

1 A bill to be entitled
2 An act relating to controlled substances; amending s.
3 456.013, F.S.; requiring practitioners authorized to
4 prescribe, administer, or dispense controlled substances
5 to complete a certain continuing education course;
6 providing an exemption; providing course requirements;
7 providing that completion of the course satisfies part of
8 the practitioner's continuing education requirements;
9 requiring the department to adopt rules; amending s.
10 456.037, F.S.; providing that pain-management clinics are
11 business establishments subject to licensure; requiring
12 health professional licensees who practice at pain-
13 management clinics to maintain control and security of
14 prescription blanks; requiring licensees to notify the
15 Department of Health within a specified time after theft
16 or loss of prescription blanks; requiring licensees to
17 give written notice to the applicable board within a
18 specified period after the licensee's termination of
19 employment at the pain-management clinic; amending s.
20 456.057, F.S.; providing that the Department of Health is
21 not required to attempt to obtain a release for a
22 patient's medical records under certain circumstances;
23 amending s. 456.069, F.S.; authorizing the department to
24 inspect pain-management clinics for certain purposes;
25 amending s. 456.071, F.S.; specifying the venue for
26 judicial challenges to any subpoena or order issued by the
27 department during its investigations; amending s. 456.072,
28 F.S.; providing additional acts that constitute grounds

29 | for disciplinary actions against health professional
30 | licensees; authorizing summary suspension of licensees
31 | under certain circumstances; amending ss. 458.309 and
32 | 459.005, F.S.; specifying that registration requirements
33 | for pain-management clinics apply only to certain clinics,
34 | facilities, and offices and providing for the retroaction
35 | application of the requirements; authorizing the
36 | department to deny an application for registering a pain-
37 | management clinic or to revoke or suspend the current
38 | registration certificate of a pain-management clinic for
39 | certain reasons; authorizing the department to impose
40 | fines for certain violations; requiring the department to
41 | consider certain factors when calculating the amount of
42 | fines; providing that each day constitutes an additional
43 | violation; requiring pain-management clinics to document
44 | in writing all efforts to correct a violation; requiring a
45 | pain-management clinic to cease operating if its
46 | registration certificate is revoked or suspended;
47 | requiring certain persons to remove the clinic's signs and
48 | symbols from the premises under certain circumstances;
49 | prohibiting any person from applying for a permit to
50 | operate a pain-management clinic for a specified period
51 | after revocation of a registration certificate; providing
52 | for disposition of drugs at former pain-management
53 | clinics; requiring the department to adopt rules; creating
54 | ss. 458.3265 and 459.0137, F.S.; providing requirements
55 | for the registration of pain-management clinics;
56 | prohibiting a physician or an osteopathic physician from

57 | practicing medicine in a pain-management clinic if the
58 | clinic is not registered with the Department of Health;
59 | requiring each location of a pain-management clinic to
60 | register separately; prohibiting a pain-management clinic
61 | from being owned by or having any contractual relationship
62 | with specified persons; providing that the department
63 | shall refuse to register a pain-management clinic or shall
64 | revoke a previously issued certificate of registration
65 | under certain circumstances; requiring certain persons to
66 | be responsible for the onsite management of a pain-
67 | management clinic; providing that an owner or operator who
68 | fails to comply with certain stated conditions commits a
69 | misdemeanor of the first degree; providing criminal
70 | penalties; providing that only certain designated persons
71 | may dispense medication; requiring physicians to document
72 | why they prescribe or dispense more than a specified
73 | amount of controlled substances for certain reasons;
74 | providing definitions; requiring persons submitting pain-
75 | management clinic registration applications after a
76 | specified date to include certain information on the
77 | application form; requiring applications to include
78 | personal information statements and fingerprints of
79 | certain persons affiliated with pain-management clinics
80 | and providing for retroactive application to applications
81 | submitted after a specified date; authorizing the
82 | department to suspend or revoke the registration of a
83 | pain-management clinic that does not submit personal
84 | information statements or fingerprints by a specified

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85 date; requiring fingerprinting and criminal history
86 records checks of certain persons; requiring registration
87 applicants to pay a certain fee to the department;
88 requiring the State Surgeon General to order a pain-
89 management clinic to cease operations under certain
90 circumstances; providing an exemption; requiring the
91 Department of Health, and authorizing the Department of
92 Law Enforcement, to adopt rules; amending ss. 458.327 and
93 459.013, F.S.; providing that committing any of certain
94 specified acts while managing a pain-management clinic
95 constitutes a felony of the third degree or a misdemeanor
96 of the first degree; amending s. 893.065, F.S.; requiring
97 practitioners prescribing certain controlled substances in
98 pain-management clinics to use counterfeit-resistant
99 prescription blanks; amending s. 893.13, F.S.; prohibiting
100 obtaining or seeking to obtain, with the intent to obtain
101 without medical necessity, a controlled substance or a
102 prescription for a controlled substance by
103 misrepresentation, fraud, forgery, deception, subterfuge,
104 or concealment of a material fact; defining the term
105 "material fact"; providing criminal penalties; amending s.
106 921.0022, F.S.; conforming the offense severity ranking
107 chart of the Criminal Punishment Code to changes made by
108 the act; providing an effective date.

109
110 Be It Enacted by the Legislature of the State of Florida:

111
112 Section 1. Subsection (7) of section 456.013, Florida

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113 Statutes, is amended to read:

114 456.013 Department; general licensing provisions.—

115 (7) (a) The boards, or the department when there is no
116 board, shall require the completion of a 2-hour course relating
117 to prevention of medical errors as part of the licensure and
118 renewal process. The 2-hour course shall count towards the total
119 number of continuing education hours required for the
120 profession. The course shall be approved by the board or
121 department, as appropriate, and shall include a study of root-
122 cause analysis, error reduction and prevention, and patient
123 safety. In addition, the course approved by the Board of
124 Medicine and the Board of Osteopathic Medicine shall include
125 information relating to the five most misdiagnosed conditions
126 during the previous biennium, as determined by the board. If the
127 course is being offered by a facility licensed pursuant to
128 chapter 395 for its employees, the board may approve up to 1
129 hour of the 2-hour course to be specifically related to error
130 reduction and prevention methods used in that facility.

131 (b) The boards, or the department if there is no board,
132 shall require each practitioner licensed under chapter 457,
133 chapter 458, chapter 459, chapter 461, or chapter 466 whose
134 lawful scope of practice authorizes the practitioner to
135 prescribe, administer, or dispense controlled substances, as a
136 condition of initial licensure and each subsequent license
137 renewal, to complete a 3-hour continuing education course
138 relating to prescribing, administering, and dispensing the
139 controlled substances listed in Schedule II, Schedule III, and
140 Schedule IV of s. 893.03. The course must include, but need not

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141 be limited to:

142 1. The goals of administering controlled substances to
143 patients who require short-term and ongoing pain management;

144 2. The guidelines and rules for prescribing controlled
145 substances, including the use of a controlled substance
146 agreement;

147 3. The application of drug screening or drug testing to
148 patients, including instruction on the value and limitations of
149 drug screening and drug testing;

150 4. The role of controlled substances in treating short-
151 term and ongoing pain syndromes, including instruction on the
152 value and limitations of controlled substances in treating pain;

153 5. The use of evidenced-based, noncontrolled-substance
154 pharmacological pain treatments on patients;

155 6. The use of evidenced-based, nonpharmacological pain
156 treatments on patients;

157 7. The importance of properly obtaining a full medical
158 history and completing a comprehensive physical examination of
159 patients;

160 8. The importance of keeping appropriate progress notes
161 during the care of patients;

162 9. The relationship of the co-occurring morbidities that
163 occur with pain disorders, such as psychiatric and addictive
164 disorders;

165 10. The identification and prevention of drug abuse and
166 drug diversion; and

167 11. The laws and rules of this state which govern
168 prescribing, administering, and dispensing controlled

169 substances.

170
 171 The course hours must be included in the total number of hours
 172 of continuing education required by the profession and must be
 173 approved by the board, or by the department if there is no
 174 board. A course offered through a facility licensed under
 175 chapter 395 for its employees must be approved by the board, or
 176 by the department if there is no board, if the course is at
 177 least 3 hours and covers prescribing, administering, and
 178 dispensing controlled substances.

179 (c) The boards may exempt a licensee from the training
 180 requirements in paragraph (b) if the licensee obtains specialty
 181 or subspecialty certification in or related to pain management
 182 from a specialty board recognized by the respective board.

183 (d) The course requirements in paragraph (b) apply to each
 184 licensee renewing his or her license on or after July 1, 2011,
 185 and to each applicant approved for licensure on or after January
 186 1, 2012.

187 (e) The boards, or the department if there is no board,
 188 shall adopt rules to administer this subsection by July 1, 2011.

189 Section 2. Subsections (1) and (5) of section 456.037,
 190 Florida Statutes, are amended, and subsection (6) is added to
 191 that section, to read:

192 456.037 Business establishments; requirements for active
 193 status licenses; delinquency; discipline; applicability.—

194 (1) A business establishment regulated by the Division of
 195 Medical Quality Assurance pursuant to chapter 458, chapter 459,
 196 or this chapter may provide regulated services only if the

197 business establishment has an active status license. A business
 198 establishment that provides regulated services without an active
 199 status license is in violation of this section and s. 456.072,
 200 and the board, or the department if there is no board, may
 201 impose discipline on the business establishment.

202 (5) This section applies to any business establishment
 203 registered, permitted, or licensed by the department to do
 204 business. Business establishments include, but are not limited
 205 to, dental laboratories, electrology facilities, massage
 206 establishments, ~~and~~ pharmacies, and pain-management clinics
 207 required to register under s. 458.309 or s. 459.005.

208 (6) A licensee authorized to prescribe controlled
 209 substances who practices at a pain-management clinic must
 210 maintain control of, and keep secure, his or her prescription
 211 blanks and any other method used for prescribing controlled
 212 substance pain medication. The licensee shall comply with the
 213 requirements for counterfeit-resistant prescription blanks in s.
 214 893.065 and rules adopted under that section. The licensee
 215 shall:

216 (a) Notify the department in writing within 24 hours after
 217 any theft or loss of a prescription blank or breach of any other
 218 method for prescribing pain medication.

219 (b) Notify the applicable board in writing of the date of
 220 termination of employment within 10 days after terminating his
 221 or her employment with a pain-management clinic.

222 Section 3. Paragraph (a) of subsection (9) of section
 223 456.057, Florida Statutes, is amended to read:

224 456.057 Ownership and control of patient records; report

225 or copies of records to be furnished.-

226 (9) (a)1. The department may obtain patient records
 227 pursuant to a subpoena without written authorization from the
 228 patient if the department and the probable cause panel of the
 229 appropriate board, if any, find reasonable cause to believe that
 230 a health care practitioner has excessively or inappropriately
 231 prescribed any controlled substance specified in chapter 893 in
 232 violation of this chapter or any professional practice act or
 233 that a health care practitioner has practiced his or her
 234 profession below that level of care, skill, and treatment
 235 required as defined by this chapter or any professional practice
 236 act and also find that appropriate, reasonable attempts were
 237 made to obtain a patient release. Notwithstanding this
 238 subparagraph, the department is not required to attempt to
 239 obtain a patient release when investigating an offense that
 240 involves the inappropriate prescribing, overprescribing, or
 241 diversion of controlled substances and involves a pain-
 242 management clinic.

243 2. The department may obtain patient records and insurance
 244 information pursuant to a subpoena without written authorization
 245 from the patient if the department and the probable cause panel
 246 of the appropriate board, if any, find reasonable cause to
 247 believe that a health care practitioner has provided inadequate
 248 medical care based on termination of insurance and also find
 249 that appropriate, reasonable attempts were made to obtain a
 250 patient release.

251 3. The department may obtain patient records, billing
 252 records, insurance information, provider contracts, and all

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253 | attachments thereto pursuant to a subpoena without written
254 | authorization from the patient if the department and probable
255 | cause panel of the appropriate board, if any, find reasonable
256 | cause to believe that a health care practitioner has submitted a
257 | claim, statement, or bill using a billing code that would result
258 | in payment greater in amount than would be paid using a billing
259 | code that accurately describes the services performed, requested
260 | payment for services that were not performed by that health care
261 | practitioner, used information derived from a written report of
262 | an automobile accident generated pursuant to chapter 316 to
263 | solicit or obtain patients personally or through an agent
264 | regardless of whether the information is derived directly from
265 | the report or a summary of that report or from another person,
266 | solicited patients fraudulently, received a kickback as defined
267 | in s. 456.054, violated the patient brokering provisions of s.
268 | 817.505, or presented or caused to be presented a false or
269 | fraudulent insurance claim within the meaning of s.
270 | 817.234(1)(a), and also find that, within the meaning of s.
271 | 817.234(1)(a), patient authorization cannot be obtained because
272 | the patient cannot be located or is deceased, incapacitated, or
273 | suspected of being a participant in the fraud or scheme, and if
274 | the subpoena is issued for specific and relevant records.

275 | 4. Notwithstanding subparagraphs 1.-3., when the
276 | department investigates a professional liability claim or
277 | undertakes action pursuant to s. 456.049 or s. 627.912, the
278 | department may obtain patient records pursuant to a subpoena
279 | without written authorization from the patient if the patient
280 | refuses to cooperate or if the department attempts to obtain a

281 patient release and the failure to obtain the patient records
 282 would be detrimental to the investigation.

283 Section 4. Section 456.069, Florida Statutes, is amended
 284 to read:

285 456.069 Authority to inspect.—In addition to the authority
 286 specified in s. 465.017, duly authorized agents and employees of
 287 the department may ~~shall have the power to~~ inspect in a lawful
 288 manner at all reasonable hours:

289 (1) Any pharmacy; ~~or~~

290 (2) Any establishment at which the services of a licensee
 291 authorized to prescribe controlled substances specified in
 292 chapter 893 are offered; or

293 (3) Any facility offering services that require the
 294 facility to be registered as a pain-management clinic pursuant
 295 to s. 458.309(4) or s. 459.005(3),

296
 297 for the purpose of determining if any of the provisions of this
 298 chapter or any practice act of a profession or any rule adopted
 299 thereunder is being violated; or for the purpose of securing
 300 such other evidence as may be needed for prosecution. Such
 301 evidence may include, but is not limited to, patient records.
 302 The department may obtain patient records without patient
 303 authorization or subpoena from any pain-management clinic
 304 required to be licensed if the department reasonably believes
 305 that obtaining such authorization is not feasible due to the
 306 volume of the dispensing and prescribing activity involving
 307 controlled substances or that obtaining patient authorization or
 308 the issuance of a subpoena would jeopardize the investigation.

309 Section 5. Section 456.071, Florida Statutes, is amended
 310 to read:

311 456.071 Power to administer oaths, take depositions, and
 312 issue subpoenas.—For the purpose of any investigation or
 313 proceeding conducted by the department, the department shall
 314 have the power to administer oaths, take depositions, make
 315 inspections when authorized by statute, issue subpoenas which
 316 shall be supported by affidavit, serve subpoenas and other
 317 process, and compel the attendance of witnesses and the
 318 production of books, papers, documents, and other evidence. The
 319 department shall exercise this power on its own initiative or
 320 whenever requested by a board or the probable cause panel of any
 321 board. Challenges to, and enforcement of, the subpoenas and
 322 orders shall be handled as provided in s. 120.569, except that
 323 venue for such proceedings shall be in the Circuit Court for the
 324 Second Judicial Circuit, in the county in which the examination,
 325 investigation, or hearing is conducted, or in the county in
 326 which a person substantially affected by the proceeding, such as
 327 a person to whom a subpoena is issued, resides.

328 Section 6. Paragraphs (mm), (nn), and (oo) are added to
 329 subsection (1) of section 456.072, Florida Statutes, to read:

330 456.072 Grounds for discipline; penalties; enforcement.—

331 (1) The following acts shall constitute grounds for which
 332 the disciplinary actions specified in subsection (2) may be
 333 taken:

334 (mm) With respect to a licensee who serves as the medical
 335 director or the designated physician of a pain-management clinic
 336 as defined in s. 458.305 or s. 459.005:

337 1. Registering a pain-management clinic through
338 misrepresentation or fraud or through an error of the department
339 or board;

340 2. Procuring or attempting to procure the registration of
341 a pain-management clinic for any other person by making or
342 causing to be made any false representation;

343 3. Failing to comply with any requirement of chapter 499,
344 the Florida Drug and Cosmetic Act; chapter 893, the Florida
345 Comprehensive Drug Abuse Prevention and Control Act; 21 U.S.C.
346 ss. 301-392, the Federal Food, Drug, and Cosmetic Act; or 21
347 U.S.C. ss. 821 et seq., the Comprehensive Drug Abuse Prevention
348 and Control Act;

349 4. Being convicted or found guilty of, regardless of
350 adjudication to, a felony or any other crime involving moral
351 turpitude, fraud, dishonesty, or deceit in any jurisdiction of
352 this state, any other state, the District of Columbia, or the
353 United States;

354 5. Being convicted of or disciplined by a regulatory
355 agency of the Federal Government or a regulatory agency of
356 another state or the District of Columbia for any offense that
357 would constitute a violation of this chapter;

358 6. Being convicted of, or entering a plea of guilty or
359 nolo contendere to, regardless of adjudication, a crime in any
360 jurisdiction involving the practice of a licensed health care
361 profession;

362 7. Being convicted of, or entering a plea of guilty or
363 nolo contendere to, regardless of adjudication, a crime in any
364 jurisdiction which relates to health care fraud;

365 8. Dispensing any medicinal drug based upon a
 366 communication that purports to be a prescription as defined in
 367 s. 465.003 or s. 893.02 if the dispensing practitioner knows or
 368 has reason to believe that the purported prescription is not
 369 based upon a valid practitioner-patient relationship; or

370 9. Failing to have a licensed medical director employed or
 371 under contract with the clinic as required under chapter 400 or
 372 failing to have the licensed designated physician practicing at
 373 the location of the registered clinic.

374
 375 A licensee who violates this paragraph is subject to summary
 376 suspension pursuant to ss. 120.60(6) and 456.073(8).

377 (nn) Failing to timely notify the department of the theft
 378 of prescription blanks from a pain-management clinic or a breach
 379 of other methods for prescribing within 24 hours as required
 380 pursuant to s. 456.037(6).

381 (oo) Failing to timely notify the applicable board
 382 governing his or her prescribing privileges of the date of his
 383 or her termination from a pain-management clinic as required
 384 pursuant to s. 456.037(6).

385 Section 7. Section 458.309, Florida Statutes, is amended
 386 to read:

387 458.309 Rulemaking authority.—

388 (1) The department and the board may ~~has authority to~~
 389 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement
 390 the provisions of this chapter conferring duties upon it.

391 (2) (a) Any rules which the board adopts relating to the
 392 classroom phase of medical education do ~~shall~~ not apply to any

393 person who is enrolled in the classroom phase of medical
394 education or has graduated prior to or at the time the rule
395 becomes effective, so long as such person does not interrupt his
396 or her medical education.

397 (b)1. Any rules which the board adopts relating to the
398 clinical clerkship phase of medical education shall not apply to
399 any person who is enrolled in the clinical clerkship phase of
400 medical education prior to or at the time the rule becomes
401 effective, so long as such person does not interrupt his or her
402 medical education.

403 2. Rules adopted by the Florida Board of Medical Examiners
404 prior to October 1, 1986, and relating to clinical clerkships
405 for graduates of foreign medical schools do not apply to any
406 such graduate who:

407 a. Had completed a clinical clerkship prior to the
408 effective date of the rule; or

409 b. Had begun a clinical clerkship but had not completed
410 the clinical clerkship prior to the effective date of the rule,
411 so long as the clinical clerkship took no longer than 3 years to
412 complete.

413 (c) Any rules which the board adopts relating to residency
414 shall not apply to any person who has begun his or her residency
415 prior to or at the time the rule becomes effective, so long as
416 such person does not interrupt the residency.

417 (3) All physicians who perform level 2 procedures lasting
418 more than 5 minutes and all level 3 surgical procedures in an
419 office setting must register the office with the department
420 unless that office is licensed as a facility pursuant to chapter

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421 395. The department shall inspect the physician's office
422 annually unless the office is accredited by a nationally
423 recognized accrediting agency or an accrediting organization
424 subsequently approved by the Board of Medicine. The actual costs
425 for registration and inspection or accreditation shall be paid
426 by the person seeking to register and operate the office setting
427 in which office surgery is performed.

428 (4) Effective January 4, 2010, all privately owned pain-
429 management clinics, facilities, or offices primarily engaged in
430 the treatment of pain by prescribing or dispensing controlled
431 substance medications, hereinafter referred to as "clinics,"
432 which advertise in any medium for any type of pain-management
433 services, or employ a physician who is primarily engaged in the
434 treatment of pain by prescribing or dispensing controlled
435 substance medications, must register with the department ~~by~~
436 ~~January 4, 2010,~~ unless that clinic is licensed as a facility
437 pursuant to chapter 395. A physician may not practice medicine
438 in a pain-management clinic that is required to but has not
439 registered with the department. Each clinic location shall be
440 registered separately regardless of whether the clinic is
441 operated under the same business name or management as another
442 clinic. ~~If the clinic is licensed as a health care clinic under~~
443 ~~chapter 400, the medical director is responsible for registering~~
444 ~~the facility with the department.~~ If the clinic is not
445 registered pursuant to chapter 395 or chapter 400, the clinic
446 shall, upon registration with the department, designate a
447 physician who is responsible for complying with all requirements
448 related to registration of the clinic. The designated physician

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449 shall have a full, active, and unencumbered license ~~be licensed~~
450 under this chapter or chapter 459 and shall practice at the
451 office location for which the physician has assumed
452 responsibility. The department shall inspect the clinic
453 annually, including a review of patient records, to ensure that
454 it complies with rules of the Board of Medicine adopted pursuant
455 to this subsection and subsection (8) ~~(5)~~ unless the office is
456 accredited by a nationally recognized accrediting agency
457 approved by the Board of Medicine. The actual costs for
458 registration and inspection or accreditation shall be paid by
459 the physician seeking to register the clinic.

460 (5) (a) The department may deny an application for
461 registering a pain-management clinic or revoke or suspend a
462 current registration. The department may impose an
463 administrative fine on the clinic of up to \$5,000 per violation
464 for violating the requirements of this section, chapter 499, the
465 Florida Drug and Cosmetic Act; chapter 893, the Florida
466 Comprehensive Drug Abuse Prevention and Control Act; 21 U.S.C.
467 ss. 301-392, the Federal Food, Drug, and Cosmetic Act; 21 U.S.C.
468 ss. 821 et seq., the Comprehensive Drug Abuse Prevention and
469 Control Act; or rules adopted by the department. In determining
470 whether any penalty is to be imposed, and in fixing the amount
471 of any fine, the department shall consider the following
472 factors:

473 1. The gravity of the violation, including the probability
474 that death or serious physical or emotional harm to a patient
475 resulted or may have resulted from the licensee's actions, the
476 severity of the action or potential harm, and the extent to

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477 which applicable laws or rules are violated.

478 2. What actions, if any, the owner, medical director, or
479 designated physician took to correct the violations.

480 3. Whether there were any previous violations at the pain-
481 management clinic.

482 4. The financial benefits that the pain-management clinic
483 derives from committing or continuing to commit the violation.

484 (b) Each day that a violation continues after the date
485 fixed for termination as ordered by the department constitutes
486 an additional, separate, and distinct violation.

487 (c) Any action taken to correct a violation shall be
488 documented in writing by the owner, medical director, or
489 designated physician of the pain-management clinic and verified
490 by followup visits by departmental personnel. The department may
491 impose a fine and, in the case of an owner-operated pain-
492 management clinic, revoke or deny a clinic's license if the
493 medical director of the pain-management clinic, or the clinic's
494 designated physician, knowingly and intentionally misrepresents
495 actions taken to correct a violation.

496 (d) An owner, medical director, or designated physician of
497 a pain-management clinic who concurrently operates an unlicensed
498 pain-management clinic is subject to an administrative fine of
499 \$5,000 per day.

500 (e) Any pain-management clinic whose owner fails to apply
501 for a change-of-ownership license and operates the clinic under
502 the new ownership is subject to a fine of \$5,000.

503 (f) During an onsite inspection, the department shall make
504 a reasonable attempt to discuss each violation with the owner,

505 medical director, or designated physician of the pain-management
506 clinic before issuing a formal written notification.

507 (g)1. If the registration of a pain-management clinic is
508 revoked or suspended, the designated physician or medical
509 director of the pain-management clinic, the owner or lessor of
510 the pain-management clinic property, and the owner, manager, or
511 proprietor shall cease to operate the facility as a pain-
512 management clinic as of the effective date of the suspension or
513 revocation.

514 2. If a pain-management clinic registration is revoked or
515 suspended, the designated physician or medical director of the
516 pain-management clinic, the owner or lessor of the clinic
517 property, and the owner, manager, or proprietor are responsible
518 for removing all signs and symbols identifying the premises as a
519 pain-management clinic.

520 3. If the clinic's registration is revoked, any person
521 named in the registration documents of the pain-management
522 clinic, including persons owning or operating the pain-
523 management clinic, may not as an individual or part of a group
524 apply for a permit to operate a pain-management clinic for 5
525 years after the date the registration is revoked.

526 4. Upon the effective date of the suspension or
527 revocation, the pain-management clinic shall advise the
528 department of the disposition of the medicinal drugs located on
529 the premises. The disposition is subject to supervision and
530 approval of the department. The department may designate the
531 medicinal drugs purchased or held by a pain-management clinic
532 that fails to register as required by law as adulterated drugs

533 pursuant to s. 499.006.

534 5. The period of the suspension shall be prescribed by the
 535 department, but may not exceed 1 year.

536 (6) The department shall adopt rules necessary to
 537 administer the registration and inspection of pain-management
 538 clinics establishing the specific requirements, procedures,
 539 forms, and fees.

540 (7) The department shall adopt a rule defining what
 541 constitutes practice by a designated physician at the office
 542 location for which the physician has assumed responsibility, as
 543 set forth in subsections (3) and (4). When adopting the rule,
 544 the department shall consider the number of clinic employees,
 545 the location of the pain-management clinic, its hours of
 546 operation, and the amount of controlled substances being
 547 prescribed, dispensed, or administered at the pain-management
 548 clinic.

549 (8)~~(5)~~ The Board of Medicine shall adopt rules setting
 550 forth standards of practice for physicians practicing in
 551 privately owned pain-management clinics that primarily engage in
 552 the treatment of pain by prescribing or dispensing controlled
 553 substance medications. ~~The~~ Such rules shall address, but need
 554 not be limited to, the following subjects:

- 555 (a) Facility operations;
- 556 (b) Physical operations;
- 557 (c) Infection control requirements;
- 558 (d) Health and safety requirements;
- 559 (e) Quality assurance requirements;
- 560 (f) Patient records;

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561 (g) Training requirements for all facility health care
562 practitioners who are not regulated by another board;

563 (h) Inspections; and

564 (i) Data collection and reporting requirements.
565

566 A physician is primarily engaged in the treatment of pain by
567 prescribing or dispensing controlled substance medications when
568 the majority of the patients seen are prescribed or dispensed
569 controlled substance medications for the treatment of chronic
570 nonmalignant pain. Chronic nonmalignant pain is pain unrelated
571 to cancer which persists beyond the usual course of the disease
572 or the injury that is the cause of the pain or more than 90 days
573 after surgery.

574 ~~(9)(6)~~ A privately owned clinic, facility, or office that
575 advertises in any medium for any type of pain-management
576 services or employs one or more physicians who are primarily
577 engaged in the treatment of pain by prescribing or dispensing
578 controlled substances is exempt from the registration provisions
579 in subsection (4) if the majority of the physicians who provide
580 services in the clinic, facility, or office primarily provide
581 surgical services.

582 Section 8. Section 458.3265, Florida Statutes, is created
583 to read:

584 458.3265 Pain-management clinics.—

585 (1)(a) A physician may not practice medicine in a pain-
586 management clinic unless the clinic is registered with the
587 department pursuant to s. 458.309(4). Each location of a pain-
588 management clinic must be registered separately, whether the

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589 clinic is operated under the same business name or management as
590 another clinic. If a pain-management clinic fails an annual
591 inspection, the department may revoke the clinic's certificate
592 of registration and prohibit all physicians associated with that
593 pain-management clinic from practicing at that office location.
594 A physician who violates this paragraph is subject to review by
595 his or her appropriate medical regulatory board.

596 (b) A pain-management clinic may not be owned, in whole or
597 in part, by or have any contractual relationship, whether
598 through employment or by independent contract, with:

599 1. A physician who, during the course of his or her
600 practice, has been denied the privilege of prescribing,
601 dispensing, administering, supplying, or selling any controlled
602 substance and against whose medical license, during the course
603 of his or her practice, the board has taken disciplinary action
604 as a result of violating the laws or rules of this state, any
605 other state, or the United States relating to prescribing or
606 dispensing controlled substances, drug diversion, or his or her
607 dependency on drugs or alcohol;

608 2. A person whose application for a license to prescribe,
609 dispense, or administer a controlled substance has been denied
610 by any jurisdiction;

611 3. The holder of a license issued by any jurisdiction
612 which allowed the owner, employee, or person to prescribe,
613 dispense, or administer a controlled substance and which has
614 been restricted or revoked by the issuing jurisdiction;

615 4. A person who is the subject of a disciplinary
616 proceeding by any licensing entity for conduct resulting from

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617 drug diversion or inappropriately prescribing, dispensing, or
618 administering a controlled substance; or

619 5. A person who has been convicted of or pled guilty or
620 nolo contendere to, regardless of adjudication, an offense that
621 constitutes a felony or a misdemeanor for illicit drugs or the
622 diversion of drugs, including a controlled substance listed in
623 Schedule I, Schedule II, Schedule III, Schedule IV, or Schedule
624 V of s. 893.03, in this state, any other state, or the United
625 States.

626 (c) If the department finds that a privately owned pain-
627 management clinic is owned, directly or indirectly, by a person
628 meeting any criteria listed in paragraph (b), the department
629 shall refuse to register the pain-management clinic or shall
630 revoke the certificate of registration previously issued by the
631 department. As determined by rule, the department may grant an
632 exemption if more than 10 years have elapsed since adjudication.
633 As used in this subsection, the term "convicted" includes an
634 adjudication of guilt following a plea of guilty or nolo
635 contendere or the forfeiture of a bond when charged with a
636 crime.

637 (d) The owner, operator, or designated physician of a
638 pain-management clinic shall:

639 1. Be onsite at the pain-management clinic during the
640 clinic's operating hours, with exemptions provided by department
641 rule. If this requirement is not met by a designated physician,
642 the owner or operator shall be physically present at the pain-
643 management clinic during the clinic's operating hours; and

644 2. Review each week at least 33 percent of the total

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645 number of patient files of the pain-management clinic for
646 patients seen by the clinic during that week, including the
647 patient files in the possession of a clinic employee or
648 contractor to whom authority for patient care is delegated by
649 the pain-management clinic, with exemptions provided by
650 department rule.

651 (e) A violation of this subsection is grounds for
652 disciplinary action against the pain-management clinic, its
653 owner, its operator, or its designated physician under s.
654 458.309. An owner or operator who fails to comply with this
655 subsection commits a misdemeanor of the first degree, punishable
656 as provided in s. 775.082 or s. 775.083.

657 (2) A person may not dispense any medication, including a
658 controlled substance, on the premises of a pain-management
659 clinic unless he or she is a physician licensed under this
660 chapter or chapter 459; however, a pharmacist licensed under
661 chapter 465 may dispense any medication, including a controlled
662 substance, on the premises of a pain-management clinic.

663 (3) After a physical examination of the patient the same
664 day that a controlled substance is prescribed or dispensed for
665 the physician's patient, the physician must document in the
666 patient's record the reason for prescribing or dispensing more
667 than a 72-hour dose of a controlled substance for the treatment
668 of chronic nonmalignant pain. A physician shall follow the
669 department's rules for treating pain when prescribing the use of
670 controlled substances and dispensing controlled substances. The
671 failure to follow the department's rules is grounds for
672 disciplinary action by the Board of Medicine and the possible

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673 revocation of the clinic's certificate of registration by the
674 department.

675 (4) As used in this section, the term:

676 (a) "Controlled substance" means a controlled substance
677 listed in Schedule II, Schedule III, or Schedule IV of s.
678 893.03.

679 (b) "Parties affiliated with a pain-management clinic"
680 means:

681 1. A director, officer, trustee, partner, or committee
682 member of a pain-management clinic or applicant, or a subsidiary
683 or service corporation of the pain-management clinic or
684 applicant; or

685 2. A person who, directly or indirectly, manages,
686 controls, or oversees the operation of a pain-management clinic
687 or applicant, regardless of whether the person is a partner,
688 shareholder, manager, member, officer, director, independent
689 contractor, or employee of the pain-management clinic or
690 applicant.

691 (5) On or after January 3, 2011, an application for an
692 initial or renewal registration of a pain-management clinic must
693 include:

694 (a) The name, full business address, and telephone number
695 of the applicant.

696 (b) All trade or business names used by the applicant.

697 (c) The address, telephone numbers, and names of contact
698 persons for each facility used by the applicant for prescribing
699 or dispensing controlled substance medications in the treatment
700 of pain.

- 701 (d) The type of ownership or operation, such as a
 702 partnership, corporation, or sole proprietorship.
- 703 (e) The names of each owner and each operator of the pain-
 704 management clinic, including:
- 705 1. If an individual, the name of the individual.
- 706 2. If a partnership, the name of each partner and the name
 707 of the partnership.
- 708 3. If a corporation:
- 709 a. The name, address, and title of each corporate officer
 710 and director.
- 711 b. The name and address of the corporation and the
 712 resident agent of the corporation, the resident agent's address,
 713 and the corporation's state of incorporation.
- 714 c. The name and address of each shareholder of the
 715 corporation that owns 5 percent or more of the outstanding stock
 716 of the corporation.
- 717 4. If a sole proprietorship, the full name of the sole
 718 proprietor and the name of the business entity.
- 719 5. If a limited liability company:
- 720 a. The name and address of each member.
- 721 b. The name and address of each manager.
- 722 c. The name and address of the limited liability company,
 723 the resident agent of the limited liability company, and the
 724 name of the state in which the limited liability company was
 725 organized.
- 726 (f) The tax year of the applicant.
- 727 (g) A copy of the deed for the property on which the
 728 applicant's pain-management clinic is located, if the clinic is

729 owned by the applicant, or a copy of the applicant's lease for
730 the property on which the applicant's pain-management clinic is
731 located, which must have an original term of not less than 1
732 calendar year, if the pain-management clinic is not owned by the
733 applicant.

734 (h) A list of all licenses and permits issued to the
735 applicant by any other state which authorize the applicant to
736 purchase or possess prescription drugs.

737 (i) The name of the manager of the pain-management clinic
738 that is applying for the initial or renewal registration, the
739 names of the next four highest ranking employees responsible for
740 operations of the pain-management clinic, the name of all
741 parties affiliated with the pain-management clinic, and the
742 personal information statement and set of fingerprints required
743 under subsection (6) for each such person.

744 (6) (a) Each person listed in paragraph (5) (i) shall submit
745 to the department a personal information statement in the format
746 prescribed by the department, which must be submitted under oath
747 or affirmation under penalty of perjury and contain the
748 following information:

749 1. The person's places of residence for the past 7 years.

750 2. The person's date and place of birth.

751 3. The person's occupations, positions of employment, and
752 offices held during the past 7 years.

753 4. The principal business and address of any business,
754 corporation, or other organization in which the person:

755 a. Held an office during the past 7 years; or

756 b. Had an occupation or position of employment during the

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757 past 7 years.

758 5. Whether the person has been, during the past 7 years,
759 the subject of any proceeding for the revocation of any license
760 and, if so, the nature of the proceeding and the disposition of
761 the proceeding.

762 6. Whether, during the past 7 years, the person has been
763 enjoined, temporarily or permanently, by a court of competent
764 jurisdiction from violating any federal or state law regulating
765 the possession, control, or distribution of controlled
766 substances, together with details concerning any such event.

767 7. A description of any involvement by the person during
768 the past 7 years, including any investments, other than the
769 ownership of stock in a publicly traded company or mutual fund,
770 with any business that manufactured, administered, prescribed,
771 distributed, or stored pharmaceutical products and any lawsuits
772 in which the businesses were named as a party.

773 8. A description of any felony criminal offense of which
774 the person, as an adult, was found guilty, regardless of whether
775 adjudication of guilt was withheld or whether the person pled
776 guilty or nolo contendere. A criminal offense committed in
777 another jurisdiction which would have been a felony in this
778 state must be reported. If the person indicates that a criminal
779 conviction is under appeal and submits a copy of the notice of
780 appeal of that criminal offense, the applicant shall, within 15
781 days after the disposition of the appeal, submit to the
782 department a copy of the final written order of disposition.

783 9. A photograph of the person taken in the previous 30
784 days.

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785 10. A set of fingerprints from the person in the format
786 and under procedures specified by the department and payment of
787 a fee equal to the cost incurred by the department for the
788 criminal history records check of the person.

789 11. The name, address, occupation, and date and place of
790 birth for each member of the person's immediate family who is 18
791 years of age or older. As used in this subparagraph, the term
792 "member of the person's immediate family" includes the person's
793 spouse, children, parents, siblings, the spouses of the person's
794 children, and the spouses of the person's siblings.

795 12. Any other relevant information that the department
796 requires.

797 (b) Effective January 4, 2010, an application for initial
798 registration of a pain-management clinic or renewal of a pain-
799 management clinic registration must be accompanied by a personal
800 information statement for each person listed in paragraph
801 (5) (i). A pain-management clinic that initially registered or
802 renewed a registration before the department adopts rules
803 prescribing the format for the personal information statement
804 shall submit to the department a personal information statement,
805 including a set of fingerprints, for each person listed in
806 paragraph (5) (i) by October 1, 2010, or within 60 days after the
807 effective date of such rules prescribing the format for the
808 personal information statement, whichever occurs later. The
809 department may suspend or revoke the registration of a pain-
810 management clinic that does not comply with this paragraph.

811 (c)1. The department shall submit the fingerprints
812 provided with each personal information statement to the

813 Department of Law Enforcement for a statewide criminal records
814 check and for forwarding to the Federal Bureau of Investigation
815 for a national criminal records check.

816 2. Any person who submits to the department a set of
817 fingerprints for a criminal records check is not required to
818 provide a subsequent set of fingerprints if the person has
819 undergone a criminal records check with submission of
820 fingerprints for background screening as a condition of the
821 issuance of an initial registration or the initial renewal of a
822 registration on or after January 4, 2010.

823 3. The department shall submit fingerprints for those
824 undergoing a background screening and they must be submitted
825 electronically. The department shall screen background results
826 to determine if an applicant meets registration requirements.

827 4. The cost of fingerprint processing for an initial or
828 renewal registration must be borne by the person subject to the
829 background check. The Department of Law Enforcement shall
830 receive payment for processing the fingerprints submitted to it
831 each month by invoice to the Department of Health or by credit
832 card from the applicant or a vendor acting on behalf of the
833 applicant.

834 5. All fingerprints submitted to the Department of Law
835 Enforcement shall be retained by the Department of Law
836 Enforcement in a manner provided by rule and entered into the
837 statewide automated fingerprint identification system authorized
838 by s. 943.05(2)(b). The fingerprints shall thereafter be
839 available for all purposes and uses authorized for arrest
840 fingerprint cards entered in the statewide automated fingerprint

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841 identification system pursuant to s. 943.051.

842 6. Fingerprints for arrests submitted or received under s.
843 943.051 shall be searched against the fingerprints retained in
844 the statewide automated fingerprint identification system. Any
845 arrest record that is identified with the retained fingerprints
846 of a person subject to the background screening under this
847 subsection shall be reported to the department.

848 7. Each person shall pay to the department a fee for the
849 cost of retaining the fingerprints and performing the ongoing
850 searches of arrest records. The Department of Law Enforcement
851 shall receive payment for processing and retaining the
852 fingerprints submitted to it each month by invoice to the
853 Department of Health or by credit card from the applicant or a
854 vendor acting on behalf of the applicant.

855 8. The Department of Law Enforcement shall adopt rules
856 establishing the amount of the fee and procedures for retaining
857 the fingerprints, performing the searches, and disseminating the
858 search results. The department shall notify the Department of
859 Law Enforcement of any change in a person's status as a person
860 listed in paragraph (5)(i) if, as a result of the change, the
861 person's fingerprints are no longer required to be retained
862 under paragraph (a).

863 (7) The State Surgeon General shall order a pain-
864 management clinic closed for operations if closure is warranted
865 following failure of the owner or operator of the clinic to pass
866 a background check of his or her criminal history. As determined
867 by rule, the department may grant an exemption if more than 10
868 years have elapsed since adjudication.

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869 (8) (a) By January 3, 2011, the department shall adopt
870 rules to administer this section, which may include, but are not
871 limited to, rules for the reporting, management, development,
872 and implementation of the fingerprint requirements of this
873 section.

874 (b) The Department of Law Enforcement may adopt rules to
875 administer the provisions of this section conferring duties upon
876 the Department of Law Enforcement.

877 Section 9. Paragraph (e) is added to subsection (1) of
878 section 458.327, Florida Statutes, and paragraph (f) is added to
879 subsection (2) of that section, to read:

880 458.327 Penalty for violations.—

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

884 (e) Knowingly operating, owning, or managing a
885 nonregistered pain-management clinic that is required to be
886 registered with the Department of Health pursuant to s.
887 458.309(4).

888 (2) Each of the following acts constitutes a misdemeanor
889 of the first degree, punishable as provided in s. 775.082 or s.
890 775.083:

891 (f) Knowingly prescribing, dispensing, or causing to be
892 prescribed or dispensed controlled substances in a nonregistered
893 pain-management clinic that is required to be registered with
894 the Department of Health pursuant to s. 458.309(4).

895 Section 10. Section 459.005, Florida Statutes, is amended
896 to read:

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897 459.005 Rulemaking authority.—

898 (1) The department and the board ~~may has authority to~~
899 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement
900 the provisions of this chapter conferring duties upon it.

901 (2) All physicians who perform level 2 procedures lasting
902 more than 5 minutes and all level 3 surgical procedures in an
903 office setting must register the office with the department
904 unless that office is licensed as a facility pursuant to chapter
905 395. The department shall inspect the physician's office
906 annually unless the office is accredited by a nationally
907 recognized accrediting agency or an accrediting organization
908 subsequently approved by the Board of Osteopathic Medicine. The
909 actual costs for registration and inspection or accreditation
910 shall be paid by the person seeking to register and operate the
911 office setting in which office surgery is performed.

912 (3) Effective January 4, 2010, all privately owned pain-
913 management clinics, facilities, or offices, primarily engaged in
914 the treatment of pain by prescribing or dispensing controlled
915 substance medications, hereinafter referred to as "clinics,"
916 which advertise in any medium for any type of pain-management
917 services, or employ a physician who is licensed under this
918 chapter and who is primarily engaged in the treatment of pain by
919 prescribing or dispensing controlled substance medications, must
920 register with the department ~~by January 4, 2010,~~ unless that
921 clinic is licensed as a facility under chapter 395. A physician
922 may not practice osteopathic medicine in a pain-management
923 clinic that is required to but has not registered with the
924 department. Each clinic location shall be registered separately

925 regardless of whether the clinic is operated under the same
 926 business name or management as another clinic. ~~If the clinic is~~
 927 ~~licensed as a health care clinic under chapter 400, the medical~~
 928 ~~director is responsible for registering the facility with the~~
 929 ~~department.~~ If the clinic is not registered under chapter 395 or
 930 chapter 400, the clinic shall, upon registration with the
 931 department, designate a physician who is responsible for
 932 complying with all requirements related to registration of the
 933 clinic. The designated physician shall have a full, active, and
 934 unencumbered license ~~be licensed~~ under chapter 458 or this
 935 chapter and shall practice at the office location for which the
 936 physician has assumed responsibility. The department shall
 937 inspect the clinic annually, including a review of patient
 938 records, to ensure that it complies with rules of the Board of
 939 Osteopathic Medicine adopted pursuant to this subsection and
 940 subsection (7) ~~(4)~~ unless the office is accredited by a
 941 nationally recognized accrediting agency approved by the Board
 942 of Osteopathic Medicine. The actual costs for registration and
 943 inspection or accreditation shall be paid by the physician
 944 seeking to register the clinic.

945 (4) (a) The department may deny an application for
 946 registering a pain-management clinic or revoke or suspend a
 947 current registration. The department may impose an
 948 administrative fine on the clinic of up to \$5,000 per violation
 949 for violating the requirements of this section, chapter 499, the
 950 Florida Drug and Cosmetic Act; chapter 893, the Florida
 951 Comprehensive Drug Abuse Prevention and Control Act; 21 U.S.C.
 952 ss. 301-392, the Federal Food, Drug, and Cosmetic Act; 21 U.S.C.

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953 ss. 821 et seq., the Comprehensive Drug Abuse Prevention and
954 Control Act; or rules adopted by the department. In determining
955 whether any penalty is to be imposed, and in fixing the amount
956 of any fine, the department shall consider the following
957 factors:

958 1. The gravity of the violation, including the probability
959 that death or serious physical or emotional harm to a patient
960 resulted or may have resulted from the licensee's actions, the
961 severity of the action or potential harm, and the extent to
962 which applicable laws or rules are violated.

963 2. What actions, if any, the owner, medical director, or
964 designated physician took to correct the violations.

965 3. Whether there were any previous violations at the pain-
966 management clinic.

967 4. The financial benefits that the pain-management clinic
968 derives from committing or continuing to commit the violation.

969 (b) Each day that a violation continues after the date
970 fixed for termination as ordered by the department constitutes
971 an additional, separate, and distinct violation.

972 (c) Any action taken to correct a violation shall be
973 documented in writing by the owner, medical director, or
974 designated physician of the pain-management clinic and verified
975 by followup visits by department personnel. The department may
976 impose a fine and, in the case of an owner-operated pain-
977 management clinic, revoke or deny a clinic's license if the
978 medical director of the pain-management clinic, or the clinic's
979 designated physician, knowingly and intentionally misrepresents
980 actions taken to correct a violation.

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981 (d) An owner, medical director, or designated physician of
982 a pain-management clinic who concurrently operates an unlicensed
983 pain-management clinic is subject to an administrative fine of
984 \$5,000 per day.

985 (e) Any pain-management clinic whose owner fails to apply
986 for a change-of-ownership license and operates the clinic under
987 the new ownership is subject to a fine of \$5,000.

988 (f) During an onsite inspection, the department shall make
989 a reasonable attempt to discuss each violation with the owner,
990 medical director, or designated physician of the pain-management
991 clinic before issuing a formal written notification.

992 (g)1. If the registration of a pain-management clinic is
993 revoked or suspended, the designated physician or medical
994 director of the pain-management clinic, the owner or lessor of
995 the pain-management clinic property, and the owner, manager, or
996 proprietor shall cease to operate the facility as a pain-
997 management clinic as of the effective date of the suspension or
998 revocation.

999 2. If a pain-management clinic registration is revoked or
1000 suspended, the designated physician or medical director of the
1001 pain-management clinic, the owner or lessor of the clinic
1002 property, and the owner, manager, or proprietor are responsible
1003 for removing all signs and symbols identifying the premises as a
1004 pain-management clinic.

1005 3. If the clinic's registration is revoked, any person
1006 named in the registration documents of the pain-management
1007 clinic, including persons owning or operating the pain-
1008 management clinic, may not as an individual or part of a group

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1009 apply for a permit to operate a pain-management clinic for 5
 1010 years after the date the registration is revoked.

1011 4. Upon the effective date of the suspension or
 1012 revocation, the pain-management clinic shall advise the
 1013 department of the disposition of the medicinal drugs located on
 1014 the premises. The disposition is subject to the supervision and
 1015 approval of the department. The department may designate the
 1016 medicinal drugs purchased or held by a pain-management clinic
 1017 that fails to register as required by law as adulterated drugs
 1018 pursuant to s. 499.006.

1019 5. The period of the suspension shall be prescribed by the
 1020 department, but may not exceed 1 year.

1021 (5) The department shall adopt rules necessary to
 1022 administer the registration and inspection of pain-management
 1023 clinics establishing the specific requirements, procedures,
 1024 forms, and fees.

1025 (6) The department shall adopt a rule defining what
 1026 constitutes practice by a designated physician at the office
 1027 location for which the physician has assumed responsibility as
 1028 set forth in subsections (2) and (3). When adopting the rule,
 1029 the department shall consider the number of clinic employees,
 1030 the location of the pain-management clinic, its hours of
 1031 operation, and the amount of controlled substances being
 1032 prescribed, dispensed, or administered at the pain-management
 1033 clinic.

1034 (7)-(4) The Board of Osteopathic Medicine shall adopt rules
 1035 setting forth standards of practice for physicians who practice
 1036 in privately owned pain-management clinics that primarily engage

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1037 in the treatment of pain by prescribing or dispensing controlled
 1038 substance medications. The ~~Such~~ rules shall address, but need
 1039 not be limited to, the following subjects:

- 1040 (a) Facility operations;
- 1041 (b) Physical operations;
- 1042 (c) Infection control requirements;
- 1043 (d) Health and safety requirements;
- 1044 (e) Quality assurance requirements;
- 1045 (f) Patient records;
- 1046 (g) Training requirements for all facility health care
 1047 practitioners who are not regulated by another board;
- 1048 (h) Inspections; and
- 1049 (i) Data collection and reporting requirements.

1050
 1051 A physician is primarily engaged in the treatment of pain by
 1052 prescribing or dispensing controlled substance medications when
 1053 the majority of the patients seen are prescribed or dispensed
 1054 controlled substance medications for the treatment of chronic
 1055 nonmalignant pain. Chronic nonmalignant pain is pain unrelated
 1056 to cancer which persists beyond the usual course of the disease
 1057 or the injury that is the cause of the pain or more than 90 days
 1058 after surgery.

1059 ~~(8)-(5)~~ A privately owned clinic, facility, or office that
 1060 advertises in any medium for any type of pain-management
 1061 services or employs one or more physicians who are primarily
 1062 engaged in the treatment of pain by prescribing or dispensing
 1063 controlled substances is exempt from the registration provisions
 1064 in subsection (3) if the majority of the physicians who provide

1065 services in the clinic, facility, or office primarily provide
 1066 surgical services.

1067 Section 11. Paragraph (e) is added to subsection (1) of
 1068 section 459.013, Florida Statutes, and paragraph (d) is added to
 1069 subsection (2) of that section, to read:

1070 459.013 Penalty for violations.—

1071 (1) Each of the following acts constitutes a felony of the
 1072 third degree, punishable as provided in s. 775.082, s. 775.083,
 1073 or s. 775.084:

1074 (e) Knowingly operating, owning, or managing a
 1075 nonregistered pain-management clinic that is required to be
 1076 registered with the Department of Health pursuant to s.
 1077 459.005(3).

1078 (2) Each of the following acts constitutes a misdemeanor
 1079 of the first degree, punishable as provided in s. 775.082 or s.
 1080 775.083:

1081 (d) Knowingly prescribing, dispensing, or causing to be
 1082 prescribed or dispensed controlled substances in a nonregistered
 1083 pain-management clinic which is required to be registered with
 1084 the Department of Health pursuant to s. 459.005(3).

1085 Section 12. Section 459.0137, Florida Statutes, is created
 1086 to read:

1087 459.0137 Pain-management clinics.—

1088 (1) (a) An osteopathic physician may not practice
 1089 osteopathic medicine in a pain-management clinic unless the
 1090 clinic is registered with the department pursuant to s.
 1091 459.005(3). Each location of a pain-management clinic must be
 1092 registered separately, whether the clinic is operated under the

1093 same business name or management as another clinic. If a pain-
 1094 management clinic fails an annual inspection, the department may
 1095 revoke the clinic's certificate of registration and prohibit all
 1096 physicians associated with that pain-management clinic from
 1097 practicing at that office location. A physician who violates
 1098 this paragraph is subject to review by his or her appropriate
 1099 medical regulatory board.

1100 (b) A pain-management clinic may not be owned, in whole or
 1101 in part, by or have any contractual relationship, whether
 1102 through employment or by independent contract, with:

1103 1. An osteopathic physician who, during the course of his
 1104 or her practice, has been denied the privilege of prescribing,
 1105 dispensing, administering, supplying, or selling any controlled
 1106 substance and against whose medical license, during the course
 1107 of his or her practice, the board has taken disciplinary action
 1108 as a result of violating the laws or rules of this state, any
 1109 other state, or the United States relating to prescribing or
 1110 dispensing controlled substances, drug diversion, or his or her
 1111 dependency on drugs or alcohol;

1112 2. A person whose application for a license to prescribe,
 1113 dispense, or administer a controlled substance has been denied
 1114 by any jurisdiction;

1115 3. The holder of a license issued by any jurisdiction
 1116 which allowed the owner, employee, or person to prescribe,
 1117 dispense, or administer a controlled substance and which has
 1118 been restricted or revoked by the issuing jurisdiction;

1119 4. A person who is the subject of a disciplinary
 1120 proceeding by any licensing entity for conduct resulting from

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1121 drug diversion or inappropriately prescribing, dispensing, or
1122 administering a controlled substance; or

1123 5. A person who has been convicted of or pled guilty or
1124 nolo contendere to, regardless of adjudication, an offense that
1125 constitutes a felony or a misdemeanor for illicit drugs or the
1126 diversion of drugs, including a controlled substance listed in
1127 Schedule I, Schedule II, Schedule III, Schedule IV, or Schedule
1128 V of s. 893.03, in this state, any other state, or the United
1129 States.

1130 (c) If the department finds that a privately owned pain-
1131 management clinic is owned, directly or indirectly, by a person
1132 meeting any criteria listed in paragraph (b), the department
1133 shall refuse to register the pain-management clinic or shall
1134 revoke the certificate of registration previously issued by the
1135 department. As determined by rule, the department may grant an
1136 exemption if more than 10 years have elapsed since adjudication.
1137 As used in this subsection, the term "convicted" includes an
1138 adjudication of guilt following a plea of guilty or nolo
1139 contendere or the forfeiture of a bond when charged with a
1140 crime.

1141 (d) The owner, operator, or designated osteopathic
1142 physician of a pain-management clinic shall:

1143 1. Be onsite at the pain-management clinic during the
1144 clinic's operating hours, with exemptions provided by department
1145 rule. If this requirement is not met by a designated physician,
1146 the owner or operator shall be physically present at the pain-
1147 management clinic during the clinic's operating hours; and

1148 2. Review each week at least 33 percent of the total

1149 number of patient files of the pain-management clinic for
 1150 patients seen by the clinic during that week, including the
 1151 patient files in the possession of a clinic employee or
 1152 contractor to whom authority for patient care is delegated by
 1153 the pain-management clinic, with exemptions provided by
 1154 department rule.

1155 (e) A violation of this subsection is grounds for
 1156 disciplinary action against the pain-management clinic, its
 1157 owner, its operator, or its designated osteopathic physician
 1158 under s. 459.005. An owner or operator who fails to comply with
 1159 this subsection commits a misdemeanor of the first degree,
 1160 punishable as provided in s. 775.082 or s. 775.083.

1161 (2) A person may not dispense any medication, including a
 1162 controlled substance, on the premises of a pain-management
 1163 clinic unless he or she is a physician licensed under this
 1164 chapter or chapter 458; however, a pharmacist licensed under
 1165 chapter 465 may dispense any medication, including a controlled
 1166 substance, on the premises of a pain-management clinic.

1167 (3) After a physical examination of the patient the same
 1168 day that a controlled substance is prescribed or dispensed for
 1169 the physician's patient, the physician must document in the
 1170 patient's record the reason for prescribing or dispensing more
 1171 than a 72-hour dose of a controlled substance for the treatment
 1172 of chronic nonmalignant pain. A physician shall follow the
 1173 department's rules for treating pain when prescribing the use of
 1174 controlled substances and dispensing controlled substances. The
 1175 failure to follow the department's rules is grounds for
 1176 disciplinary action by the Board of Osteopathic Medicine and the

1177 possible revocation of the clinic's certificate of registration
 1178 by the department.

1179 (4) As used in this section, the term:

1180 (a) "Controlled substance" means a controlled substance
 1181 listed in Schedule II, Schedule III, or Schedule IV of s.
 1182 893.03.

1183 (b) "Parties affiliated with a pain-management clinic"
 1184 means:

1185 1. A director, officer, trustee, partner, or committee
 1186 member of a pain-management clinic or applicant, or a subsidiary
 1187 or service corporation of the pain-management clinic or
 1188 applicant; or

1189 2. A person who, directly or indirectly, manages,
 1190 controls, or oversees the operation of a pain-management clinic
 1191 or applicant, regardless of whether the person is a partner,
 1192 shareholder, manager, member, officer, director, independent
 1193 contractor, or employee of the pain-management clinic or
 1194 applicant.

1195 (5) On or after January 3, 2011, an application for an
 1196 initial or renewal registration of a pain-management clinic must
 1197 include:

1198 (a) The name, full business address, and telephone number
 1199 of the applicant.

1200 (b) All trade or business names used by the applicant.

1201 (c) The address, telephone numbers, and names of contact
 1202 persons for each facility used by the applicant for prescribing
 1203 or dispensing controlled substance medications in the treatment
 1204 of pain.

1205 (d) The type of ownership or operation, such as a
 1206 partnership, corporation, or sole proprietorship.

1207 (e) The names of each owner and each operator of the pain-
 1208 management clinic, including:

1209 1. If an individual, the name of the individual.

1210 2. If a partnership, the name of each partner and the name
 1211 of the partnership.

1212 3. If a corporation:

1213 a. The name, address, and title of each corporate officer
 1214 and director.

1215 b. The name and address of the corporation and the
 1216 resident agent of the corporation, the resident agent's address,
 1217 and the corporation's state of incorporation.

1218 c. The name and address of each shareholder of the
 1219 corporation that owns 5 percent or more of the outstanding stock
 1220 of the corporation.

1221 4. If a sole proprietorship, the full name of the sole
 1222 proprietor and the name of the business entity.

1223 5. If a limited liability company:

1224 a. The name and address of each member.

1225 b. The name and address of each manager.

1226 c. The name and address of the limited liability company,
 1227 the resident agent of the limited liability company, and the
 1228 name of the state in which the limited liability company was
 1229 organized.

1230 (f) The tax year of the applicant.

1231 (g) A copy of the deed for the property on which the
 1232 applicant's pain-management clinic is located, if the clinic is

1233 owned by the applicant, or a copy of the applicant's lease for
 1234 the property on which the applicant's pain-management clinic is
 1235 located, which must have an original term of not less than 1
 1236 calendar year, if the pain-management clinic is not owned by the
 1237 applicant.

1238 (h) A list of all licenses and permits issued to the
 1239 applicant by any other state which authorize the applicant to
 1240 purchase or possess prescription drugs.

1241 (i) The name of the manager of the pain-management clinic
 1242 that is applying for the initial or renewal registration, the
 1243 names of the next four highest ranking employees responsible for
 1244 operations of the pain-management clinic, the name of all
 1245 parties affiliated with the pain-management clinic, and the
 1246 personal information statement and set of fingerprints required
 1247 under subsection (6) for each such person.

1248 (6) (a) Each person listed in paragraph (5) (i) shall submit
 1249 to the department a personal information statement in the format
 1250 prescribed by the department, which must be submitted under oath
 1251 or affirmation under penalty of perjury and contain the
 1252 following information:

1253 1. The person's places of residence for the past 7 years.

1254 2. The person's date and place of birth.

1255 3. The person's occupations, positions of employment, and
 1256 offices held during the past 7 years.

1257 4. The principal business and address of any business,
 1258 corporation, or other organization in which the person:

1259 a. Held an office during the past 7 years; or

1260 b. Had an occupation or position of employment during the

1261 past 7 years.

1262 5. Whether the person has been, during the past 7 years,
 1263 the subject of any proceeding for the revocation of any license
 1264 and, if so, the nature of the proceeding and the disposition of
 1265 the proceeding.

1266 6. Whether, during the past 7 years, the person has been
 1267 enjoined, temporarily or permanently, by a court of competent
 1268 jurisdiction from violating any federal or state law regulating
 1269 the possession, control, or distribution of controlled
 1270 substances, together with details concerning any such event.

1271 7. A description of any involvement by the person during
 1272 the past 7 years, including any investments, other than the
 1273 ownership of stock in a publicly traded company or mutual fund,
 1274 with any business that manufactured, administered, prescribed,
 1275 distributed, or stored pharmaceutical products and any lawsuits
 1276 in which the businesses were named as a party.

1277 8. A description of any felony criminal offense of which
 1278 the person, as an adult, was found guilty, regardless of whether
 1279 adjudication of guilt was withheld or whether the person pled
 1280 guilty or nolo contendere. A criminal offense committed in
 1281 another jurisdiction which would have been a felony in this
 1282 state must be reported. If the person indicates that a criminal
 1283 conviction is under appeal and submits a copy of the notice of
 1284 appeal of that criminal offense, the applicant shall, within 15
 1285 days after the disposition of the appeal, submit to the
 1286 department a copy of the final written order of disposition.

1287 9. A photograph of the person taken in the previous 30
 1288 days.

1289 10. A set of fingerprints from the person in the format
 1290 and under procedures specified by the department and payment of
 1291 a fee equal to the cost incurred by the department for the
 1292 criminal history records check of the person.

1293 11. The name, address, occupation, and date and place of
 1294 birth for each member of the person's immediate family who is 18
 1295 years of age or older. As used in this subparagraph, the term
 1296 "member of the person's immediate family" includes the person's
 1297 spouse, children, parents, siblings, the spouses of the person's
 1298 children, and the spouses of the person's siblings.

1299 12. Any other relevant information that the department
 1300 requires.

1301 (b) Effective January 4, 2010, an application for initial
 1302 registration of a pain-management clinic or renewal of a pain-
 1303 management clinic registration must be accompanied by a personal
 1304 information statement for each person listed in paragraph
 1305 (5) (i). A pain-management clinic that initially registered or
 1306 renewed a registration before the department adopts rules
 1307 prescribing the format for the personal information statement
 1308 shall submit to the department a personal information statement,
 1309 including a set of fingerprints, for each person listed in
 1310 paragraph (5) (i) by October 1, 2010, or within 60 days after the
 1311 effective date of such rules prescribing the format for the
 1312 personal information statement, whichever occurs later. The
 1313 department may suspend or revoke the registration of a pain-
 1314 management clinic that does not comply with this paragraph.

1315 (c)1. The department shall submit the fingerprints
 1316 provided with each personal information statement to the

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1317 Department of Law Enforcement for a statewide criminal records
1318 check and for forwarding to the Federal Bureau of Investigation
1319 for a national criminal records check.

1320 2. Any person who submits to the department a set of
1321 fingerprints for a criminal records check is not required to
1322 provide a subsequent set of fingerprints for a criminal record
1323 check if the person has undergone a criminal record check with
1324 submission of fingerprints for background screening as a
1325 condition of the issuance of an initial registration or the
1326 renewal of a registration on or after January 4, 2010.

1327 3. The department shall submit fingerprints for those
1328 undergoing a background screening and they must be submitted
1329 electronically. The department shall screen background results
1330 to determine if an applicant meets registration requirements.

1331 4. The cost of fingerprint processing for an initial or
1332 renewal registration must be borne by the person subject to the
1333 background check. The Department of Law Enforcement shall
1334 receive payment for processing the fingerprints submitted to it
1335 each month by invoice to the Department of Health or by credit
1336 card from the applicant or a vendor acting on behalf of the
1337 applicant.

1338 5. All fingerprints submitted to the Department of Law
1339 Enforcement shall be retained by the Department of Law
1340 Enforcement in a manner provided by rule and entered into the
1341 statewide automated fingerprint identification system authorized
1342 by s. 943.05(2)(b). The fingerprints shall thereafter be
1343 available for all purposes and uses authorized for arrest
1344 fingerprint cards entered in the statewide automated fingerprint

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1345 identification system pursuant to s. 943.051.

1346 6. Fingerprints for arrests submitted or received under s.
1347 943.051 shall be searched against the fingerprints retained in
1348 the statewide automated fingerprint identification system. Any
1349 arrest record that is identified with the retained fingerprints
1350 of a person subject to the background screening under this
1351 subsection shall be reported to the department.

1352 7. Each person shall pay to the department a fee for the
1353 cost of retaining the fingerprints and performing the ongoing
1354 searches of arrest records. The Department of Law Enforcement
1355 shall receive payment for processing and retaining the
1356 fingerprints submitted to it each month by invoice to the
1357 Department of Health or by credit card from the applicant or a
1358 vendor acting on behalf of the applicant.

1359 8. The Department of Law Enforcement shall adopt rules
1360 establishing the amount of the fee and procedures for retaining
1361 the fingerprints, performing the searches, and disseminating the
1362 search results. The department shall notify the Department of
1363 Law Enforcement of any change in a person's status as a person
1364 listed in paragraph (5)(i) if, as a result of the change, the
1365 person's fingerprints are no longer required to be retained
1366 under paragraph (a).

1367 (7) The State Surgeon General shall order a pain-
1368 management clinic closed for operations if closure is warranted
1369 following failure of the owner or operator of the clinic to pass
1370 a background check of his or her criminal history. As determined
1371 by rule, the department may grant an exemption if more than 10
1372 years have elapsed since adjudication.

1373 (8) (a) By January 3, 2011, the department shall adopt
 1374 rules to administer this section, which may include, but are not
 1375 limited to, rules for the reporting, management, development,
 1376 and implementation of the fingerprint requirements of this
 1377 section.

1378 (b) The Department of Law Enforcement may adopt rules to
 1379 administer the provisions of this section conferring duties upon
 1380 the Department of Law Enforcement.

1381 Section 13. Section 893.065, Florida Statutes, is amended
 1382 to read:

1383 893.065 Counterfeit-resistant prescription blanks for
 1384 controlled substances listed in Schedule II, Schedule III, or
 1385 Schedule IV.—

1386 (1) The Department of Health shall develop and adopt by
 1387 rule the form and content for a counterfeit-resistant
 1388 prescription blank which may be used by practitioners for the
 1389 purpose of prescribing a controlled substance listed in Schedule
 1390 II, Schedule III, or Schedule IV of s. 893.03. The Department of
 1391 Health may require the prescription blanks to be printed on
 1392 distinctive, watermarked paper and to bear the preprinted name,
 1393 address, and category of professional licensure of the
 1394 practitioner and that practitioner's federal registry number for
 1395 controlled substances. The prescription blanks may not be
 1396 transferred.

1397 (2) A practitioner prescribing controlled substances in a
 1398 pain-management clinic as defined in s. 458.305 or s. 459.005
 1399 must use counterfeit-resistant prescription blanks that comply
 1400 with this section, including the required security features,

1401 information, and content of such prescription blanks, when
 1402 prescribing any controlled substance listed in Schedule II,
 1403 Schedule III, or Schedule IV.

1404 Section 14. Paragraphs (a) and (c) of subsection (7) of
 1405 section 893.13, Florida Statutes, are amended to read:

1406 893.13 Prohibited acts; penalties.—

1407 (7) (a) It is unlawful for any person:

1408 1. To distribute or dispense a controlled substance in
 1409 violation of this chapter.

1410 2. To refuse or fail to make, keep, or furnish any record,
 1411 notification, order form, statement, invoice, or information
 1412 required under this chapter.

1413 3. To refuse an entry into any premises for any inspection
 1414 or to refuse to allow any inspection authorized by this chapter.

1415 4. To distribute a controlled substance named or described
 1416 in s. 893.03(1) or (2) except pursuant to an order form as
 1417 required by s. 893.06.

1418 5. To keep or maintain any store, shop, warehouse,
 1419 dwelling, building, vehicle, boat, aircraft, or other structure
 1420 or place which is resorted to by persons using controlled
 1421 substances in violation of this chapter for the purpose of using
 1422 these substances, or which is used for keeping or selling them
 1423 in violation of this chapter.

1424 6. To use to his or her own personal advantage, or to
 1425 reveal, any information obtained in enforcement of this chapter
 1426 except in a prosecution or administrative hearing for a
 1427 violation of this chapter.

1428 7. To possess a prescription form which has not been

1429 completed and signed by the practitioner whose name appears
 1430 printed thereon, unless the person is that practitioner, is an
 1431 agent or employee of that practitioner, is a pharmacist, or is a
 1432 supplier of prescription forms who is authorized by that
 1433 practitioner to possess those forms.

1434 8. To withhold information from a practitioner from whom
 1435 the person seeks to obtain a controlled substance or a
 1436 prescription for a controlled substance that the person making
 1437 the request has received a controlled substance or a
 1438 prescription for a controlled substance of like therapeutic use
 1439 from another practitioner within the previous 30 days or, with
 1440 the intent to obtain a controlled substance or an amount of a
 1441 controlled substance that is not medically necessary for the
 1442 person, to obtain or seek to obtain from a practitioner a
 1443 controlled substance or a prescription for a controlled
 1444 substance by misrepresentation, fraud, forgery, deception,
 1445 subterfuge, or concealment of a material fact. As used in this
 1446 subparagraph, the term "material fact" includes whether a person
 1447 has an existing prescription for a controlled substance issued
 1448 for the same period of time by another practitioner.

1449 9. To acquire or obtain, or attempt to acquire or obtain,
 1450 possession of a controlled substance by misrepresentation,
 1451 fraud, forgery, deception, or subterfuge.

1452 10. To affix any false or forged label to a package or
 1453 receptacle containing a controlled substance.

1454 11. To furnish false or fraudulent material information
 1455 in, or omit any material information from, any report or other
 1456 document required to be kept or filed under this chapter or any

1457 record required to be kept by this chapter.

1458 12. To store anhydrous ammonia in a container that is not
 1459 approved by the United States Department of Transportation to
 1460 hold anhydrous ammonia or is not constructed in accordance with
 1461 sound engineering, agricultural, or commercial practices.

1462 (c) Any person who violates the provisions of
 1463 subparagraphs (a)8.-12. commits a felony of the third degree,
 1464 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
 1465 except that a person who violates subparagraph (a)8. in a
 1466 violation that involves a substance listed in s. 893.03(1) or s.
 1467 893.03(2) commits a felony of the second degree, punishable as
 1468 provided in s. 775.082, s. 775.083, or s. 775.084, and a person
 1469 who violates subparagraph (a)8. in a violation that involves a
 1470 substance listed in s. 893.03(5) commits a misdemeanor of the
 1471 first degree, punishable as provided in s. 775.082 or s.
 1472 775.083.

1473 Section 15. Paragraphs (c) and (d) of subsection (3) of
 1474 section 921.0022, Florida Statutes, are amended to read:

1475 921.0022 Criminal Punishment Code; offense severity
 1476 ranking chart.—

1477 (3) OFFENSE SEVERITY RANKING CHART

1478 (c) LEVEL 3

1479

Florida	Felony	
Statute	Degree	Description
119.10(2)(b)	3rd	Unlawful use of confidential

1480

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1481	316.066 (6) (b) - (d)	3rd	information from police reports. Unlawfully obtaining or using confidential crash reports.
1482	316.193 (2) (b)	3rd	Felony DUI, 3rd conviction.
1483	316.1935 (2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
1484	319.30 (4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
1485	319.33 (1) (a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
1486	319.33 (1) (c)	3rd	Procure or pass title on stolen vehicle.
1487	319.33 (4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained

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1488			title or registration.
1489	327.35 (2) (b)	3rd	Felony BUI.
1490	328.05 (2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
1491	328.07 (4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
1492	376.302 (5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
1493	379.2431 (1) (e) 5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.

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1494	379.2431 (1) (e) 6.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
1495	400.9935 (4)	3rd	Operating a clinic without a license or filing false license application or other required information.
1496	440.1051 (3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
1497	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
1498	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
1499	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.

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1500	626.902 (1) (a) & (b)	3rd	Representing an unauthorized insurer.
1501	697.08	3rd	Equity skimming.
1502	790.15 (3)	3rd	Person directs another to discharge firearm from a vehicle.
1503	796.05 (1)	3rd	Live on earnings of a prostitute.
1504	806.10 (1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
1505	806.10 (2)	3rd	Interferes with or assaults firefighter in performance of duty.
1506	810.09 (2) (c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
1507	812.014 (2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.

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1508	812.0145(2)(c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
1509	815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
1510	817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
1511	817.233	3rd	Burning to defraud insurer.
1512	817.234(8)(b)-(c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
1513	817.234(11)(a)	3rd	Insurance fraud; property value less than \$20,000.
1514	817.236	3rd	Filing a false motor vehicle insurance application.
	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle

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1515			insurance card.
1516	817.413 (2)	3rd	Sale of used goods as new.
1517	817.505 (4)	3rd	Patient brokering.
1518	828.12 (2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
1519	831.28 (2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
1520	831.29	2nd	Possession of instruments for counterfeiting drivers' licenses or identification cards.
1521	838.021 (3) (b)	3rd	Threatens unlawful harm to public servant.
1522	843.19	3rd	Injure, disable, or kill police dog or horse.

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1523	860.15 (3)	3rd	Overcharging for repairs and parts.
1524	870.01 (2)	3rd	Riot; inciting or encouraging.
1525	893.13 (1) (a) 2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) drugs).
1526	893.13 (1) (d) 2.	2nd	Sell, manufacture, or deliver s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) drugs within 1,000 feet of university.
1527	893.13 (1) (f) 2.	2nd	Sell, manufacture, or deliver s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) drugs within 1,000 feet of public housing facility.

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- 1528 893.13(6)(a) 3rd Possession of any controlled substance other than felony possession of cannabis.
- 1529 893.13(7)(a)8. 3rd Withhold information from practitioner regarding previous receipt of or prescription for Sched. III or IV ~~a~~ controlled substance or obtain or attempt to obtain controlled substance by fraud, etc.
- 1530 893.13(7)(a)9. 3rd Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
- 1531 893.13(7)(a)10. 3rd Affix false or forged label to package of controlled substance.
- 1532 893.13(7)(a)11. 3rd Furnish false or fraudulent material information on any document or record required by chapter 893.
- 893.13(8)(a)1. 3rd Knowingly assist a patient,

other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.

1533

893.13(8)(a)2. 3rd Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.

1534

893.13(8)(a)3. 3rd Knowingly write a prescription for a controlled substance for a fictitious person.

1535

893.13(8)(a)4. 3rd Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.

1536

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1537	918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
1538	944.47(1)(a)1.- 2.	3rd	Introduce contraband to correctional facility.
1539	944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
1540	985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
1541	(d) LEVEL 4		
1542	Florida	Felony	
1543	Statute	Degree	Description
1544	316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.

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1545	499.0051 (1)	3rd	Failure to maintain or deliver pedigree papers.
1546	499.0051 (2)	3rd	Failure to authenticate pedigree papers.
1547	499.0051 (6)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
1548	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, intake officer, etc.
1549	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
1550	784.075	3rd	Battery on detention or commitment facility staff.
1551	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
1552	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.

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1553	784.081 (3)	3rd	Battery on specified official or employee.
1554	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
1555	784.083 (3)	3rd	Battery on code inspector.
1556	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
1557	787.03 (1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
1558	787.04 (2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
1559	787.04 (3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.

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1560	790.115 (1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
1561	790.115 (2) (b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
1562	790.115 (2) (c)	3rd	Possessing firearm on school property.
1563	800.04 (7) (c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
1564	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
1565	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
1566	810.06	3rd	Burglary; possession of tools.
	810.08 (2) (c)	3rd	Trespass on property, armed

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1567	812.014(2)(c)3.	3rd	with firearm or dangerous weapon.
1568	812.014(2)(c)4.- 10.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000. Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
1569	812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
1570	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
1571	817.568(2)(a)	3rd	Fraudulent use of personal identification information.
1572	817.625(2)(a)	3rd	Fraudulent use of scanning device or reencoder.
1573	828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent

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1574			breeding disability to any registered horse or cattle.
	837.02 (1)	3rd	Perjury in official proceedings.
1575			
	837.021 (1)	3rd	Make contradictory statements in official proceedings.
1576			
	838.022	3rd	Official misconduct.
1577			
	839.13 (2) (a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
1578			
	839.13 (2) (c)	3rd	Falsifying records of the Department of Children and Family Services.
1579			
	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
1580			
	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
1581			

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1582	843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
1583	847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
1584	874.05(1)	3rd	Encouraging or recruiting another to join a criminal gang.
1585	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)4. drugs).
1586	<u>893.13(7)(a)8.</u>	<u>2nd</u>	<u>Withhold information from practitioner regarding previous receipt of or prescription for Sched. I or II controlled substance or obtain or attempt to obtain controlled substance by fraud, etc.</u>
1587	914.14(2)	3rd	Witnesses accepting bribes.

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914.22(1) 3rd Force, threaten, etc., witness,
victim, or informant.

1589

914.23(2) 3rd Retaliation against a witness,
victim, or informant, no bodily
injury.

1590

918.12 3rd Tampering with jurors.

1591

934.215 3rd Use of two-way communications
device to facilitate commission
of a crime.

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Section 16. This act shall take effect July 1, 2010.