising more than one registered pharmacy technician, unless the Department of Health's (DOH) Board of Pharmacy (Board) determines the pharmacy meets certain guidelines and authorizes the licensed pharmacist to supervise more than one, but not more than three, pharmacy technicians.

The bill increases the number of registered pharmacy technicians a licensed pharmacist may supervise to six. Additional registered pharmacy technicians may be supervised if permitted by guidelines adopted by the Board.

The bill requires, for a written prescription for a controlled substance, the date on the prescription to be written legibly and in a certain numeric format.

The bill has an indeterminate, insignificant fiscal impact on DOH.

The bill provides an effective date of July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### Pharmacist and Pharmacy Technician Workforce Demand

Pharmacy technicians assist, and work under the supervision of, licensed pharmacists. Their duties may include dispensing, measuring, or compounding medications; taking information needed to fill a prescription; packaging and labeling prescriptions; accepting payment for prescriptions; answering phones; or referring patients with questions to the pharmacist. Ultimately, the pharmacist reviews all prescriptions. Some reports suggest that the utilization of educated and certified pharmacy technicians allows pharmacists to focus more on direct patient care.<sup>1</sup>

Factors that contribute to a high demand for pharmacists and pharmacy technicians include:

- Increased use of prescription medications and the number of prescription medications available;
- Market growth and competition among retail pharmacies resulting in increased job openings and expanded store hours;
- The aging of the U.S. population; and
- An increase in time spent on non-patient care activities, such as office administration.<sup>2</sup>

Employment of pharmacy technicians in the U.S. has been projected by the U.S. Department of Labor, Bureau of Labor Statistics to increase by 20% between 2012 and 2022.<sup>3</sup>

To address pharmacist workforce shortages, the U.S. House of Representatives introduced the Pharmacy Technician Training and Registration Act or "Emily's Act," suggesting to State Boards of Pharmacy that they strive to ensure 1:2 pharmacist-to-pharmacy technician ratios in hospital settings and 1:3 ratios in other settings, including drug stores.<sup>4</sup>

As of 2009, Florida was among 18 states allowing a maximum 1:3 pharmacist-to-pharmacy technician ratio.<sup>5</sup> Seventeen states and the District of Columbia had no ratio limits; 8 states allowed a maximum 1:2 pharmacist-to-pharmacy technician ratio; 7 states allowed a 1:4 ratio; and 1 state allowed a 1:1

<sup>1</sup> See "ASHP Long-Range Vision for the Pharmacy Work Force in Hospitals and Health Systems: Ensuring the Best Use of Medicines in Hospitals and Health Systems," *American Journal of Health-System Pharmacy*, 64(12):1320-1330, June 15, 2007, available at: [www.ashp.org/DocLibrary/BestPractices/HRRptWorkForceVision.aspx](http://www.ashp.org/DocLibrary/BestPractices/HRRptWorkForceVision.aspx) (visited January 30, 2014); "White Paper on Pharmacy Technicians 2002: Needed changes can no longer wait," *American Journal of Health-System Pharmacy*, 60(1): 37-51, January 1, 2003, available at: [www.acpe-accredit.org/pdf/whitePaper.pdf](http://www.acpe-accredit.org/pdf/whitePaper.pdf) (last visited January 30, 2014); and "The Adequacy of Pharmacist Supply: 2004 to 2030," Department of Health and Human Services, Health Resources and Services Administration, Bureau of Health Professions, December 2008, available at: [bhpr.hrsa.gov/healthworkforce/reports/pharmsupply20042030.pdf](http://bhpr.hrsa.gov/healthworkforce/reports/pharmsupply20042030.pdf) (last visited January 30, 2014).

<sup>2</sup> "The Pharmacist Workforce, A Study of the Supply and Demand for Pharmacists," Department of Health and Human Services, Health Resources and Services Administration, Bureau of Health Professions, December 2000, available at: [bhpr.hrsa.gov/healthworkforce/reports/pharmacistsstudy.pdf](http://bhpr.hrsa.gov/healthworkforce/reports/pharmacistsstudy.pdf) (last visited January 30, 2014).

<sup>3</sup> Occupational Outlook Handbook: Pharmacy Technicians, Bureau of Labor Statistics, U.S. Department of Labor, available at: <http://www.bls.gov/ooh/healthcare/pharmacy-technicians.htm> (last visited January 30, 2014).

<sup>4</sup> U.S. House of Representatives, H.R. 5491, February 26, 2008. Library of Congress Summary available at: <http://www.govtrack.us/congress/bills/110/hr5491#summary/libraryofcongress> (last visited January 30, 2014).

<sup>5</sup> Presentation by Kevin N. Nicholson, RPh, JD; National Association of Chain Drug Stores, "Standardized Pharmacy Technician Education and Training," May 2009, available at [http://www.nabp.net/events/assets/AnnualMtgTechTrainStd\(Nicholson\).pdf](http://www.nabp.net/events/assets/AnnualMtgTechTrainStd(Nicholson).pdf) (last visited February 3, 2014).

ratio. More recently, Indiana and Idaho have allowed a 1:6 ratio.<sup>6</sup> Some states require that higher ratios are contingent on certification or licensure of technicians, or other quality assurance measures.<sup>7</sup>

According to the October 2013 Aggregate Demand Index compiled by the Pharmacy Manpower Project, Inc., Florida has a ranking of 2.86, meaning Florida does not have a shortage of pharmacists. Specifically, this ranking falls between “demand is less than the pharmacist supply available” and “demand is in balance with supply.”<sup>8</sup>

As of January 2014, there were approximately 2,149 unemployed pharmacy technicians, and approximately 1,135 publicly advertised job openings for pharmacy technicians in Florida, meaning Florida has an oversupply of pharmacy technicians by approximately 1,083.<sup>9</sup>

### Pharmacy Technicians in Florida

In 2008, the Florida Legislature passed CS/CS 1360, which amended s. 465.014, F.S., to require pharmacy technician applicants to complete a pharmacy technician training program to become a registered pharmacy technician. The bill also provided for the direct supervision of a registered pharmacy technician by a licensed pharmacist.<sup>10</sup>

Section 465.014, F.S., authorizes a licensed pharmacist to delegate to registered pharmacy technicians those duties, tasks, and functions that do not fall within the definition of the practice of the profession of pharmacy. Registered pharmacy technicians' responsibilities include:<sup>11</sup>

- Retrieval of prescription files;
- Data entry;
- Label preparation;
- Counting, weighing, measuring, pouring, and mixing prescription medication;
- Initiation of communication with a prescribing practitioner or medical staff regarding requests for prescription refill authorization, clarification of missing information on prescriptions, and confirmation of information such as names, medication, and strength; and
- Acceptance of authorization for prescription renewals.

The Board<sup>12</sup> specifies by rule<sup>13</sup> certain acts that pharmacy technicians are prohibited from performing. Those acts include:

- Receiving new verbal prescriptions or any change in the medication, strength, or directions;

<sup>6</sup> Indiana changed their ratio July 2, 2012. See Indiana Code, 25-26-13-18. See also, Idaho Board of Pharmacy Rule 251, Pharmacy Technicians.

<sup>7</sup> See National Association of Boards of Pharmacy: Kansas News: Pharmacy Technician Ratio (2006), Minnesota Board of Pharmacy (2000), Idaho State Board of Pharmacy News (2009), available at: <http://www.nabp.net/> (last visited January 30, 2014).

<sup>8</sup> Aggregate Demand Index, Supported by Pharmacy Manpower Project Inc., available at: <http://www.pharmacymanpower.com/about.jsp> (last visited January 30, 2014).

<sup>9</sup> Presentation by Rebecca Rust, Director of the Bureau of Labor Market Statistics of the Florida Department of Economic Opportunity, January 15, 2014, available at: [http://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2786&Session=2014&DocumentType=Meeting Packets&FileName=schcwi 1-15-14.pdf](http://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2786&Session=2014&DocumentType=Meeting%20Packets&FileName=schcwi%201-15-14.pdf) (last visited February 3, 2014).

<sup>10</sup> 2008-216, L.O.F.

<sup>11</sup> Rule, 64B16-27.420, F.A.C.

<sup>12</sup> The Board of Pharmacy is created under s. 465.004, F.S., and consists of nine members appointed by the Governor and confirmed by the Senate. Seven members are licensed pharmacists, who are Florida residents and who have practiced pharmacy for at least 4 years. The remaining two members are Florida residents who have no connection to the profession of pharmacy.

<sup>13</sup> *Supra* fn. 10.

- Interpreting a prescription or medication order for therapeutic acceptability and appropriateness;
- Conducting a final verification of dosage and directions;
- Engaging in prospective drug review;
- Providing patient counseling;
- Monitoring prescription drug usage; and
- Overriding clinical alerts without first notifying the pharmacist.

All registered pharmacy technicians must identify themselves as registered pharmacy technicians by wearing an identification badge with a designation as a "registered pharmacy technician" and verbally identifying themselves as a registered pharmacy technician over the telephone.<sup>14</sup>

The licensed pharmacist is responsible for acts performed by persons under his or her supervision.<sup>15</sup> Licensed pharmacists may not supervise more than one registered pharmacy technician unless authorized by the Board under guidelines it has established to determine circumstances when a licensed pharmacist may supervise more than one, but not more than three, registered pharmacy technicians.<sup>16</sup> A prescription department manager or consultant pharmacist of record who seeks to have more than one registered pharmacy technician must submit a written request to the Board for approval and demonstrate workflow needs to justify the increased ratio.<sup>17</sup>

At the end of the first quarter of Fiscal Year 2013-2014, there were 44,492 registered pharmacy technicians, 31,445 licensed pharmacists, and 9,179 licensed pharmacies in Florida.<sup>18</sup> As of February 2014, 4,436 Florida licensed pharmacies had a ratio of three pharmacy technicians to one pharmacist, and 580 pharmacies had a ratio of two pharmacy technicians to one pharmacist.<sup>19</sup>

### Effect of Proposed Changes

Section 465.014, F.S., prohibits a licensed pharmacist from supervising more than one registered pharmacy technician, unless the Board determines the pharmacy meets certain guidelines and authorizes the licensed pharmacist to supervise more than one, but not more than three, pharmacy technicians.

The bill increases the number of registered pharmacy technicians a licensed pharmacist may supervise to six. Additional registered pharmacy technicians may be supervised if permitted by guidelines adopted by the Board.

The bill requires, for a written prescription for a controlled substance, the date on the prescription to be written legibly and in a numeric month/day/year format.

### B. SECTION DIRECTORY:

**Section 1:** Amends s. 465.014, F.S., relating to pharmacy technicians.

**Section 2:** Amends s. 456.42, F.S., relating to written prescriptions for medicinal drugs.

**Section 3:** Amends s. 893.04, F.S., relating to pharmacist and practitioner.

**Section 4:** Provides an effective date of July 1, 2014.

<sup>14</sup> *Id.*

<sup>15</sup> Rule 64B16-27.1001(7), F.A.C.

<sup>16</sup> Section 465.014, F.S.

<sup>17</sup> The brief description of workflow needs must include the operating hours of the pharmacy and the number of pharmacists, registered interns, and registered pharmacy technicians employed by the pharmacy. Rule 64B16-27.410, F.A.C.

<sup>18</sup> Department of Health, Bill Analysis of HB 323, January 31, 2014, on file with committee staff.

<sup>19</sup> *Id.*

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill will have an indeterminate, insignificant impact on DOH, associated with the cost of rule-making.<sup>20</sup>

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

No additional rule-making authority is necessary to implement the provisions of the bill.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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<sup>20</sup> *Supra* fn. 17.  
STORAGE NAME: h0323.HQS  
DATE: 2/3/2014



1 A bill to be entitled

2 An act relating to pharmacy technicians; amending s.  
 3 465.014, F.S.; revising the number of registered  
 4 pharmacy technicians that a pharmacist may supervise;  
 5 amending ss. 456.42 and 893.04, F.S.; requiring  
 6 written prescriptions for specified controlled  
 7 substances to be legibly dated in a specified format;  
 8 providing an effective date.

9  
 10 Be It Enacted by the Legislature of the State of Florida:

11  
 12 Section 1. Subsection (1) of section 465.014, Florida  
 13 Statutes, is amended to read:

14 465.014 Pharmacy technician.—

15 (1) A person other than a licensed pharmacist or pharmacy  
 16 intern may not engage in the practice of the profession of  
 17 pharmacy, except that a licensed pharmacist may delegate to  
 18 pharmacy technicians who are registered pursuant to this section  
 19 those duties, tasks, and functions that do not fall within the  
 20 purview of s. 465.003(13). All such delegated acts shall be  
 21 performed under the direct supervision of a licensed pharmacist  
 22 who shall be responsible for all such acts performed by persons  
 23 under his or her supervision. A registered pharmacy ~~registered~~  
 24 technician, under the supervision of a pharmacist, may initiate  
 25 or receive communications with a practitioner or his or her  
 26 agent, on behalf of a patient, regarding refill authorization

27 requests. A licensed pharmacist may not supervise more than six  
 28 ~~one~~ registered pharmacy technicians ~~technician~~ unless otherwise  
 29 permitted by the guidelines adopted by the board. ~~The board~~  
 30 ~~shall establish guidelines to be followed by licensees or~~  
 31 ~~permittees in determining the circumstances under which a~~  
 32 ~~licensed pharmacist may supervise more than one but not more~~  
 33 ~~than three pharmacy technicians.~~

34 Section 2. Subsection (2) of section 456.42, Florida  
 35 Statutes, is amended to read:

36 456.42 Written prescriptions for medicinal drugs.—

37 (2) A written prescription for a controlled substance  
 38 listed in chapter 893 must have the quantity of the drug  
 39 prescribed in both textual and numerical formats, must be  
 40 legibly dated on the face of the prescription in numeric  
 41 month/day/year format or with the abbreviated month written out  
 42 ~~on the face of the prescription~~, and must be either written on a  
 43 standardized counterfeit-proof prescription pad produced by a  
 44 vendor approved by the department or electronically prescribed  
 45 as that term is used in s. 408.0611. As a condition of being an  
 46 approved vendor, a prescription pad vendor must submit a monthly  
 47 report to the department that ~~which~~, at a minimum, documents the  
 48 number of prescription pads sold and identifies the purchasers.  
 49 The department may, by rule, require the reporting of additional  
 50 information.

51 Section 3. Paragraph (d) of subsection (2) of section  
 52 893.04, Florida Statutes, is amended to read:

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53 893.04 Pharmacist and practitioner.—

54 (2)

55 (d) Each written prescription prescribed by a practitioner  
56 in this state for a controlled substance listed in Schedule II,  
57 Schedule III, or Schedule IV must include on the face of the  
58 prescription both a written and a numerical notation of the  
59 quantity of the controlled substance prescribed ~~on the face of~~  
60 ~~the prescription~~ and a legible notation of the date in numeric  
61 month/day/year format or~~7~~ with the abbreviated month written out  
62 ~~on the face of the prescription~~. A pharmacist may, upon  
63 verification by the prescriber, document any information  
64 required by this paragraph. If the prescriber is not available  
65 to verify a prescription, the pharmacist may dispense the  
66 controlled substance but may insist that the person to whom the  
67 controlled substance is dispensed provide valid photographic  
68 identification. If a prescription includes a numerical notation  
69 of the quantity of the controlled substance or date, but does  
70 not include the quantity or date written out in textual format,  
71 the pharmacist may dispense the controlled substance without  
72 verification by the prescriber of the quantity or date if the  
73 pharmacy previously dispensed another prescription for the  
74 person to whom the prescription was written.

75 Section 4. This act shall take effect July 1, 2014.