



LEGISLATIVE ACTION

Senate	.	House
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Senator Fasano moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (4) and (7) of section 400.9905,
Florida Statutes, are amended to read:

400.9905 Definitions.—

(4) "Clinic" means an entity at which health care services
are provided to individuals and which tenders charges for
reimbursement or payment for such services, including a mobile
clinic and a portable equipment provider. For purposes of this
part, the term does not include and the licensure requirements
of this part do not apply to:



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14 (a) Entities licensed or registered by the state under
15 chapter 395; or entities licensed or registered by the state and
16 providing only health care services within the scope of services
17 authorized under their respective licenses granted under ss.
18 383.30-383.335, chapter 390, chapter 394, chapter 397, this
19 chapter except part X, chapter 429, chapter 463, chapter 465,
20 chapter 466, chapter 478, part I of chapter 483, chapter 484, or
21 chapter 651; end-stage renal disease providers authorized under
22 42 C.F.R. part 405, subpart U; or providers certified under 42
23 C.F.R. part 485, subpart B or subpart H; or any entity that
24 provides neonatal or pediatric hospital-based health care
25 services or other health care services by licensed practitioners
26 solely within a hospital licensed under chapter 395.

27 (b) Entities that own, directly or indirectly, entities
28 licensed or registered by the state pursuant to chapter 395; or
29 entities that own, directly or indirectly, entities licensed or
30 registered by the state and providing only health care services
31 within the scope of services authorized pursuant to their
32 respective licenses granted under ss. 383.30-383.335, chapter
33 390, chapter 394, chapter 397, this chapter except part X,
34 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,
35 part I of chapter 483, chapter 484, chapter 651; end-stage renal
36 disease providers authorized under 42 C.F.R. part 405, subpart
37 U; or providers certified under 42 C.F.R. part 485, subpart B or
38 subpart H; or any entity that provides neonatal or pediatric
39 hospital-based health care services by licensed practitioners
40 solely within a hospital licensed under chapter 395.

41 (c) Entities that are owned, directly or indirectly, by an
42 entity licensed or registered by the state pursuant to chapter



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43 395; or entities that are owned, directly or indirectly, by an
44 entity licensed or registered by the state and providing only
45 health care services within the scope of services authorized
46 pursuant to their respective licenses granted under ss. 383.30-
47 383.335, chapter 390, chapter 394, chapter 397, this chapter
48 except part X, chapter 429, chapter 463, chapter 465, chapter
49 466, chapter 478, part I of chapter 483, chapter 484, or chapter
50 651; end-stage renal disease providers authorized under 42
51 C.F.R. part 405, subpart U; or providers certified under 42
52 C.F.R. part 485, subpart B or subpart H; or any entity that
53 provides neonatal or pediatric hospital-based health care
54 services by licensed practitioners solely within a hospital
55 under chapter 395.

56 (d) Entities that are under common ownership, directly or
57 indirectly, with an entity licensed or registered by the state
58 pursuant to chapter 395; or entities that are under common
59 ownership, directly or indirectly, with an entity licensed or
60 registered by the state and providing only health care services
61 within the scope of services authorized pursuant to their
62 respective licenses granted under ss. 383.30-383.335, chapter
63 390, chapter 394, chapter 397, this chapter except part X,
64 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,
65 part I of chapter 483, chapter 484, or chapter 651; end-stage
66 renal disease providers authorized under 42 C.F.R. part 405,
67 subpart U; or providers certified under 42 C.F.R. part 485,
68 subpart B or subpart H; or any entity that provides neonatal or
69 pediatric hospital-based health care services by licensed
70 practitioners solely within a hospital licensed under chapter
71 395.



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72 (e) An entity that is exempt from federal taxation under 26
73 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan
74 under 26 U.S.C. s. 409 that has a board of trustees not less
75 than two-thirds of which are Florida-licensed health care
76 practitioners and provides only physical therapy services under
77 physician orders, any community college or university clinic,
78 and any entity owned or operated by the federal or state
79 government, including agencies, subdivisions, or municipalities
80 thereof.

81 (f) A sole proprietorship, group practice, partnership, or
82 corporation that provides health care services by physicians
83 covered by s. 627.419, that is directly supervised by one or
84 more of such physicians, and that is wholly owned by one or more
85 of those physicians or by a physician and the spouse, parent,
86 child, or sibling of that physician.

87 (g) A sole proprietorship, group practice, partnership, or
88 corporation that provides health care services by licensed
89 health care practitioners under chapter 457, chapter 458,
90 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
91 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,
92 chapter 490, chapter 491, or part I, part III, part X, part
93 XIII, or part XIV of chapter 468, or s. 464.012, which are
94 wholly owned by one or more licensed health care practitioners,
95 or the licensed health care practitioners set forth in this
96 paragraph and the spouse, parent, child, or sibling of a
97 licensed health care practitioner, so long as one of the owners
98 who is a licensed health care practitioner is supervising the
99 business activities and is legally responsible for the entity's
100 compliance with all federal and state laws. However, a health



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101 care practitioner may not supervise services beyond the scope of
102 the practitioner's license, except that, for the purposes of
103 this part, a clinic owned by a licensee in s. 456.053(3)(b) that
104 provides only services authorized pursuant to s. 456.053(3)(b)
105 may be supervised by a licensee specified in s. 456.053(3)(b).

106 (h) Clinical facilities affiliated with an accredited
107 medical school at which training is provided for medical
108 students, residents, or fellows.

109 (i) Entities that provide only oncology or radiation
110 therapy services by physicians licensed under chapter 458 or
111 chapter 459 or entities that provide oncology or radiation
112 therapy services by physicians licensed under chapter 458 or
113 chapter 459 which are owned by a corporation whose shares are
114 publicly traded on a recognized stock exchange.

115 (j) Clinical facilities affiliated with a college of
116 chiropractic accredited by the Council on Chiropractic Education
117 at which training is provided for chiropractic students.

118 (k) Entities that provide licensed practitioners to staff
119 emergency departments or to deliver anesthesia services in
120 facilities licensed under chapter 395 and that derive at least
121 90 percent of their gross annual revenues from the provision of
122 such services. Entities claiming an exemption from licensure
123 under this paragraph must provide documentation demonstrating
124 compliance.

125 (l) Orthotic or prosthetic clinical facilities that are a
126 publicly traded corporation or that are wholly owned, directly
127 or indirectly, by a publicly traded corporation. As used in this
128 paragraph, a publicly traded corporation is a corporation that
129 issues securities traded on an exchange registered with the



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130 United States Securities and Exchange Commission as a national
131 securities exchange.

132 (7) "Portable equipment provider" means an entity that
133 contracts with or employs persons to provide portable equipment
134 to multiple locations performing treatment or diagnostic testing
135 of individuals, ~~that bills third-party payors for those~~
136 ~~services,~~ and that otherwise meets the definition of a clinic in
137 subsection (4).

138 Section 2. Subsection (7) of section 456.013, Florida
139 Statutes, is amended to read:

140 456.013 Department; general licensing provisions.-

141 (7) (a) The boards, or the department when there is no
142 board, shall require the completion of a 2-hour course relating
143 to prevention of medical errors as part of the licensure and
144 renewal process. The 2-hour course counts ~~shall count~~ towards
145 the total number of continuing education hours required for the
146 profession. The board or department shall approve the course
147 ~~shall be approved by the board or department,~~ as appropriate,
148 which must and shall include a study of root-cause analysis,
149 error reduction and prevention, and patient safety. In addition,
150 the course approved by the Board of Medicine and the Board of
151 Osteopathic Medicine must ~~shall~~ include information relating to
152 the five most misdiagnosed conditions during the previous
153 biennium, as determined by the board. If the course is being
154 offered by a facility licensed under ~~pursuant to~~ chapter 395 for
155 its employees, the board may approve up to 1 hour of the 2-hour
156 course to be specifically related to error reduction and
157 prevention methods used in that facility.

158 (b) As a condition of initial licensure and at each



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159 subsequent license renewal, the boards, or the department if
160 there is no board, shall allow each practitioner licensed under
161 chapter 458, chapter 459, chapter 461, chapter 465, or chapter
162 466 whose lawful scope of practice authorizes the practitioner
163 to prescribe, administer, or dispense controlled substances to
164 complete a 1-hour continuing education course relating to the
165 prescription drug monitoring program. The course must include,
166 but need not be limited to:

167 1. The purpose of the prescription drug monitoring program.

168 2. The practitioners' capabilities for improving the
169 standard of care for patients by using the prescription drug
170 monitoring program.

171 3. How the prescription drug monitoring program can help
172 practitioners detect doctor shopping.

173 4. The involvement of law enforcement personnel, the
174 Attorney General's Medicaid Fraud Unit, and medical regulatory
175 investigators with the prescription drug monitoring program.

176 5. The procedures for registering for access to the
177 prescription drug monitoring program.

178
179 The course hours may be included in the total number of hours of
180 continuing education required by the profession and must be
181 approved by the board or by the department if there is no board.
182 The boards, or the department if there is no board, shall
183 approve the course offered through a facility licensed under
184 chapter 395 for its employees if the course is at least 3 hours
185 and covers the education requirements.

186 (c) The course requirements in paragraph (b) apply to each
187 licensee renewing his or her license on or after July 1, 2012,



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188 and to each applicant approved for licensure on or after January
189 1, 2013.

190 (d) By October 1, 2011, the boards, or the department if
191 there is no board, shall adopt rules as necessary to administer
192 this subsection.

193 Section 3. Section 458.305, Florida Statutes, is amended to
194 read:

195 458.305 Definitions.—As used in this chapter:

196 (1) "Board" means the Board of Medicine.

197 (2) "Department" means the Department of Health.

198 (3) "Dispensing physician" means a physician who is
199 registered as a dispensing practitioner under s. 465.0276.

200 (4)-(3) "Practice of medicine" means the diagnosis,
201 treatment, operation, or prescription for any human disease,
202 pain, injury, deformity, or other physical or mental condition.

203 (5)-(4) "Physician" means a person who is licensed to
204 practice medicine in this state.

205 Section 4. Advertising of controlled substances by a
206 dispensing physician.—

207 (1) (a) Only a dispensing physician licensed under chapter
208 458 or chapter 459, Florida Statutes, may use the title
209 "dispensing physician" or "dispenser" or otherwise lead the
210 public to believe that he or she is engaged in the dispensing of
211 controlled substances.

212 (b) A person, other than an owner of a:

213 1. Pain-management clinic registered under chapter 458 or
214 chapter 459, Florida Statutes; or

215 2. Health clinic licensed under chapter 400, Florida
216 Statutes,



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218 may not display any sign or take any other action that would
219 lead the public to believe that such person is engaged in the
220 business of dispensing a controlled substance. Any advertisement
221 that states "dispensing onsite" or "onsite pharmacy" violates
222 this paragraph. This paragraph does not preclude a person who is
223 not licensed as a medical practitioner from owning a pain-
224 management clinic.

225 (c) A person, firm, or corporation, unless licensed under
226 chapter 465, Florida Statutes, may not use in a trade name,
227 sign, letter, or advertisement any term, including "drug,"
228 "pharmacy," "onsite pharmacy," "dispensing," "dispensing
229 onsite," "prescription drugs," "Rx," or "apothecary," which
230 implies that the person, firm, or corporation is licensed or
231 registered to dispense prescription drugs in this state.

232 (2) A person who violates paragraph (1)(a) or paragraph
233 (1)(b) commits a misdemeanor of the first degree, punishable as
234 provided in s. 775.082 or s. 775.083, Florida Statutes. A person
235 who violates paragraph (1)(c) commits a felony of the third
236 degree, punishable as provided in s. 775.082, s. 775.083, or s.
237 775.084, Florida Statutes. In any warrant, information, or
238 indictment, it is not necessary to negate any exceptions, and
239 the burden of any exception is upon the defendant.

240 Section 5. Paragraph (a) of subsection (1) of section
241 458.3191, Florida Statutes, is amended to read:

242 458.3191 Physician survey.—

243 (1) Each person who applies for licensure renewal as a
244 physician under this chapter or chapter 459 must, in conjunction
245 with the renewal of such license under procedures adopted by the



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246 Department of Health and in addition to any other information
247 that may be required from the applicant, furnish the following
248 to the Department of Health in a physician survey:

249 (a) Licensee information, including, but not limited to:

250 1. Frequency and geographic location of practice within the
251 state.

252 2. Practice setting.

253 3. Percentage of time spent in direct patient care.

254 4. Anticipated change to license or practice status.

255 5. Areas of specialty or certification.

256 6. Whether the department has ever approved or denied the
257 physician's registration for access to a patient's information
258 in the prescription drug monitoring program's database.

259 7. Whether the physician uses the prescription drug
260 monitoring program with patients in his or her medical practice.

261 Section 6. Subsection (3) is added to section 458.3192,
262 Florida Statutes, to read:

263 458.3192 Analysis of survey results; report.—

264 (3) By November 1 each year, the Department of Health shall
265 provide nonidentifying information to the prescription drug
266 monitoring program's Implementation and Oversight Task Force
267 regarding the number of physicians who are registered with the
268 prescription drug monitoring program and who also use the
269 database from the prescription drug monitoring program for their
270 patients in their medical practice.

271 Section 7. Paragraph (a) of subsection (1) and paragraphs
272 (a) and (c) of subsection (2) of section 458.3265, Florida
273 Statutes, are amended, and paragraphs (f) and (g) are added to
274 subsection (5) of that section, to read:



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275 458.3265 Pain-management clinics.-

276 (1) REGISTRATION.-

277 (a) All privately owned pain-management clinics,
278 facilities, or offices, hereinafter referred to as "clinics,"
279 which advertise in any medium for any type of pain-management
280 services, or employ a physician who is primarily engaged in the
281 treatment of pain by prescribing or dispensing controlled
282 substance medications, must register with the department unless:

283 1. That clinic is licensed as a facility pursuant to
284 chapter 395;

285 2. The majority of the physicians who provide services in
286 the clinic primarily provide surgical services or interventional
287 pain procedures of the type routinely billed using surgical
288 codes;

289 3. The clinic is owned, directly or indirectly, by a
290 publicly held corporation whose shares are traded on a national
291 exchange or on the over-the-counter market and whose total
292 assets at the end of the corporation's most recent fiscal
293 quarter exceeded \$50 million;

294 4. The clinic is affiliated with an accredited medical
295 school at which training is provided for medical students,
296 residents, or fellows;

297 5. The clinic does not prescribe or dispense controlled
298 substances for the treatment of pain; or

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

301 (2) PHYSICIAN RESPONSIBILITIES.-These responsibilities
302 apply to any physician who provides professional services in a
303 pain-management clinic that is required to be registered in



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304 subsection (1).

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

307 ~~1. the pain-management clinic is not registered with the~~
308 ~~department as required by this section.~~

309 ~~2. Effective July 1, 2012, the physician has not~~
310 ~~successfully completed a pain-medicine fellowship that is~~
311 ~~accredited by the Accreditation Council for Graduate Medical~~
312 ~~Education or a pain-medicine residency that is accredited by the~~
313 ~~Accreditation Council for Graduate Medical Education or, prior~~
314 ~~to July 1, 2012, does not comply with rules adopted by the~~
315 ~~board.~~

316
317 Any physician who qualifies to practice medicine in a pain-
318 management clinic pursuant to rules adopted by the Board of
319 Medicine as of July 1, 2012, may continue to practice medicine
320 in a pain-management clinic as long as the physician continues
321 to meet the qualifications set forth in the board rules. A
322 physician who violates this paragraph is subject to disciplinary
323 action by his or her appropriate medical regulatory board.

324 (c) A physician, an advanced registered nurse practitioner,
325 or a physician assistant must perform an appropriate medical a
326 physical examination of a patient on the same day that the
327 physician ~~he or she~~ dispenses or prescribes a controlled
328 substance to a patient at a pain-management clinic. If the
329 physician prescribes or dispenses more than a 72-hour dose of
330 controlled substances for the treatment of chronic nonmalignant
331 pain, the physician must document in the patient's record the
332 reason such dosage is within the standard of care. For the



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333 purpose of this paragraph, the standard of care is set forth in
334 rule 64B8-9.013(3), Florida Administrative Code ~~for prescribing~~
335 ~~or dispensing that quantity.~~

336 (5) PENALTIES; ENFORCEMENT.—

337 (f) A licensee or other person who serves as the designated
338 physician of a pain-management clinic as defined in this section
339 or s. 459.0137 and registers a pain-management clinic through
340 misrepresentation or fraud or procures or attempts to procure
341 the registration of a pain-management clinic for any other
342 person by making or causing to be made any false or fraudulent
343 representation commits a felony of the third degree, punishable
344 as provided in s. 775.082, s. 775.083, or s. 775.084.

345 (g) Any person who registers a pain-management clinic
346 through misrepresentation or fraud or who procures or attempts
347 to procure the registration of a pain-management clinic for any
348 other person by making or causing to be made any false or
349 fraudulent representation, commits a felony of the third degree,
350 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

351 Section 8. Paragraphs (f) and (g) are added to subsection
352 (1), paragraphs (g) and (h) are added to subsection (2), and
353 subsection (3) is added to section 458.327, Florida Statutes, to
354 read:

355 458.327 Penalty for violations.—

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

359 (f) Failing to perform a physical examination of a patient
360 by a physician or a licensed designee acting under the
361 physician's supervision on the same day that the treating



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362 physician dispenses or prescribes a controlled substance to the
363 patient at a pain-management clinic occurring three or more
364 times within a 6-month period, or failing to perform a physical
365 examination on three or more different patients on the same day
366 that the treating physician dispenses or prescribes a controlled
367 substance to each patient at a pain-management clinic within a
368 6-month period.

369 (g) Prescribing or dispensing in excess of a 72-hour dose
370 of controlled substances at a pain-management clinic for the
371 treatment of chronic nonmalignant pain of a patient occurring
372 three or more times within a 6-month period without documenting
373 in the patient's record the reason that such dosage is within
374 the standard of care. For the purpose of this paragraph, the
375 standard of care is set forth in rule 64B8-9.013(3), Florida
376 Administrative Code.

377 (2) Each of the following acts constitutes a misdemeanor of
378 the first degree, punishable as provided in s. 775.082 or s.
379 775.083:

380 (g) Failing to perform a physical examination of a patient
381 on the same day that the treating physician dispenses or
382 prescribes a controlled substance to the patient at a pain-
383 management clinic two times in a 6-month period, or failing to
384 perform a physical examination on two different patients on the
385 same day that the treating physician dispenses or prescribes a
386 controlled substance to each patient at a pain-management clinic
387 within a 6-month period.

388 (h) Prescribing or dispensing in excess of a 72-hour dose
389 of controlled substances at a pain-management clinic for the
390 treatment of chronic nonmalignant pain of a patient occurring



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391 two times within a 6-month period without documenting in the
392 patient's record the reason that such dosage is within the
393 standard of care. For the purpose of this paragraph, the
394 standard of care is set forth in rule 64B8-9.013(3), Florida
395 Administrative Code.

396 (3) Each of the following acts constitutes a misdemeanor of
397 the second degree, punishable as provided in s. 775.082 or s.
398 775.083:

399 (a) A first offense of failing to perform a physical
400 examination of a patient on the same day that the treating
401 physician dispenses or prescribes a controlled substance to the
402 patient at a pain-management clinic.

403 (b) A first offense of failing to document in a patient's
404 record the reason that such dosage is within the standard of
405 care for prescribing or dispensing in excess of a 72-hour dose
406 of controlled substances at a pain-management clinic for the
407 treatment of chronic nonmalignant pain.

408 Section 9. Subsection (11) is added to section 458.331,
409 Florida Statutes, to read:

410 458.331 Grounds for disciplinary action; action by the
411 board and department.—

412 (11) Notwithstanding subsection (2), upon finding that a
413 physician has prescribed or dispensed, or caused to be
414 prescribed or dispensed, a controlled substance in a pain-
415 management clinic in a manner that violates the standard of
416 practice as set forth in this chapter or rules adopted pursuant
417 to this chapter, the board shall, at a minimum, suspend the
418 physician's license for at least 6 months and impose a fine of
419 at least \$10,000 per count. Repeated violations shall result in



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420 increased penalties.

421 Section 10. Present subsections (3), (4), and (5) of
422 section 459.003, Florida Statutes, are redesignated as
423 subsections (4), (5), and (6), respectively, and a new
424 subsection (3) is added to that section, to read:

425 459.003 Definitions.—As used in this chapter:

426 (3) "Dispensing physician" means an osteopathic physician
427 who is registered as a dispensing practitioner under s.
428 465.0276.

429 Section 11. Paragraph (a) of subsection (1) of section
430 459.0081, Florida Statutes, is amended to read:

431 459.0081 Physician survey.—

432 (1) Each person who applies for licensure renewal as a
433 physician under chapter 458 or this chapter must, in conjunction
434 with the renewal of such license under procedures adopted by the
435 Department of Health and in addition to any other information
436 that may be required from the applicant, furnish the following
437 to the Department of Health in a physician survey:

438 (a) Licensee information, including, but not limited to:

439 1. Frequency and geographic location of practice within the
440 state.

441 2. Practice setting.

442 3. Percentage of time spent in direct patient care.

443 4. Anticipated change to license or practice status.

444 5. Areas of specialty or certification.

445 6. Whether the department has ever approved or denied the
446 physician's registration for access to a patient's information
447 in the database of the prescription drug monitoring program.

448 7. Whether the physician uses the prescription drug



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449 monitoring program with patients in his or her medical practice.

450 Section 12. Subsection (3) is added to section 459.0082,
451 Florida Statutes, to read:

452 459.0082 Analysis of survey results; report.—

453 (3) By November 1 of each year, the Department of Health
454 shall provide nonidentifying information to the Implementation
455 and Oversight Task Force of the prescription drug monitoring
456 program regarding the number of physicians who are registered
457 with the prescription drug monitoring program and who also use
458 the database from the prescription drug monitoring program for
459 their patients in their medical practice.

460 Section 13. Paragraphs (f) and (g) are added to subsection
461 (1), paragraphs (e) and (f) are added to subsection (2), and
462 paragraphs (d) and (e) are added to subsection (3) of section
463 459.013, Florida Statutes, to read:

464 459.013 Penalty for violations.—

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

468 (f) Failing to perform a physical examination of a patient
469 on the same day that the osteopathic physician dispenses or
470 prescribes a controlled substance to the patient at a pain-
471 management clinic occurring three or more times within a 6-month
472 period, or failing to perform a physical examination on three or
473 more different patients on the same day that the osteopathic
474 physician dispenses or prescribes a controlled substance to each
475 patient at a pain-management clinic within a 6-month period.

476 (g) Prescribing or dispensing in excess of a 72-hour dose
477 of controlled substances at a pain-management clinic for the



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478 treatment of chronic nonmalignant pain of a patient occurring
479 three or more times within a 6-month period without documenting
480 in the patient's record the reason that such dosage is within
481 the standard of care. For the purpose of this paragraph, the
482 standard of care is set forth in rule 64B15-14.005(3), Florida
483 Administrative Code.

484 (2) Each of the following acts constitutes a misdemeanor of
485 the first degree, punishable as provided in s. 775.082 or s.
486 775.083:

487 (e) Failing to perform a physical examination of a patient
488 on the same day that the osteopathic physician dispenses or
489 prescribes a controlled substance to the patient at a pain-
490 management clinic occurring two times within a 6-month period,
491 or failing to perform a physical examination on two different
492 patients on the same day that the osteopathic physician
493 dispenses or prescribes a controlled substance to each patient
494 at a pain-management clinic within a 6-month period.

495 (f) Prescribing or dispensing in excess of a 72-hour dose
496 of controlled substances at a pain-management clinic for the
497 treatment of chronic nonmalignant pain of a patient occurring
498 two times within a 6-month period without documenting in the
499 patient's record the reason that such dosage is within the
500 standard of care. For the purpose of this paragraph, the
501 standard of care is set forth in rule 64B15-14.005(3), Florida
502 Administrative Code.

503 (3) Each of the following constitutes a misdemeanor of the
504 second degree, punishable as provided in s. 775.082 or s.
505 775.083:

506 (d) A first offense of failing to perform a physical



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507 examination of a patient on the same day that the osteopathic
508 physician dispenses or prescribes a controlled substance to the
509 patient at a pain-management clinic.

510 (e) A first offense of failing to document in a patient's
511 record the reason that such dosage is within the standard of
512 care for prescribing or dispensing in excess of a 72-hour dose
513 of controlled substances at a pain-management clinic for the
514 treatment of chronic nonmalignant pain. For the purpose of this
515 paragraph, the standard of care is set forth in rule 64B15-
516 14.005(3), Florida Administrative Code.

517 Section 14. Paragraph (a) of subsection (1) and paragraphs
518 (a) and (c) of subsection (2) of section 459.0137, Florida
519 Statutes, are amended, and paragraphs (f) and (g) are added to
520 subsection (5) of that section, to read:

521 459.0137 Pain-management clinics.—

522 (1) REGISTRATION.—

523 (a) All privately owned pain-management clinics,
524 facilities, or offices, hereinafter referred to as "clinics,"
525 which advertise in any medium for any type of pain-management
526 services, or employ an osteopathic physician who is primarily
527 engaged in the treatment of pain by prescribing or dispensing
528 controlled substance medications, must register with the
529 department unless:

530 1. That clinic is licensed as a facility pursuant to
531 chapter 395;

532 2. The majority of the physicians who provide services in
533 the clinic primarily provide surgical services or interventional
534 pain procedures of the type routinely billed using surgical
535 codes;



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

540 4. The clinic is affiliated with an accredited medical
541 school at which training is provided for medical students,
542 residents, or fellows;

543 5. The clinic does not prescribe or dispense controlled
544 substances for the treatment of pain; or

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

547 (2) PHYSICIAN RESPONSIBILITIES.—These responsibilities
548 apply to any osteopathic physician who provides professional
549 services in a pain-management clinic that is required to be
550 registered in subsection (1).

551 (a) An osteopathic physician may not practice medicine in a
552 pain-management clinic, as described in subsection (4), if÷

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

555 ~~2. Effective July 1, 2012, the physician has not~~
556 ~~successfully completed a pain-medicine fellowship that is~~
557 ~~accredited by the Accreditation Council for Graduate Medical~~
558 ~~Education or the American Osteopathic Association or a pain-~~
559 ~~medicine residency that is accredited by the Accreditation~~
560 ~~Council for Graduate Medical Education or the American~~
561 ~~Osteopathic Association or, prior to July 1, 2012, does not~~
562 ~~comply with rules adopted by the board.~~

563
564 Any physician who qualifies to practice medicine in a pain-



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565 management clinic pursuant to rules adopted by the Board of
566 Osteopathic Medicine as of July 1, 2012, may continue to
567 practice medicine in a pain-management clinic as long as the
568 physician continues to meet the qualifications set forth in the
569 board rules. An osteopathic physician who violates this
570 paragraph is subject to disciplinary action by his or her
571 appropriate medical regulatory board.

572 (c) An osteopathic physician, an advanced registered nurse
573 practitioner, or a physician assistant must perform an
574 appropriate medical ~~a physical~~ examination of a patient on the
575 same day that the physician ~~he or she~~ dispenses or prescribes a
576 controlled substance to a patient at a pain-management clinic.
577 If the osteopathic physician prescribes or dispenses more than a
578 72-hour dose of controlled substances for the treatment of
579 chronic nonmalignant pain, the osteopathic physician must
580 document in the patient's record the reason for which
581 prescribing or dispensing a dosage in excess of a 72-hour dose
582 of controlled substances for the treatment of chronic
583 nonmalignant pain is within the standard of care ~~for prescribing~~
584 ~~or dispensing that quantity.~~

585 (5) PENALTIES; ENFORCEMENT.—

586 (f) A licensee or other person who serves as the designated
587 physician of a pain-management clinic as defined in s. 458.3265
588 or s. 459.0137 and registers a pain-management clinic through
589 intentional misrepresentation or fraud or procures or attempts
590 to procure the registration of a pain-management clinic for any
591 other person by making or causing to be made any false or
592 fraudulent representation commits a felony of the third degree,
593 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.



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594 (g) Any person who registers a pain-management clinic
595 through misrepresentation or fraud or who procures or attempts
596 to procure the registration of a pain-management clinic for any
597 other person by making or causing to be made any false or
598 fraudulent representation, commits a felony of the third degree,
599 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

600 Section 15. Subsection (11) is added to section 459.015,
601 Florida Statutes, to read:

602 459.015 Grounds for disciplinary action; action by the
603 board and department.—

604 (11) Notwithstanding subsection (2), upon finding that an
605 osteopathic physician has prescribed or dispensed, or caused to
606 be prescribed or dispensed, a controlled substance in a pain-
607 management clinic in a manner that violates the standard of
608 practice as set forth in this chapter or rules adopted pursuant
609 to this chapter, the board shall, at a minimum, suspend the
610 osteopathic physician's license for at least 6 months and impose
611 a fine of at least \$10,000 per count. Repeated violations shall
612 result in increased penalties.

613 Section 16. Present subsections (3) and (4) of section
614 465.015, Florida Statutes, are renumbered as subsections (4) and
615 (5), respectively, and a new subsection (3) is added to that
616 section, to read:

617 465.015 Violations and penalties.—

618 (3) (a) A licensed pharmacist may not knowingly fail to
619 timely report to the local county sheriff's office the name of
620 any person who obtains or attempts to obtain a substance
621 controlled by s. 893.03 which the licensed pharmacist knows or
622 reasonably should have known was obtained or attempted to be



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623 obtained from the pharmacy through any fraudulent method or
624 representation. A licensed pharmacist who fails to make such a
625 report within 24 hours after learning of the fraud or attempted
626 fraud commits a misdemeanor of the first degree, punishable as
627 provided in s. 775.082 or s. 775.083.

628 (b) A sufficient report of the fraudulent obtaining of or
629 attempt to obtain a controlled substance under this subsection
630 may contain, at a minimum, a copy of the prescription used or
631 presented and a narrative, including all information available
632 to the pharmacy regarding:

633 1. The transaction, such as the name and telephone number
634 of the prescribing physician;

635 2. The name, description, and any personal identification
636 information pertaining to the person presenting the
637 prescription; and

638 3. All other material information, such as photographic or
639 video surveillance of the transaction.

640
641 A licensed pharmacist is not subject to disciplinary action for
642 reporting under this subsection.

643 Section 17. Subsection (6) is added to section 465.0276,
644 Florida Statutes, to read:

645 465.0276 Dispensing practitioner.-

646 (6) In order to dispense a controlled substance listed in
647 Schedule II, Schedule III, or Schedule IV in s. 893.03, a
648 practitioner authorized by law to prescribe a controlled
649 substance shall register with the Board of Pharmacy as a
650 dispensing practitioner who dispenses controlled substances and
651 pay a fee not to exceed \$100. The department shall adopt rules



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652 establishing procedures for renewal of the registration every 4
653 years.

654 Section 18. Paragraph (t) of subsection (2) of section
655 499.01, Florida Statutes, is amended to read:

656 499.01 Permits.—

657 (2) The following permits are established:

658 (t) *Health care clinic establishment permit.*—Effective
659 January 1, 2009, a health care clinic establishment permit is
660 required for the purchase of a prescription drug by a place of
661 business at one general physical location that provides health
662 care or veterinary services, which is owned and operated by a
663 business entity that has been issued a federal employer tax
664 identification number. For the purpose of this paragraph, the
665 term “qualifying practitioner” means a licensed health care
666 practitioner defined in s. 456.001, or a veterinarian licensed
667 under chapter 474, who is authorized under the appropriate
668 practice act to prescribe and administer a prescription drug.

669 1. An establishment must provide, as part of the
670 application required under s. 499.012, designation of a
671 qualifying practitioner who will be responsible for complying
672 with all legal and regulatory requirements related to the
673 purchase, recordkeeping, storage, and handling of the
674 prescription drugs. In addition, the designated qualifying
675 practitioner shall be the practitioner whose name, establishment
676 address, and license number is used on all distribution
677 documents for prescription drugs purchased or returned by the
678 health care clinic establishment. Upon initial appointment of a
679 qualifying practitioner, the qualifying practitioner and the
680 health care clinic establishment shall notify the department on



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681 a form furnished by the department within 10 days after such
682 employment. In addition, the qualifying practitioner and health
683 care clinic establishment shall notify the department within 10
684 days after any subsequent change.

685 2. The health care clinic establishment must employ a
686 qualifying practitioner at each establishment.

687 3. In addition to the remedies and penalties provided in
688 this part, a violation of this chapter by the health care clinic
689 establishment or qualifying practitioner constitutes grounds for
690 discipline of the qualifying practitioner by the appropriate
691 regulatory board.

692 4. The purchase of prescription drugs by the health care
693 clinic establishment is prohibited during any period of time
694 when the establishment does not comply with this paragraph.

695 5. A health care clinic establishment permit is not a
696 pharmacy permit or otherwise subject to chapter 465. A health
697 care clinic establishment that meets the criteria of a modified
698 Class II institutional pharmacy under s. 465.019 is not eligible
699 to be permitted under this paragraph.

700 6. This paragraph does not apply to the purchase of a
701 prescription drug by a licensed practitioner under his or her
702 license. A professional corporation or limited liability company
703 composed of dentists and operating as authorized in s. 466.0285
704 may pay for prescription drugs obtained by a practitioner
705 licensed under chapter 466, and the licensed practitioner is
706 deemed the purchaser and owner of the prescription drugs.

707 Section 19. Paragraph (a) of subsection (1) of section
708 766.101, Florida Statutes, is amended to read:

709 766.101 Medical review committee, immunity from liability.-



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710 (1) As used in this section:
711 (a) The term "medical review committee" or "committee"
712 means:
713 1.a. A committee of a hospital or ambulatory surgical
714 center licensed under chapter 395 or a health maintenance
715 organization certificated under part I of chapter 641,
716 b. A committee of a physician-hospital organization, a
717 provider-sponsored organization, or an integrated delivery
718 system,
719 c. A committee of a state or local professional society of
720 health care providers,
721 d. A committee of a medical staff of a licensed hospital or
722 nursing home, provided the medical staff operates pursuant to
723 written bylaws that have been approved by the governing board of
724 the hospital or nursing home,
725 e. A committee of the Department of Corrections or the
726 Correctional Medical Authority as created under s. 945.602, or
727 employees, agents, or consultants of either the department or
728 the authority or both,
729 f. A committee of a professional service corporation formed
730 under chapter 621 or a corporation organized under chapter 607
731 or chapter 617, which is formed and operated for the practice of
732 medicine as defined in s. 458.305(4) ~~s. 458.305(3)~~, and which
733 has at least 25 health care providers who routinely provide
734 health care services directly to patients,
735 g. A committee of the Department of Children and Family
736 Services which includes employees, agents, or consultants to the
737 department as deemed necessary to provide peer review,
738 utilization review, and mortality review of treatment services



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739 provided pursuant to chapters 394, 397, and 916,
740 h. A committee of a mental health treatment facility
741 licensed under chapter 394 or a community mental health center
742 as defined in s. 394.907, provided the quality assurance program
743 operates pursuant to the guidelines which have been approved by
744 the governing board of the agency,
745 i. A committee of a substance abuse treatment and education
746 prevention program licensed under chapter 397 provided the
747 quality assurance program operates pursuant to the guidelines
748 which have been approved by the governing board of the agency,
749 j. A peer review or utilization review committee organized
750 under chapter 440,
751 k. A committee of the Department of Health, a county health
752 department, healthy start coalition, or certified rural health
753 network, when reviewing quality of care, or employees of these
754 entities when reviewing mortality records, or
755 l. A continuous quality improvement committee of a pharmacy
756 licensed pursuant to chapter 465,
757
758 which committee is formed to evaluate and improve the quality of
759 health care rendered by providers of health service, to
760 determine that health services rendered were professionally
761 indicated or were performed in compliance with the applicable
762 standard of care, or that the cost of health care rendered was
763 considered reasonable by the providers of professional health
764 services in the area; or
765 2. A committee of an insurer, self-insurer, or joint
766 underwriting association of medical malpractice insurance, or
767 other persons conducting review under s. 766.106.



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768 Section 20. Subsection (3) of section 810.02, Florida
769 Statutes, is amended to read:

770 810.02 Burglary.—

771 (3) Burglary is a felony of the second degree, punishable
772 as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the
773 course of committing the offense, the offender does not make an
774 assault or battery and is not and does not become armed with a
775 dangerous weapon or explosive, and the offender enters or
776 remains in a:

777 (a) Dwelling, and there is another person in the dwelling
778 at the time the offender enters or remains;

779 (b) Dwelling, and there is not another person in the
780 dwelling at the time the offender enters or remains;

781 (c) Structure, and there is another person in the structure
782 at the time the offender enters or remains;

783 (d) Conveyance, and there is another person in the
784 conveyance at the time the offender enters or remains; ~~or~~

785 (e) Authorized emergency vehicle, as defined in s. 316.003;
786 or-

787 (f) Structure or conveyance when the offense intended to be
788 committed is theft of a substance controlled by s. 893.03.
789 Notwithstanding any contrary provisions of law, separate
790 judgments and sentences for burglary with the intent to commit
791 theft of a controlled substance under this paragraph and for any
792 applicable offense for possession of a controlled substance
793 under s. 893.13, or an offense for trafficking in a controlled
794 substance under s. 893.135, may be imposed if all such offenses
795 involve the same amount or amounts of a controlled substance.
796



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797 However, if the burglary is committed within a county that is
798 subject to a state of emergency declared by the Governor under
799 chapter 252 after the declaration of emergency is made and the
800 perpetration of the burglary is facilitated by conditions
801 arising from the emergency, the burglary is a felony of the
802 first degree, punishable as provided in s. 775.082, s. 775.083,
803 or s. 775.084. As used in this subsection, the term "conditions
804 arising from the emergency" means civil unrest, power outages,
805 curfews, voluntary or mandatory evacuations, or a reduction in
806 the presence of or response time for first responders or
807 homeland security personnel. A person arrested for committing a
808 burglary within a county that is subject to such a state of
809 emergency may not be released until the person appears before a
810 committing magistrate at a first appearance hearing. For
811 purposes of sentencing under chapter 921, a felony offense that
812 is reclassified under this subsection is ranked one level above
813 the ranking under s. 921.0022 or s. 921.0023 of the offense
814 committed.

815 Section 21. Paragraph (c) of subsection (2) of section
816 812.014, Florida Statutes, is amended to read:

817 812.014 Theft.—

818 (2)

819 (c) It is grand theft of the third degree and a felony of
820 the third degree, punishable as provided in s. 775.082, s.
821 775.083, or s. 775.084, if the property stolen is:

- 822 1. Valued at \$300 or more, but less than \$5,000.
- 823 2. Valued at \$5,000 or more, but less than \$10,000.
- 824 3. Valued at \$10,000 or more, but less than \$20,000.
- 825 4. A will, codicil, or other testamentary instrument.



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- 826 5. A firearm.
- 827 6. A motor vehicle, except as provided in paragraph (a).
- 828 7. Any commercially farmed animal, including any animal of
829 the equine, bovine, or swine class, or other grazing animal, and
830 including aquaculture species raised at a certified aquaculture
831 facility. If the property stolen is aquaculture species raised
832 at a certified aquaculture facility, then a \$10,000 fine shall
833 be imposed.
- 834 8. Any fire extinguisher.
- 835 9. Any amount of citrus fruit consisting of 2,000 or more
836 individual pieces of fruit.
- 837 10. Taken from a designated construction site identified by
838 the posting of a sign as provided for in s. 810.09(2)(d).
- 839 11. Any stop sign.
- 840 12. Anhydrous ammonia.
- 841 13. Any amount of a substance controlled by s. 893.03.
842 Notwithstanding any contrary provisions of law, separate
843 judgments and sentences for theft of a controlled substance
844 under this subparagraph, and for any applicable offense for
845 possession of a controlled substance under s. 893.13, or an
846 offense for trafficking in a controlled substance under s.
847 893.135 may be imposed if all such offenses involve the same
848 amount or amounts of controlled substance.
- 849
- 850 However, if the property is stolen within a county that is
851 subject to a state of emergency declared by the Governor under
852 chapter 252, the property is stolen after the declaration of
853 emergency is made, and the perpetration of the theft is
854 facilitated by conditions arising from the emergency, the



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855 offender commits a felony of the second degree, punishable as
856 provided in s. 775.082, s. 775.083, or s. 775.084, if the
857 property is valued at \$5,000 or more, but less than \$10,000, as
858 provided under subparagraph 2., or if the property is valued at
859 \$10,000 or more, but less than \$20,000, as provided under
860 subparagraph 3. As used in this paragraph, the term "conditions
861 arising from the emergency" means civil unrest, power outages,
862 curfews, voluntary or mandatory evacuations, or a reduction in
863 the presence of or the response time for first responders or
864 homeland security personnel. For purposes of sentencing under
865 chapter 921, a felony offense that is reclassified under this
866 paragraph is ranked one level above the ranking under s.
867 921.0022 or s. 921.0023 of the offense committed.

868 Section 22. Section 893.021, Florida Statutes, is created
869 to read:

870 893.021 Adulterated drug.—

871 (1) As used in this chapter, a drug is adulterated if it is
872 a controlled substance that:

873 (a) Has been produced, prepared, packed, and marketed for
874 oral consumption by the manufacturer; and

875 (b) Has had any change to its integrity or composition for
876 use by means of inhalation, injection, or any other form of
877 ingestion not in accordance with the manufacturer's recommended
878 use, and such mode of use has not been previously directed and
879 approved by the prescribing physician.

880 (2) A physician is not prevented from directing or
881 prescribing a change to the recognized manufactured
882 recommendations for use in a patient who presents a medical need
883 for such a requirement change of any controlled substance. The



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884 prescribing physician shall clearly indicate any deviation of
885 the recognized manufacturer's recommended use of a controlled
886 substance on the original prescription, and the licensed
887 pharmacist shall clearly indicate such deviation on the label of
888 the prescription upon dispensing the controlled substance.

889 Section 23. Paragraphs (c), (d), and (e) of subsection (1)
890 of section 893.04, Florida Statutes, are amended to read:

891 893.04 Pharmacist and practitioner.—

892 (1) A pharmacist, in good faith and in the course of
893 professional practice only, may dispense controlled substances
894 upon a written or oral prescription of a practitioner, under the
895 following conditions:

896 (c) The following information must ~~There shall~~ appear on
897 the face of the prescription or written record of a thereof for
898 ~~the controlled substance the following information:~~

899 1. The full name and address of the person for whom, or the
900 owner of the animal for which, the controlled substance is
901 dispensed.

902 2. The full name and address of the prescribing
903 practitioner and the practitioner's federal controlled substance
904 registry number shall be printed thereon.

905 3. If the prescription is for an animal, the species of
906 animal for which the controlled substance is prescribed.

907 4. The name of the controlled substance prescribed and the
908 strength, quantity, and directions for use thereof. The
909 directions for use must specify the authorization by the
910 physician, any instructions requiring the adulteration of the
911 dispensed form of the medication, and the medical necessity for
912 the adulteration in accordance with s. 893.021.



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913 5. The number of the prescription, as recorded in the
914 prescription files of the pharmacy in which it is filled.

915 6. The initials of the pharmacist filling the prescription
916 and the date filled.

917 (d) The prescription must ~~shall~~ be retained on file by the
918 proprietor of the pharmacy in which it is filled for a period of
919 2 years.

920 (e) A label bearing the following information must be
921 affixed to the original container in which a controlled
922 substance is delivered as upon a prescription or authorized
923 refill ~~thereof, as hereinafter provided, there shall be a label~~
924 ~~bearing the following information:~~

925 1. The name and address of the pharmacy from which such
926 controlled substance was dispensed.

927 2. The date on which the prescription for such controlled
928 substance was filled.

929 3. The number of such prescription, as recorded in the
930 prescription files of the pharmacy in which it is filled.

931 4. The name of the prescribing practitioner.

932 5. The name of the patient for whom, or of the owner and
933 species of the animal for which, the controlled substance is
934 prescribed.

935 6. The directions for the use of the controlled substance
936 prescribed in the prescription.

937 7. A clear, concise warning that it is a crime to transfer
938 the controlled substance to any person other than the patient
939 for whom prescribed.

940 Section 24. Section 893.055, Florida Statutes, is amended
941 to read:



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942 893.055 Prescription drug monitoring program.—

943 (1) As used in this section, the term:

944 (a) "Patient advisory report" or "advisory report" means
945 information provided by the department in writing, or as
946 determined by the department, to a prescriber, dispenser,
947 pharmacy, or patient concerning the dispensing of controlled
948 substances. All advisory reports are for informational purposes
949 only and impose no obligations of any nature or any legal duty
950 on a prescriber, dispenser, pharmacy, or patient. The patient
951 advisory report shall be provided in accordance with s.

952 893.13(7)(a)8. The advisory reports issued by the department are
953 not subject to discovery or introduction into evidence in any
954 civil or administrative action against a prescriber, dispenser,
955 pharmacy, or patient arising out of matters that are the subject
956 of the report; and a person who participates in preparing,
957 reviewing, issuing, or any other activity related to an advisory
958 report may not be permitted or required to testify in any such
959 civil action as to any findings, recommendations, evaluations,
960 opinions, or other actions taken in connection with preparing,
961 reviewing, or issuing such a report.

962 (b) "Controlled substance" means a controlled substance
963 listed in Schedule II, Schedule III, or Schedule IV in s.
964 893.03.

965 (c) "Dispenser" means a pharmacy, dispensing pharmacist, or
966 dispensing health care practitioner.

967 (d) "Health care practitioner" or "practitioner" means any
968 practitioner who is subject to licensure or regulation by the
969 department under chapter 458, chapter 459, chapter 461, chapter
970 462, chapter 464, chapter 465, or chapter 466.



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971 (e) "Health care regulatory board" means any board for a
972 practitioner or health care practitioner who is licensed or
973 regulated by the department.

974 (f) "Pharmacy" means any pharmacy that is subject to
975 licensure or regulation by the department under chapter 465 and
976 that dispenses or delivers a controlled substance to an
977 individual or address in this state.

978 (g) "Prescriber" means a prescribing physician, prescribing
979 practitioner, or other prescribing health care practitioner.

980 (h) "Active investigation" means an investigation that is
981 being conducted with a reasonable, good faith belief that it
982 could lead to the filing of administrative, civil, or criminal
983 proceedings, or that is ongoing and continuing and for which
984 there is a reasonable, good faith anticipation of securing an
985 arrest or prosecution in the foreseeable future.

986 (i) "Law enforcement agency" means the Department of Law
987 Enforcement, a Florida sheriff's department, a Florida police
988 department, or a law enforcement agency of the Federal
989 Government which enforces the laws of this state or the United
990 States relating to controlled substances, and which its agents
991 and officers are empowered by law to conduct criminal
992 investigations and make arrests.

993 (j) "Program manager" means an employee of or a person
994 contracted by the Department of Health who is designated to
995 ensure the integrity of the prescription drug monitoring program
996 in accordance with the requirements established in paragraphs
997 (2) (a) and (b).

998 (2) (a) By December 1, 2010, the department shall design and
999 establish a comprehensive electronic database system that has



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1000 controlled substance prescriptions provided to it and that
1001 provides prescription information to a patient's health care
1002 practitioner and pharmacist who inform the department that they
1003 wish the patient advisory report provided to them. Otherwise,
1004 the patient advisory report will not be sent to the
1005 practitioner, pharmacy, or pharmacist. The system shall be
1006 designed to provide information regarding dispensed
1007 prescriptions of controlled substances and shall not infringe
1008 upon the legitimate prescribing or dispensing of a controlled
1009 substance by a prescriber or dispenser acting in good faith and
1010 in the course of professional practice. The system shall be
1011 consistent with standards of the American Society for Automation
1012 in Pharmacy (ASAP). The electronic system shall also comply with
1013 the Health Insurance Portability and Accountability Act (HIPAA)
1014 as it pertains to protected health information (PHI), electronic
1015 protected health information (EPHI), minimum requirements as
1016 established by the department for authentication of a
1017 practitioner who requests information in the prescription drug
1018 monitoring program database and certification of the purpose for
1019 which information is requested, and all other relevant state and
1020 federal privacy and security laws and regulations. The
1021 department shall establish policies and procedures as
1022 appropriate regarding the reporting, accessing the database,
1023 evaluation, management, development, implementation, operation,
1024 storage, and security of information within the system. The
1025 reporting of prescribed controlled substances shall include a
1026 dispensing transaction with a dispenser pursuant to chapter 465
1027 or through a dispensing transaction to an individual or address
1028 in this state with a pharmacy that is not located in this state



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1029 but that is otherwise subject to the jurisdiction of this state
1030 as to that dispensing transaction. The reporting of patient
1031 advisory reports refers only to reports to patients, pharmacies,
1032 and practitioners. Separate reports that contain patient
1033 prescription history information and that are not patient
1034 advisory reports are provided to persons and entities as
1035 authorized in paragraphs (7) (b) and (c) and s. 893.0551.

1036 (b) The department, when the direct support organization
1037 receives at least \$20,000 in nonstate moneys or the state
1038 receives at least \$20,000 in federal grants for the prescription
1039 drug monitoring program, and in consultation with the Office of
1040 Drug Control, shall adopt rules as necessary concerning the
1041 reporting, accessing the database, evaluation, management,
1042 development, implementation, operation, security, and storage of
1043 information within the system, including rules for when patient
1044 advisory reports are provided to pharmacies and prescribers. The
1045 patient advisory report shall be provided in accordance with s.
1046 893.13(7) (a)8. The department shall work with the professional
1047 health care licensure boards, such as the Board of Medicine, the
1048 Board of Osteopathic Medicine, and the Board of Pharmacy; other
1049 appropriate organizations, such as the Florida Pharmacy
1050 Association, the Office of Drug Control, the Florida Medical
1051 Association, the Florida Retail Federation, and the Florida
1052 Osteopathic Medical Association, including those relating to
1053 pain management; and the Attorney General, the Department of Law
1054 Enforcement, and the Agency for Health Care Administration to
1055 develop rules appropriate for the prescription drug monitoring
1056 program.

1057 (c) All dispensers and prescribers subject to these



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1058 reporting requirements shall be notified by the department of
1059 the implementation date for such reporting requirements.

1060 (d) The program manager shall work with professional health
1061 care licensure boards and the stakeholders listed in paragraph
1062 (b) to develop rules appropriate for identifying indicators of
1063 controlled substance abuse.

1064 (e) The department shall establish a method to allow
1065 corrections to the database when notified by a health care
1066 practitioner or pharmacist.

1067 (3) The pharmacy dispensing the controlled substance and
1068 each prescriber who directly dispenses a controlled substance
1069 shall submit to the electronic system, by a procedure and in a
1070 format established by the department and consistent with an
1071 ASAP-approved format, the following information for inclusion in
1072 the database:

1073 (a) The name of the prescribing practitioner, the
1074 practitioner's federal Drug Enforcement Administration
1075 registration number, the practitioner's National Provider
1076 Identification (NPI) or other appropriate identifier, and the
1077 date of the prescription.

1078 (b) The date the prescription was filled and the method of
1079 payment, such as cash by an individual, insurance coverage
1080 through a third party, or Medicaid payment. This paragraph does
1081 not authorize the department to include individual credit card
1082 numbers or other account numbers in the database.

1083 (c) The full name, address, and date of birth of the person
1084 for whom the prescription was written.

1085 (d) The name, national drug code, quantity, and strength of
1086 the controlled substance dispensed.



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1087 (e) The full name, federal Drug Enforcement Administration
1088 registration number, and address of the pharmacy or other
1089 location from which the controlled substance was dispensed. If
1090 the controlled substance was dispensed by a practitioner other
1091 than a pharmacist, the practitioner's full name, federal Drug
1092 Enforcement Administration registration number, and address.

1093 (f) The name of the pharmacy or practitioner, other than a
1094 pharmacist, dispensing the controlled substance and the
1095 practitioner's National Provider Identification (NPI).

1096 (g) Other appropriate identifying information as determined
1097 by department rule.

1098 (h) The number of refills ordered and whether the drug was
1099 dispensed as a refill of a prescription or was a first-time
1100 request.

1101 (4) Each time a controlled substance is dispensed to an
1102 individual, the controlled substance shall be reported to the
1103 department through the system as soon thereafter as possible,
1104 but not more than 7 ~~15~~ days after the date the controlled
1105 substance is dispensed unless an extension is approved by the
1106 department for cause as determined by rule. A dispenser must
1107 meet the reporting requirements of this section by providing the
1108 required information concerning each controlled substance that
1109 it dispensed in a department-approved, secure methodology and
1110 format. Such approved formats may include, but are not limited
1111 to, submission via the Internet, on a disc, or by use of regular
1112 mail.

1113 (5) When the following acts of dispensing or administering
1114 occur, the following are exempt from reporting under this
1115 section for that specific act of dispensing or administration:



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1116 (a) A health care practitioner when administering a
1117 controlled substance directly to a patient if the amount of the
1118 controlled substance is adequate to treat the patient during
1119 that particular treatment session.

1120 (b) A pharmacist or health care practitioner when
1121 administering a controlled substance to a patient or resident
1122 receiving care as a patient at a hospital, nursing home,
1123 ambulatory surgical center, hospice, or intermediate care
1124 facility for the developmentally disabled which is licensed in
1125 this state.

1126 ~~(c) A practitioner when administering or dispensing a~~
1127 ~~controlled substance in the health care system of the Department~~
1128 ~~of Corrections.~~

1129 (c) ~~(d)~~ A practitioner when administering a controlled
1130 substance in the emergency room of a licensed hospital.

1131 (d) ~~(e)~~ A health care practitioner when administering or
1132 dispensing a controlled substance to a person under the age of
1133 16 if the amount of the controlled substance is adequate to
1134 treat the patient during that particular treatment session.

1135 (e) ~~(f)~~ A pharmacist or a dispensing practitioner when
1136 dispensing a one-time, 48-hour ~~72-hour~~ emergency resupply of a
1137 controlled substance to a patient.

1138 (6) The department may establish when to suspend and when
1139 to resume reporting information during a state-declared or
1140 nationally declared disaster.

1141 (7) (a) A practitioner or pharmacist who dispenses a
1142 controlled substance must submit the information required by
1143 this section in an electronic or other method in an ASAP format
1144 approved by rule of the department unless otherwise provided in



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1145 this section. The cost to the dispenser in submitting the
1146 information required by this section may not be material or
1147 extraordinary. Costs not considered to be material or
1148 extraordinary include, but are not limited to, regular postage,
1149 electronic media, regular electronic mail, and facsimile
1150 charges.

1151 (b)1. In order for a pharmacy, prescriber, practitioner, or
1152 dispenser to ~~shall~~ have access to information in the
1153 prescription drug monitoring program's database which relates to
1154 a patient of that pharmacy, prescriber, practitioner, or
1155 dispenser, the pharmacy, prescriber, practitioner, or dispenser
1156 shall register with the department by submitting a registering
1157 document provided by the department. The document and validation
1158 of that document shall be determined by the department. Before a
1159 pharmacy, prescriber, practitioner, or dispenser is granted
1160 access to information in the database from the prescription drug
1161 monitoring program, the department shall approve the submitted
1162 document. Upon approval, the department shall grant the
1163 registrant access to the appropriate information in the
1164 prescription drug monitoring program's database ~~in a manner~~
1165 established by the department as needed for the purpose of
1166 reviewing the patient's controlled substance prescription
1167 history.

1168 2. Other access to the program's database shall be limited
1169 to the program's manager and to the designated program and
1170 support staff, who may act only at the direction of the program
1171 manager or, in the absence of the program manager, as
1172 authorized. Access by the program manager or such designated
1173 staff is for prescription drug program management only or for



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1174 management of the program's database and its system in support
1175 of the requirements of this section and in furtherance of the
1176 prescription drug monitoring program. Confidential and exempt
1177 information in the database shall be released only as provided
1178 in paragraph (c) and s. 893.0551. The program manager,
1179 designated program and support staff who act at the direction of
1180 or in the absence of the program manager, and any individual who
1181 has similar access regarding the management of the database from
1182 the prescription drug monitoring program shall submit
1183 fingerprints to the department for background screening. The
1184 department shall follow the procedure established by the
1185 Department of Law Enforcement to request a statewide criminal
1186 history record check and to request that the Department of Law
1187 Enforcement forward the fingerprints to the Federal Bureau of
1188 Investigation for a national criminal history record check.

1189 (c) The following entities ~~may shall~~ not ~~have be~~ allowed
1190 direct access to information in the prescription drug monitoring
1191 program database but may request from the program manager and,
1192 when authorized by the program manager, the program manager's
1193 program and support staff, information that is confidential and
1194 exempt under s. 893.0551. Prior to release, the request shall be
1195 verified as authentic and authorized with the requesting
1196 organization by the program manager, the program manager's
1197 program and support staff, or as determined in rules by the
1198 department as being authentic and as having been authorized by
1199 the requesting entity:

1200 1. The department or its relevant health care regulatory
1201 boards responsible for the licensure, regulation, or discipline
1202 of practitioners, pharmacists, or other persons who are



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1203 authorized to prescribe, administer, or dispense controlled
1204 substances and who are involved in a specific controlled
1205 substance investigation involving a designated person for one or
1206 more prescribed controlled substances.

1207 2. The Attorney General for Medicaid fraud cases or
1208 Medicaid investigations involving prescribed controlled
1209 substances.

1210 3. A law enforcement agency during active investigations
1211 regarding potential criminal activity, fraud, or theft regarding
1212 prescribed controlled substances.

1213 4. A patient or the legal guardian or designated health
1214 care surrogate of an incapacitated patient as described in s.
1215 893.0551 who, for the purpose of verifying the accuracy of the
1216 database information, submits a written and notarized request
1217 that includes the patient's full name, address, and date of
1218 birth, and includes the same information if the legal guardian
1219 or health care surrogate submits the request. The patient's
1220 phone number, current address, and a copy of a government-issued
1221 photo identification must be provided in person to the program
1222 manager along with the notarized request. The request shall be
1223 validated by the department to verify the identity of the
1224 patient and the legal guardian or health care surrogate, if the
1225 patient's legal guardian or health care surrogate is the
1226 requestor. Such verification is also required for any request to
1227 change a patient's prescription history or other information
1228 related to his or her information in the electronic database.

1229 5. The Agency for Health Care Administration for Medicaid
1230 fraud cases or Medicaid investigations involving prescribed
1231 controlled substances.



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1232
1233 Information in the database for the electronic prescription drug
1234 monitoring system is not discoverable or admissible in any civil
1235 or administrative action, except in an investigation and
1236 disciplinary proceeding by the department or the appropriate
1237 regulatory board.

1238 (d) The following entities may ~~shall~~ not have ~~be allowed~~
1239 direct access to information in the prescription drug monitoring
1240 program database but may request from the program manager and,
1241 when authorized by the program manager, the program manager's
1242 program and support staff, information that contains no
1243 identifying information of any patient, physician, health care
1244 practitioner, prescriber, or dispenser and that is not
1245 confidential and exempt:

1246 1. Department staff for the purpose of calculating
1247 performance measures pursuant to subsection (8).

1248 2. The Program Implementation and Oversight Task Force for
1249 its reporting to the Governor, the President of the Senate, and
1250 the Speaker of the House of Representatives regarding the
1251 prescription drug monitoring program. This subparagraph expires
1252 July 1, 2012.

1253 (e) All transmissions of data required by this section must
1254 comply with relevant state and federal privacy and security laws
1255 and regulations. However, any authorized agency or person under
1256 s. 893.0551 receiving such information as allowed by s. 893.0551
1257 may maintain the information received for up to 24 months before
1258 purging it from his or her records or maintain it for longer
1259 than 24 months if the information is pertinent to ongoing health
1260 care or an active law enforcement investigation or prosecution.



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1261 (f) The program manager, upon determining a pattern
1262 consistent with the rules established under paragraph (2)(d) and
1263 having cause to believe a violation of s. 893.13(7)(a)8.,
1264 (8)(a), or (8)(b) has occurred, may provide relevant information
1265 to the applicable law enforcement agency.

1266 (8) To assist in fulfilling program responsibilities,
1267 performance measures shall be reported annually to the Governor,
1268 the President of the Senate, and the Speaker of the House of
1269 Representatives by the department each December 1, beginning in
1270 2011. Data that does not contain patient, physician, health care
1271 practitioner, prescriber, or dispenser identifying information
1272 may be requested during the year by department employees so that
1273 the department may undertake public health care and safety
1274 initiatives that take advantage of observed trends. Performance
1275 measures may include, but are not limited to, efforts to achieve
1276 the following outcomes:

1277 (a) Reduction of the rate of inappropriate use of
1278 prescription drugs through department education and safety
1279 efforts.

1280 (b) Reduction of the quantity of pharmaceutical controlled
1281 substances obtained by individuals attempting to engage in fraud
1282 and deceit.

1283 (c) Increased coordination among partners participating in
1284 the prescription drug monitoring program.

1285 (d) Involvement of stakeholders in achieving improved
1286 patient health care and safety and reduction of prescription
1287 drug abuse and prescription drug diversion.

1288 (9) Any person who willfully and knowingly fails to report
1289 the dispensing of a controlled substance as required by this



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1290 section commits a misdemeanor of the first degree, punishable as
1291 provided in s. 775.082 or s. 775.083.

1292 ~~(10) All costs incurred by the department in administering~~
1293 ~~the prescription drug monitoring program shall be funded through~~
1294 ~~federal grants or private funding applied for or received by the~~
1295 ~~state. The department may not commit funds for the monitoring~~
1296 ~~program without ensuring funding is available. The prescription~~
1297 ~~drug monitoring program and the implementation thereof are~~
1298 ~~contingent upon receipt of the nonstate funding.~~ The department
1299 and state government shall cooperate with the direct-support
1300 organization established pursuant to subsection (11) in seeking
1301 federal grant funds, other nonstate grant funds, gifts,
1302 donations, or other private moneys for the department so long as
1303 the costs of doing so are not considered material. Nonmaterial
1304 costs for this purpose include, but are not limited to, the
1305 costs of mailing and personnel assigned to research or apply for
1306 a grant. Notwithstanding the exemptions to competitive-
1307 solicitation requirements under s. 287.057(3)(f), the department
1308 shall comply with the competitive-solicitation requirements
1309 under s. 287.057 for the procurement of any goods or services
1310 required by this section.

1311 (11) The Office of Drug Control, in coordination with the
1312 department, may establish a direct-support organization that has
1313 a board consisting of at least five members to provide
1314 assistance, funding, and promotional support for the activities
1315 authorized for the prescription drug monitoring program.

1316 (a) As used in this subsection, the term "direct-support
1317 organization" means an organization that is:

1318 1. A Florida corporation not for profit incorporated under



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1319 chapter 617, exempted from filing fees, and approved by the
1320 Department of State.

1321 2. Organized and operated to conduct programs and
1322 activities; raise funds; request and receive grants, gifts, and
1323 bequests of money; acquire, receive, hold, and invest, in its
1324 own name, securities, funds, objects of value, or other
1325 property, either real or personal; and make expenditures or
1326 provide funding to or for the direct or indirect benefit of the
1327 department in the furtherance of the prescription drug
1328 monitoring program.

1329 (b) The direct-support organization is not considered a
1330 lobbying firm within the meaning of s. 11.045.

1331 (c) The director of the Office of Drug Control shall
1332 appoint a board of directors for the direct-support
1333 organization. The director may designate employees of the Office
1334 of Drug Control, state employees other than state employees from
1335 the department, and any other nonstate employees as appropriate,
1336 to serve on the board. Members of the board shall serve at the
1337 pleasure of the director of the Office of Drug Control. The
1338 director shall provide guidance to members of the board to
1339 ensure that moneys received by the direct-support organization
1340 are not received from inappropriate sources. Inappropriate
1341 sources include, but are not limited to, donors, grantors,
1342 persons, or organizations that may monetarily or substantively
1343 benefit from the purchase of goods or services by the department
1344 in furtherance of the prescription drug monitoring program.

1345 (d) The direct-support organization shall operate under
1346 written contract with the Office of Drug Control. The contract
1347 must, at a minimum, provide for:



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- 1348 1. Approval of the articles of incorporation and bylaws of
1349 the direct-support organization by the Office of Drug Control.
- 1350 2. Submission of an annual budget for the approval of the
1351 Office of Drug Control.
- 1352 3. Certification by the Office of Drug Control in
1353 consultation with the department that the direct-support
1354 organization is complying with the terms of the contract in a
1355 manner consistent with and in furtherance of the goals and
1356 purposes of the prescription drug monitoring program and in the
1357 best interests of the state. Such certification must be made
1358 annually and reported in the official minutes of a meeting of
1359 the direct-support organization.
- 1360 4. The reversion, without penalty, to the Office of Drug
1361 Control, or to the state if the Office of Drug Control ceases to
1362 exist, of all moneys and property held in trust by the direct-
1363 support organization for the benefit of the prescription drug
1364 monitoring program if the direct-support organization ceases to
1365 exist or if the contract is terminated.
- 1366 5. The fiscal year of the direct-support organization,
1367 which must begin July 1 of each year and end June 30 of the
1368 following year.
- 1369 6. The disclosure of the material provisions of the
1370 contract to donors of gifts, contributions, or bequests,
1371 including such disclosure on all promotional and fundraising
1372 publications, and an explanation to such donors of the
1373 distinction between the Office of Drug Control and the direct-
1374 support organization.
- 1375 7. The direct-support organization's collecting, expending,
1376 and providing of funds to the department for the development,



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1377 implementation, and operation of the prescription drug
1378 monitoring program as described in this section and s. 2,
1379 chapter 2009-198, Laws of Florida, as long as the task force is
1380 authorized. The direct-support organization may collect and
1381 expend funds to be used for the functions of the direct-support
1382 organization's board of directors, as necessary and approved by
1383 the director of the Office of Drug Control. In addition, the
1384 direct-support organization may collect and provide funding to
1385 the department in furtherance of the prescription drug
1386 monitoring program by:

1387 a. Establishing and administering the prescription drug
1388 monitoring program's electronic database, including hardware and
1389 software.

1390 b. Conducting studies on the efficiency and effectiveness
1391 of the program to include feasibility studies as described in
1392 subsection (13).

1393 c. Providing funds for future enhancements of the program
1394 within the intent of this section.

1395 d. Providing user training of the prescription drug
1396 monitoring program, including distribution of materials to
1397 promote public awareness and education and conducting workshops
1398 or other meetings, for health care practitioners, pharmacists,
1399 and others as appropriate.

1400 e. Providing funds for travel expenses.

1401 f. Providing funds for administrative costs, including
1402 personnel, audits, facilities, and equipment.

1403 g. Fulfilling all other requirements necessary to implement
1404 and operate the program as outlined in this section.

1405 (e) The activities of the direct-support organization must



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1406 be consistent with the goals and mission of the Office of Drug
1407 Control, as determined by the office in consultation with the
1408 department, and in the best interests of the state. The direct-
1409 support organization must obtain a written approval from the
1410 director of the Office of Drug Control for any activities in
1411 support of the prescription drug monitoring program before
1412 undertaking those activities.

1413 (f) The Office of Drug Control, in consultation with the
1414 department, may permit, without charge, appropriate use of
1415 administrative services, property, and facilities of the Office
1416 of Drug Control and the department by the direct-support
1417 organization, subject to this section. The use must be directly
1418 in keeping with the approved purposes of the direct-support
1419 organization and may not be made at times or places that would
1420 unreasonably interfere with opportunities for the public to use
1421 such facilities for established purposes. Any moneys received
1422 from rentals of facilities and properties managed by the Office
1423 of Drug Control and the department may be held by the Office of
1424 Drug Control or in a separate depository account in the name of
1425 the direct-support organization and subject to the provisions of
1426 the letter of agreement with the Office of Drug Control. The
1427 letter of agreement must provide that any funds held in the
1428 separate depository account in the name of the direct-support
1429 organization must revert to the Office of Drug Control if the
1430 direct-support organization is no longer approved by the Office
1431 of Drug Control to operate in the best interests of the state.

1432 (g) The Office of Drug Control, in consultation with the
1433 department, may adopt rules under s. 120.54 to govern the use of
1434 administrative services, property, or facilities of the



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1435 department or office by the direct-support organization.

1436 (h) The Office of Drug Control may not permit the use of
1437 any administrative services, property, or facilities of the
1438 state by a direct-support organization if that organization does
1439 not provide equal membership and employment opportunities to all
1440 persons regardless of race, color, religion, gender, age, or
1441 national origin.

1442 (i) The direct-support organization shall provide for an
1443 independent annual financial audit in accordance with s.
1444 215.981. Copies of the audit shall be provided to the Office of
1445 Drug Control and the Office of Policy and Budget in the
1446 Executive Office of the Governor.

1447 (j) The direct-support organization may not exercise any
1448 power under s. 617.0302(12) or (16).

1449 (12) A prescriber or dispenser may have access to the
1450 information under this section which relates to a patient of
1451 that prescriber or dispenser as needed for the purpose of
1452 reviewing the patient's controlled drug prescription history. A
1453 prescriber or dispenser acting in good faith is immune from any
1454 civil, criminal, or administrative liability that might
1455 otherwise be incurred or imposed for receiving or using
1456 information from the prescription drug monitoring program. This
1457 subsection does not create a private cause of action, and a
1458 person may not recover damages against a prescriber or dispenser
1459 authorized to access information under this subsection for
1460 accessing or failing to access such information.

1461 (13) To the extent that funding is provided for such
1462 purpose through federal or private grants or gifts and other
1463 types of available moneys, the department, in collaboration with



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1464 the Office of Drug Control, shall study the feasibility of
1465 enhancing the prescription drug monitoring program for the
1466 purposes of public health initiatives and statistical reporting
1467 that respects the privacy of the patient, the prescriber, and
1468 the dispenser. Such a study shall be conducted in order to
1469 further improve the quality of health care services and safety
1470 by improving the prescribing and dispensing practices for
1471 prescription drugs, taking advantage of advances in technology,
1472 reducing duplicative prescriptions and the overprescribing of
1473 prescription drugs, and reducing drug abuse. The requirements of
1474 the National All Schedules Prescription Electronic Reporting
1475 (NASPER) Act are authorized in order to apply for federal NASPER
1476 funding. In addition, the direct-support organization shall
1477 provide funding for the department, in collaboration with the
1478 Office of Drug Control, to conduct training for health care
1479 practitioners and other appropriate persons in using the
1480 monitoring program to support the program enhancements.

1481 (14) A pharmacist, pharmacy, or dispensing health care
1482 practitioner or his or her agent, before releasing a controlled
1483 substance to any person not known to such dispenser, shall
1484 require the person purchasing, receiving, or otherwise acquiring
1485 the controlled substance to present valid photographic
1486 identification or other verification of his or her identity to
1487 the dispenser. If the person does not have proper
1488 identification, the dispenser may verify the validity of the
1489 prescription and the identity of the patient with the prescriber
1490 or his or her authorized agent. Verification of health plan
1491 eligibility through a real-time inquiry or adjudication system
1492 will be considered to be proper identification. This subsection



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1493 does not apply in an institutional setting or to a long-term
1494 care facility, including, but not limited to, an assisted living
1495 facility or a hospital to which patients are admitted. As used
1496 in this subsection, the term "proper identification" means an
1497 identification that is issued by a state or the Federal
1498 Government containing the person's photograph, printed name, and
1499 signature or a document considered acceptable under 8 C.F.R. s.
1500 274a.2(b)(1)(v)(A) and (B).

1501 (15) The Agency for Health Care Administration shall
1502 continue the promotion of electronic prescribing by health care
1503 practitioners, health care facilities, and pharmacies under s.
1504 408.0611.

1505 (16) By October 1, 2010, the department shall adopt rules
1506 pursuant to ss. 120.536(1) and 120.54 to administer the
1507 provisions of this section, which shall include as necessary the
1508 reporting, accessing, evaluation, management, development,
1509 implementation, operation, and storage of information within the
1510 monitoring program's system.

1511 (17) After the prescription drug monitoring program's
1512 database has been operational for 12 months, the State Surgeon
1513 General shall enter into reciprocal agreements for the sharing
1514 of prescription drug monitoring information with any other state
1515 that has a compatible prescription drug monitoring program. If
1516 the State Surgeon General evaluates the prescription drug
1517 monitoring program of another state as authorized in this
1518 subsection, priority shall be given to a state that is
1519 contiguous with the borders of this state.

1520 (a) In determining compatibility, the State Surgeon General
1521 shall consider:



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1522 1. The essential purposes of the program and the success of
1523 the program in fulfilling those purposes.

1524 2. The safeguards for privacy of patient records and the
1525 success of the program in protecting patient privacy.

1526 3. The persons authorized to view the data collected by the
1527 program. Comparable organizations and professions for
1528 practitioners in other states, law enforcement agencies, the
1529 Attorney General's Medicaid Fraud Unit, medical regulatory
1530 boards, and, as needed, management staff who have similar duties
1531 as management staff who work with the prescription drug
1532 monitoring program as authorized in s. 893.0551 are authorized
1533 access upon approval by the State Surgeon General.

1534 4. The schedules of the controlled substances that are
1535 monitored.

1536 5. The data required to be submitted for each prescription.

1537 6. Any implementing criteria deemed essential for a
1538 thorough comparison.

1539 (b) The State Surgeon General shall annually review any
1540 agreement to determine its continued compatibility with the
1541 prescription drug monitoring program in this state.

1542 (c) Any agreement between the State Surgeon General and
1543 another state shall prohibit the sharing of information
1544 concerning a resident of this state or a practitioner,
1545 pharmacist, or other prescriber for any purpose that is not
1546 otherwise authorized by this section or s. 893.0551.

1547 Section 25. Paragraph (a) of subsection (3) of section
1548 893.0551, Florida Statutes, is amended, present subsections (4),
1549 (5), (6), and (7) of that section are redesignated as
1550 subsections (5), (6), (7), and (8), respectively, and a new



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1551 subsection (4) is added to that section, to read:

1552 893.0551 Public records exemption for the prescription drug
1553 monitoring program.—

1554 (3) The department shall disclose such confidential and
1555 exempt information to the following entities after using a
1556 verification process to ensure the legitimacy of that person's
1557 or entity's request for the information:

1558 (a) The Attorney General and his or her designee when
1559 working on Medicaid fraud cases and Medicaid investigations
1560 involving prescribed controlled substances ~~prescription drugs~~ or
1561 when the Attorney General has initiated a review of specific
1562 identifiers of Medicaid fraud or specific identifiers that
1563 warrant a Medicaid investigation regarding prescribed controlled
1564 substances ~~prescription drugs~~. The Attorney General or his or
1565 her designee may disclose the confidential and exempt
1566 information received from the department to a criminal justice
1567 agency as defined in s. 119.011 as part of an active
1568 investigation that is specific to a violation of prescription
1569 drug abuse or prescription drug diversion law as it relates to
1570 controlled substances. The Attorney General's Medicaid fraud
1571 investigators and Medicaid investigators may not have direct
1572 access to the department's database.

1573 (4) The department may disclose confidential and exempt
1574 information contained in records held by the department under s.
1575 893.055 if the State Surgeon General has entered into a
1576 reciprocal agreement for the sharing of prescription drug
1577 monitoring information with any other state that has a
1578 compatible prescription drug monitoring program.

1579 (a) The reciprocal agreement may allow the following



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1580 persons from another state to receive information from the
1581 prescription drug monitoring program if approved by the State
1582 Surgeon General:

1583 1. A designated representative of a state professional
1584 licensing, certification, or regulatory agency charged with
1585 oversight of those persons authorized to prescribe or dispense
1586 controlled substances for the purpose of a bona fide, specific
1587 investigation of a prescription of a controlled substance which
1588 involves a designated person. As required in s. 893.055, this
1589 authorization does not preclude the requirement for the program
1590 manager to review the request for information and validate it.

1591 2. A health care practitioner or pharmacist licensed in the
1592 state from which the request originates. Such health care
1593 practitioner or pharmacist shall certify that the requested
1594 information is for the purpose of providing medical or
1595 pharmaceutical treatment to a bona fide, current patient. The
1596 health care practitioner or pharmacist shall follow all the
1597 procedures required in s. 893.055 and rules established by the
1598 department for a health care practitioner or pharmacist to
1599 request information from the database.

1600 3. A law enforcement officer from another state:

1601 a. Who is a member of a sheriff's department or a police
1602 department;

1603 b. Who is authorized by law to conduct criminal
1604 investigations and make arrests;

1605 c. Whose duty it is to enforce the laws of his or her state
1606 relating to controlled substances; and

1607 d. Who is engaged in a bona fide specific, active
1608 investigation involving a designated person regarding



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1609 prescriptions for controlled substances.

1610

1611 As required in s. 893.055, this authorization does not preclude
1612 the requirement for the program manager to review the request
1613 for information and validate it. This authorization also does
1614 not preclude the ability to provide a report to a law
1615 enforcement agency in another state under s. 893.055(7) or this
1616 subsection.

1617 (b) Any agreement between the State Surgeon General and
1618 another state shall prohibit the sharing of information
1619 concerning a resident of this state, a patient whose information
1620 is in the program's database, or a practitioner, pharmacy,
1621 pharmacist, health care practitioner, or other prescriber for
1622 any purpose that is not otherwise authorized by this section or
1623 s. 893.055, and the information must be provided according to
1624 the State Surgeon General's determination of compatibility as
1625 described in s. 893.055(17).

1626 Section 26. Subsections (1), (4), and (5) of section
1627 893.07, Florida Statutes, are amended, and subsection (6) is
1628 added to that section, to read:

1629 893.07 Records.—

1630 (1) Notwithstanding any other provision of law and in
1631 consonance with the authority of *State v. Carter*, 23 So. 3d 798
1632 (Fla. 1st DCA 2009) and *State v. Tamulonis*, 39 So. 3d 524 (Fla.
1633 2nd DCA 2010), every person who engages in the manufacture,
1634 compounding, mixing, cultivating, growing, or by any other
1635 process producing or preparing, or in the dispensing,
1636 importation, or, as a wholesaler, distribution, of controlled
1637 substances shall:



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1638 (a) On January 1, 1974, or as soon thereafter as any person
1639 first engages in such activity, and every second year
1640 thereafter, make a complete and accurate record of all stocks of
1641 controlled substances on hand. The inventory may be prepared on
1642 the regular physical inventory date which is nearest to, and
1643 does not vary by more than 6 months from, the biennial date that
1644 would otherwise apply. As additional substances are designated
1645 for control under this chapter, they shall be inventoried as
1646 provided for in this subsection.

1647 (b) On and after January 1, 1974, maintain, on a current
1648 basis, a complete and accurate record of each substance
1649 manufactured, received, sold, delivered, or otherwise disposed
1650 of by him or her, except that this subsection shall not require
1651 the maintenance of a perpetual inventory.

1652
1653 Compliance with the provisions of federal law pertaining to the
1654 keeping of records of controlled substances shall be deemed a
1655 compliance with the requirements of this subsection.

1656 (4) Every inventory or record required by this chapter,
1657 including prescription records, shall be maintained:

1658 (a) Separately from all other records of the registrant, or

1659 (b) Alternatively, in the case of Schedule III, IV, or V
1660 controlled substances, in such form that information required by
1661 this chapter is readily retrievable from the ordinary business
1662 records of the registrant.

1663
1664 In either case, such records described in this subsection shall
1665 be kept and made available for a period of at least 2 years for
1666 inspection and copying by law enforcement officers whose duty it



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1667 is to enforce the laws of this state relating to controlled
1668 substances. This subsection does not require a law enforcement
1669 officer to obtain a subpoena, court order, or search warrant in
1670 order to obtain access to or copies of such records.

1671 (5) Each person shall maintain a record that contains ~~which~~
1672 ~~shall contain~~ a detailed list of controlled substances lost,
1673 destroyed, or stolen, if any; the kind and quantity of such
1674 controlled substances; and the date of the discovering of such
1675 loss, destruction, or theft. If a person discovers the theft or
1676 significant loss of a controlled substance, such person shall
1677 report the theft or significant loss to a local county sheriff's
1678 office within 48 hours after the discovery of such theft or
1679 loss. A person who fails to report the theft or significant loss
1680 of a controlled substance under this subsection commits a
1681 misdemeanor of the second degree, punishable as provided in s.
1682 775.082 or s. 775.083. However, a person who fails to report the
1683 theft or significant loss of a Schedule II controlled substance
1684 commits a misdemeanor of the first degree, punishable as
1685 provided in s. 775.082 or s. 775.083.

1686 (6) The Legislature finds that the opinions rendered in
1687 State v. Carter, 23 So. 3d 798 (Fla. 1st DCA 2009), and State v.
1688 Tamulonis, 39 So. 3d 524 (Fla. 2nd DCA 2010), correctly construe
1689 this Legislature's intent that the inspection powers previously
1690 conferred upon law enforcement officers which allow such
1691 officers to access and review pharmacy records concerning
1692 controlled substances are to be exercised properly by such law
1693 enforcement officers without the requirement of a subpoena or
1694 search warrant being sought or issued to examine and copy such
1695 records, and without the requirement that those persons to whom



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1696 particular pharmacy records refer be given notice of the
1697 records' examination and copying under this section.

1698 Section 27. Subsections (7) and (8) of section 893.13,
1699 Florida Statutes, are amended to read:

1700 893.13 Prohibited acts; penalties.—

1701 (7) (a) A ~~It is unlawful for any person may not:~~

1702 1. ~~Te~~ Distribute or dispense a controlled substance in
1703 violation of this chapter.

1704 2. ~~Te~~ Refuse or fail to make, keep, or furnish any record,
1705 notification, order form, statement, invoice, or information
1706 required under this chapter.

1707 3. ~~Te~~ Refuse ~~an~~ entry into any premises for any inspection
1708 or ~~te~~ refuse to allow any inspection authorized by this chapter.

1709 4. ~~Te~~ Distribute a controlled substance named or described
1710 in s. 893.03(1) or (2) except pursuant to an order form as
1711 required by s. 893.06.

1712 5. ~~Te~~ Keep or maintain any store, shop, warehouse,
1713 dwelling, building, vehicle, boat, aircraft, or other structure
1714 or place which is resorted to by persons using controlled
1715 substances in violation of this chapter for the purpose of using
1716 these substances, or which is used for keeping or selling them
1717 in violation of this chapter.

1718 6. ~~Te~~ Use to his or her own personal advantage, or ~~te~~
1719 reveal, any information obtained in enforcement of this chapter
1720 except in a prosecution or administrative hearing for a
1721 violation of this chapter.

1722 7. ~~Te~~ Possess a prescription form which has not been
1723 completed and signed by the practitioner whose name appears
1724 printed thereon, unless the person is that practitioner, is an



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1725 agent or employee of that practitioner, is a pharmacist, or is a
1726 supplier of prescription forms who is authorized by that
1727 practitioner to possess those forms.

1728 8. ~~7e~~ Withhold information from a practitioner from whom
1729 the person seeks to obtain a controlled substance or a
1730 prescription for a controlled substance that the person making
1731 the request has received a controlled substance or a
1732 prescription for a controlled substance of like therapeutic use
1733 from another practitioner within the previous 30 days.

1734 9. ~~7e~~ Acquire or obtain, or attempt to acquire or obtain,
1735 possession of a controlled substance by misrepresentation,
1736 fraud, forgery, deception, or subterfuge.

1737 10. ~~7e~~ Affix any false or forged label to a package or
1738 receptacle containing a controlled substance.

1739 11. ~~7e~~ Furnish false or fraudulent material information in,
1740 or omit any material information from, any report or other
1741 document required to be kept or filed under this chapter or any
1742 record required to be kept by this chapter.

1743 12. ~~7e~~ Store anhydrous ammonia in a container that is not
1744 approved by the United States Department of Transportation to
1745 hold anhydrous ammonia or is not constructed in accordance with
1746 sound engineering, agricultural, or commercial practices.

1747 13. With the intent to obtain a controlled substance or
1748 combination of controlled substances that are not medically
1749 necessary for the person or an amount of a controlled substance
1750 or substances that are not medically necessary for the person,
1751 obtain or attempt to obtain from a practitioner a controlled
1752 substance or a prescription for a controlled substance by
1753 misrepresentation, fraud, forgery, deception, subterfuge, or



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1754 concealment of a material fact. For purposes of this
1755 subparagraph, a material fact includes whether the person has an
1756 existing prescription for a controlled substance issued for the
1757 same period of time by another practitioner or as described in
1758 subparagraph 8.

1759 (b) A health care practitioner, with the intent to provide
1760 a controlled substance or combination of controlled substances
1761 that are not medically necessary to his or her patient or an
1762 amount of controlled substances that are not medically necessary
1763 for his or her patient, may not provide a controlled substance
1764 or a prescription for a controlled substance by
1765 misrepresentation, fraud, forgery, deception, subterfuge, or
1766 concealment of a material fact. For purposes of this paragraph,
1767 a material fact includes whether the patient has an existing
1768 prescription for a controlled substance issued for the same
1769 period of time by another practitioner or as described in
1770 subparagraph (a)8.

1771 (c) Any person who adulterates a controlled substance for
1772 directed off-label use without authorization by a prescribing
1773 physician violates the provisions of subparagraph (a)1. and
1774 causes the issuance of the entire prescription for the
1775 controlled substance to become invalid. A law enforcement
1776 officer in the performance of his or her official duties may
1777 seize the adulterated or off-label prescribed controlled
1778 substance as evidence. The controlled substance may be returned
1779 to the owner only with a notarized affidavit from the original
1780 prescribing practitioner who has knowledge and gave
1781 authorization and explicit directions for the adulteration or
1782 off-label use of the controlled substance.



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1783 ~~(d)~~ Any person who violates the provisions of
1784 subparagraphs (a)1.-7. commits a misdemeanor of the first
1785 degree, punishable as provided in s. 775.082 or s. 775.083;
1786 except that, upon a second or subsequent violation, the person
1787 commits a felony of the third degree, punishable as provided in
1788 s. 775.082, s. 775.083, or s. 775.084.

1789 ~~(e)~~ Any person who violates the provisions of
1790 subparagraphs (a)8.-12. commits a felony of the third degree,
1791 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1792 (f) A person or health care practitioner who violates the
1793 provisions of paragraph (b) or subparagraph (a)13. commits a
1794 felony of the third degree, punishable as provided in s.
1795 775.082, s. 775.083, or s. 775.084, if any controlled substance
1796 that is the subject of the offense is listed in Schedule II,
1797 Schedule III, or Schedule IV.

1798 (8) (a) Notwithstanding subsection (9), a prescribing
1799 practitioner may not:

1800 1. Knowingly assist a patient, other person, or the owner
1801 of an animal in obtaining a controlled substance through
1802 deceptive, untrue, or fraudulent representations in or related
1803 to the practice of the prescribing practitioner's professional
1804 practice;

1805 2. Employ a trick or scheme in the practice of the
1806 prescribing practitioner's professional practice to assist a
1807 patient, other person, or the owner of an animal in obtaining a
1808 controlled substance;

1809 3. Knowingly write a prescription for a controlled
1810 substance for a fictitious person; ~~or~~

1811 4. Write a prescription for a controlled substance for a



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1812 patient, other person, or an animal if the sole purpose of
1813 writing such prescription is to provide a monetary benefit to,
1814 or obtain a monetary benefit for, the prescribing practitioner;
1815 or-

1816 5. Write a prescription for a controlled substance for a
1817 patient, other person, or an animal and authorize or direct the
1818 adulteration of the dispensed form of the controlled substance
1819 for the purpose of ingestion by means of inhalation, injection,
1820 or any other means not medically necessary for the treatment of
1821 the patient.

1822 (b) If the prescribing practitioner wrote a prescription or
1823 multiple prescriptions for a controlled substance for the
1824 patient, other person, or animal for which there was no medical
1825 necessity, or which was in excess of what was medically
1826 necessary to treat the patient, other person, or animal, that
1827 fact does not give rise to any presumption that the prescribing
1828 practitioner violated subparagraph (a)1., but may be considered
1829 with other competent evidence in determining whether the
1830 prescribing practitioner knowingly assisted a patient, other
1831 person, or the owner of an animal to obtain a controlled
1832 substance in violation of subparagraph (a)1.

1833 (c) A person who violates paragraph (a) commits a felony of
1834 the third degree, punishable as provided in s. 775.082, s.
1835 775.083, or s. 775.084.

1836 (d) Notwithstanding paragraph (c), if a prescribing
1837 practitioner has violated paragraph (a) and received \$1,000 or
1838 more in payment for writing one or more prescriptions or, in the
1839 case of a prescription written for a controlled substance
1840 described in s. 893.135, has written one or more prescriptions



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1841 for a quantity of a controlled substance which, individually or
1842 in the aggregate, meets the threshold for the offense of
1843 trafficking in a controlled substance under s. 893.15, the
1844 violation is reclassified as a felony of the second degree and
1845 ranked in level 4 of the Criminal Punishment Code.

1846 Section 28. Present subsections (3) through (10) of section
1847 893.138, Florida Statutes, are redesignated as subsections (4)
1848 through (11), respectively, and a new subsection (3) is added to
1849 that section, to read:

1850 893.138 Local administrative action to abate drug-related,
1851 prostitution-related, or stolen-property-related public
1852 nuisances and criminal gang activity.—

1853 (3) Any pain-management clinic, as described in s. 458.3265
1854 or s. 459.0137, which has been used on more than two occasions
1855 within a 6-month period as the site of a violation of:

1856 (a) Section 784.011, s. 784.021, s. 784.03, or s. 784.045,
1857 relating to assault and battery;

1858 (b) Section 810.02, relating to burglary;

1859 (c) Section 812.014, relating to dealing in theft;

1860 (d) Section 812.131, relating to robbery by sudden
1861 snatching; or

1862 (e) Section 893.13, relating to the unlawful distribution
1863 of controlled substances,

1864
1865 may be declared to be a public nuisance, and such nuisance may
1866 be abated pursuant to the procedures provided in this section.

1867 Section 29. Subsection (9) is added to section 465.025,
1868 Florida Statutes, to read:

1869 465.025 Substitution of drugs.—



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1870 (9) The board shall establish by rule a list of opioid
1871 drugs that incorporate tamper-resistant technology. Inclusion of
1872 a drug on the list does not require that the drug bear a
1873 labeling claim with respect to reduction of tampering, abuse, or
1874 abuse potential at the time of listing. The board shall make a
1875 determination whether to include a drug on the list based on a
1876 submission of evidence by the drug manufacturer or distributor
1877 that the drug:

- 1878 (a) Incorporates a tamper-resistance technology; and
1879 (b) Has been approved by the United States Food and Drug
1880 Administration pursuant to an application that includes at least
1881 one study on human tampering or abuse potential or a laboratory
1882 study comparing the tamper-resistant or abuse-resistant
1883 properties of the drug to one or more opioid drugs that has been
1884 approved by the United States Food and Drug Administration and
1885 serves as a positive control.

1886
1887 Notwithstanding subsection (2), a pharmacist may only substitute
1888 an opioid analgesic drug, either the brand name drug or generic
1889 drug, for an opioid analgesic drug incorporating a substantially
1890 similar tamper-resistance technology which was originally
1891 prescribed and is listed by the board pursuant to this
1892 subsection.

1893 Section 30. This act shall take effect October 1, 2011.

1894
1895 ===== T I T L E A M E N D M E N T =====

1896 And the title is amended as follows:

1897 Delete everything before the enacting clause
1898 and insert:



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1899 A bill to be entitled
1900 An act relating to controlled substances; amending s.
1901 400.9905, F.S.; redefining the terms "clinic" and
1902 "portable equipment provider" within the Health Care
1903 Clinic Act; amending s. 456.013, F.S.; authorizing
1904 certain health care practitioners to complete a
1905 continuing education course relating to the
1906 prescription drug monitoring program; providing
1907 requirements for the course; requiring the Department
1908 of Health or a board that is authorized to exercise
1909 regulatory or rulemaking functions within the
1910 department to approve the course offered through a
1911 facility licensed under ch. 395, F.S., under certain
1912 circumstances; providing for application of the course
1913 requirements; requiring a board or the Department of
1914 Health to adopt rules; amending s. 458.305, F.S.;
1915 defining the term "dispensing physician" as it relates
1916 to the practice of medicine in this state; prohibiting
1917 certain persons from using titles or displaying signs
1918 that would lead the public to believe that they engage
1919 in the dispensing of controlled substances;
1920 prohibiting certain persons, firms, or corporations
1921 from using a trade name, sign, letter, or
1922 advertisement that implies that the persons, firms, or
1923 corporations are licensed or registered to dispense
1924 prescription drugs; prohibiting certain persons,
1925 firms, or corporations from holding themselves out to
1926 the public as licensed or registered to dispense
1927 controlled substances; providing penalties; amending



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1928 s. 458.3191, F.S.; revising the information in the
1929 physician survey that is submitted by persons who
1930 apply for licensure renewal as a physician under ch.
1931 458 or ch. 459, F.S.; amending s. 458.3192, F.S.;
1932 requiring the Department of Health to provide
1933 nonidentifying information to the prescription drug
1934 monitoring program's Implementation and Oversight Task
1935 Force regarding the number of physicians that are
1936 registered with the prescription drug monitoring
1937 program and that use the database from the program in
1938 their practice; amending s. 458.3265, F.S.; revising
1939 the list of entities that are not required to register
1940 as a pain-management clinic; deleting certain
1941 requirements for a physician to practice medicine in a
1942 pain-management clinic; requiring a physician, an
1943 advanced registered nurse practitioner, or a physician
1944 assistant to perform an appropriate medical
1945 examination of a patient on the same day that the
1946 physician dispenses or prescribes a controlled
1947 substance to the patient at a pain-management clinic;
1948 requiring a physician who works in a pain-management
1949 clinic to document the reason a prescription for a
1950 certain dosage of a controlled substance is within the
1951 proper standard of care; creating a felony of the
1952 third degree for any person to register or attempt to
1953 register a pain-management clinic through
1954 misrepresentation or fraud; amending s. 458.327, F.S.;
1955 providing additional penalties; amending s. 458.331,
1956 F.S.; providing additional grounds for disciplinary



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1957 action by the Board of Medicine; amending s. 459.003,
1958 F.S.; defining the term "dispensing physician" as it
1959 relates to the practice of osteopathic medicine in
1960 this state; amending s. 459.0081, F.S.; revising the
1961 information that must be furnished in a physician
1962 survey to the Department of Health in order to renew a
1963 license to practice osteopathic medicine; amending s.
1964 459.0082, F.S.; requiring the department to provide
1965 certain nonidentifying information to the
1966 Implementation and Oversight Task Force of the
1967 prescription drug monitoring program; amending s.
1968 459.013, F.S.; providing additional penalties;
1969 amending s. 459.0137, F.S.; providing an exemption
1970 from the requirement that all privately owned pain-
1971 management clinics, facilities, or offices that
1972 advertise in any medium for any type of pain-
1973 management services, or employ an osteopathic
1974 physician who is primarily engaged in the treatment of
1975 pain by prescribing or dispensing controlled substance
1976 medications, must register with the Department of
1977 Health; revising the responsibilities of an
1978 osteopathic physician who provides professional
1979 services in a pain-management clinic; requiring an
1980 osteopathic physician, an advanced registered nurse
1981 practitioner, or a physician assistant to perform an
1982 appropriate medical examination of a patient on the
1983 same day that the physician dispenses or prescribes a
1984 controlled substance to the patient at a pain-
1985 management clinic; requiring an osteopathic physician



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1986 who works in a pain-management clinic to document the
1987 reason a prescription for a certain dosage of a
1988 controlled substance is within the proper standard of
1989 care; creating a felony of the third degree for a
1990 licensee or other person who serves as the designated
1991 physician of a pain-management clinic to register a
1992 pain-management clinic through misrepresentation or
1993 fraud; amending s. 459.015, F.S.; providing additional
1994 grounds for disciplinary action by the Board of
1995 Osteopathic Medicine; amending s. 465.015, F.S.;

1996 prohibiting a licensed pharmacist from knowingly
1997 failing to report to the local county sheriff's office
1998 the commission of a felony involving a person who
1999 acquires or obtains possession of a controlled
2000 substance by misrepresentation, fraud, forgery,
2001 deception, or subterfuge under certain conditions;
2002 providing penalties; providing suggested criteria for
2003 reporting the commission of a felony that involves a
2004 person who acquires or obtains possession of a
2005 controlled substance by misrepresentation, fraud,
2006 forgery, deception, or subterfuge; providing that a
2007 licensed pharmacist is not subject to disciplinary
2008 action for reporting; amending s. 465.0276, F.S.;

2009 requiring a practitioner to register as a dispensing
2010 practitioner in order to dispense controlled
2011 substances; amending s. 499.01, F.S.; authorizing
2012 certain business entities to pay for prescription
2013 drugs obtained by practitioners licensed under ch.
2014 466, F.S.; amending s. 766.101, F.S.; conforming a



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2015 cross-reference; amending s. 810.02, F.S.; redefining
2016 the offense of burglary to include the theft of a
2017 controlled substance within a structure or conveyance;
2018 amending s. 812.014, F.S.; redefining the offense of
2019 theft to include the theft of a controlled substance;
2020 creating s. 893.021, F.S.; providing conditions in
2021 which a drug is considered adulterated; providing that
2022 a physician is not prevented from directing or
2023 prescribing a change to the recognized manufactured
2024 recommendations for use of any controlled substance
2025 for a patient under certain circumstances; requiring a
2026 prescribing physician to indicate on the original
2027 prescription any deviation of the recognized
2028 manufacturer's recommended use of a controlled
2029 substance; requiring a pharmacist or physician to
2030 indicate such deviation on the label of the
2031 prescription upon dispensing; amending s. 893.04,
2032 F.S.; revising the required information that must
2033 appear on the face of a prescription or written record
2034 of a controlled substance before it is dispensed by a
2035 pharmacist; amending s. 893.055, F.S.; requiring that
2036 the prescription drug monitoring program comply with
2037 the minimum requirements established by the Department
2038 of Health; requiring the department to establish a
2039 method to allow corrections to the database of the
2040 prescription drug monitoring program; requiring the
2041 number of refills ordered and whether the drug was
2042 dispensed as a refill or a first-time request to be
2043 included in the database of the prescription drug



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2044 monitoring program; revising the number of days in
2045 which a dispensed controlled substance must be
2046 reported to the department through the prescription
2047 drug monitoring program; revising the list of acts of
2048 dispensing or administering which are exempt from
2049 reporting; requiring a pharmacy, prescriber,
2050 practitioner, or dispenser to register with the
2051 department by submitting a registering document in
2052 order to have access to certain information in the
2053 prescription drug monitoring program's database;
2054 requiring the department to approve the registering
2055 document before granting access to information in the
2056 prescription drug monitoring program's database;
2057 requiring criminal background screening for those
2058 persons who have direct access to the prescription
2059 drug monitoring program's database; authorizing the
2060 Attorney General to obtain confidential and exempt
2061 information for Medicaid fraud cases and Medicaid
2062 investigations; requiring certain documentation to be
2063 provided to the program manager in order to release
2064 confidential and exempt information from the
2065 prescription drug monitoring program's database to a
2066 patient, legal guardian, or a designated health care
2067 surrogate; authorizing the Agency for Health Care
2068 Administration to obtain confidential and exempt
2069 information from the prescription drug monitoring
2070 program's database for Medicaid fraud cases and
2071 Medicaid investigations involving controlled
2072 substances; deleting a provision requiring that



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2073 administrative costs of the prescription drug
2074 monitoring program be funded through federal grants
2075 and private sources; requiring the State Surgeon
2076 General to enter into reciprocal agreements for the
2077 sharing of information in the prescription drug
2078 monitoring program with other states that have a
2079 similar prescription drug monitoring program;
2080 requiring the State Surgeon General to annually review
2081 a reciprocal agreement to determine its compatibility;
2082 providing requirements for compatibility; prohibiting
2083 the sharing of certain information; amending s.
2084 893.0551, F.S.; requiring the Department of Health to
2085 disclose confidential and exempt information
2086 pertaining to the prescription drug monitoring program
2087 to the Attorney General and designee when working on
2088 Medicaid fraud cases and Medicaid investigations
2089 involving prescribed controlled substances or when the
2090 Attorney General has initiated a review of specific
2091 identifiers that warrant a Medicaid investigation
2092 regarding prescribed controlled substances;
2093 prohibiting the Attorney General's Medicaid
2094 investigators from direct access to the prescription
2095 drug monitoring program's database; authorizing the
2096 Department of Health to disclose certain confidential
2097 and exempt information in the prescription drug
2098 monitoring program's database under certain
2099 circumstances involving reciprocal agreements with
2100 other states; prohibiting the sharing of information
2101 from the prescription drug monitoring program's



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2102 database which is not for the purpose that is
2103 statutorily authorized or according to the State
2104 Surgeon General's determination of compatibility;
2105 amending s. 893.07, F.S.; requiring that a person
2106 report to the local sheriff's office the theft or
2107 significant loss of a controlled substance within a
2108 specified time; providing penalties; providing
2109 legislative intent; amending s. 893.13, F.S.;
2110 prohibiting a person from obtaining or attempting to
2111 obtain from a practitioner a controlled substance or a
2112 prescription for a controlled substance by
2113 misrepresentation, fraud, forgery, deception,
2114 subterfuge, or concealment of a material fact;
2115 prohibiting a health care provider from providing a
2116 controlled substance or a prescription for a
2117 controlled substance by misrepresentation, fraud,
2118 forgery, deception, subterfuge, or concealment of a
2119 material fact; prohibiting a person from adulterating
2120 a controlled substance for certain use without
2121 authorization by a prescribing physician; authorizing
2122 a law enforcement officer to seize as evidence the
2123 adulteration or off-label use of a prescribed
2124 controlled substance; providing that such adulterated
2125 or off-label use of the controlled substance may be
2126 returned to its owner only under certain conditions;
2127 providing penalties; prohibiting a prescribing
2128 practitioner from writing a prescription for a
2129 controlled substance and authorizing or directing the
2130 adulteration of the dispensed form of the controlled



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2131 substance for the purpose of ingestion by means not
2132 medically necessary; amending s. 893.138, F.S.;
2133 providing circumstances in which a pain-management
2134 clinic may be declared a public nuisance; amending s.
2135 465.025, F.S.; requiring the Board of Pharmacy to
2136 create a list of opioid analgesic drugs; providing
2137 requirements for the list of opioid analgesic drugs;
2138 providing that a pharmacist may only substitute an
2139 opioid analgesic drug for an opioid analgesic drug
2140 that incorporates a substantially similar tamper-
2141 resistant technology; providing an effective date.