



511982

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
Floor: 1K/AD/2R	.	Floor: C
05/06/2011 08:01 PM	.	05/06/2011 10:48 PM
	.	

Senator Latvala moved the following:

1 **Senate Amendment to Amendment (258560) (with title**
2 **amendment)**

3
4 Between lines 3609 and 3610
5 insert:

6 Section 93. Section 456.44, Florida Statutes, is created to
7 read:

8 456.44 Controlled substance prescribing.-

9 (1) DEFINITIONS.-

10 (a) "Addiction medicine specialist" means a board-certified
11 physiatrist with a subspecialty certification in addiction
12 medicine or who is eligible for such subspecialty certification
13 in addiction medicine, an addiction medicine physician certified



511982

14 or eligible for certification by the American Society of
15 Addiction Medicine, or an osteopathic physician who holds a
16 certificate of added qualification in Addiction Medicine through
17 the American Osteopathic Association.

18 (b) "Adverse incident" means any incident set forth in s.
19 458.351(4)(a)-(e) or s. 459.026(4)(a)-(e).

20 (c) "Board-certified pain management physician" means a
21 physician who possesses board certification in pain medicine by
22 the American Board of Pain Medicine, board certification by the
23 American Board of Interventional Pain Physicians, or board
24 certification or subcertification in pain management by a
25 specialty board recognized by the American Association of
26 Physician Specialists or an osteopathic physician who holds a
27 certificate in Pain Management by the American Osteopathic
28 Association.

29 (d) "Chronic nonmalignant pain" means pain unrelated to
30 cancer or rheumatoid arthritis which persists beyond the usual
31 course of disease or the injury that is the cause of the pain or
32 more than 90 days after surgery.

33 (e) "Mental health addiction facility" means a facility
34 licensed under chapter 394 or chapter 397.

35 (2) REGISTRATION.—Effective January 1, 2012, a physician
36 licensed under chapter 458, chapter 459, chapter 461, or chapter
37 466 who prescribes more than a 30-day supply of any controlled
38 substance, as defined in s. 893.03, over a 6-month period to any
39 one patient for the treatment of chronic nonmalignant pain,
40 must:

41 (a) Designate himself or herself as a controlled substance
42 prescribing practitioner on the physician's practitioner



511982

43 profile.

44 (b) Comply with the requirements of this section and
45 applicable board rules.

46 (3) STANDARDS OF PRACTICE.—The standards of practice in
47 this section do not supersede the level of care, skill, and
48 treatment recognized in general law related to healthcare
49 licensure.

50 (a) A complete medical history and a physical examination
51 must be conducted before beginning any treatment and must be
52 documented in the medical record. The exact components of the
53 physical examination shall be left to the judgment of the
54 clinician who is expected to perform a physical examination
55 proportionate to the diagnosis that justifies a treatment. The
56 medical record must, at a minimum, document the nature and
57 intensity of the pain, current and past treatments for pain,
58 underlying or coexisting diseases or conditions, the effect of
59 the pain on physical and psychological function, a review of
60 previous medical records, previous diagnostic studies, and
61 history of alcohol and substance abuse. The medical record shall
62 also document the presence of one or more recognized medical
63 indications for the use of a controlled substance. Each
64 registrant must develop a written plan for assessing each
65 patient's risk of aberrant drug-related behavior, which may
66 include patient drug testing. Registrants must assess each
67 patient's risk for aberrant drug-related behavior and monitor
68 that risk on an ongoing basis in accordance with the plan.

69 (b) Each registrant must develop a written individualized
70 treatment plan for each patient. The treatment plan shall state
71 objectives that will be used to determine treatment success,



511982

72 such as pain relief and improved physical and psychosocial
73 function, and shall indicate if any further diagnostic
74 evaluations or other treatments are planned. After treatment
75 begins, the physician shall adjust drug therapy to the
76 individual medical needs of each patient. Other treatment
77 modalities, including a rehabilitation program, shall be
78 considered depending on the etiology of the pain and the extent
79 to which the pain is associated with physical and psychosocial
80 impairment. The interdisciplinary nature of the treatment plan
81 shall be documented.

82 (c) The physician shall discuss the risks and benefits of
83 the use of controlled substances, including the risks of abuse
84 and addiction, as well as physical dependence and its
85 consequences, with the patient, persons designated by the
86 patient, or the patient's surrogate or guardian if the patient
87 is incompetent. The physician shall use a written controlled
88 substance agreement between the physician and the patient
89 outlining the patient's responsibilities, including, but not
90 limited to:

91 1. Number and frequency of controlled substance
92 prescriptions and refills.

93 2. Patient compliance and reasons for which drug therapy
94 may be discontinued, such as a violation of the agreement.

95 3. An agreement that controlled substances for the
96 treatment of chronic nonmalignant pain shall be prescribed by a
97 single treating physician unless otherwise authorized by the
98 treating physician and documented in the medical record.

99 (d) The patient shall be seen by the physician at regular
100 intervals, not to exceed 3 months, to assess the efficacy of



511982

101 treatment, ensure that controlled substance therapy remains
102 indicated, evaluate the patient's progress toward treatment
103 objectives, consider adverse drug effects, and review the
104 etiology of the pain. Continuation or modification of therapy
105 shall depend on the physician's evaluation of the patient's
106 progress. If treatment goals are not being achieved, despite
107 medication adjustments, the physician shall reevaluate the
108 appropriateness of continued treatment. The physician shall
109 monitor patient compliance in medication usage, related
110 treatment plans, controlled substance agreements, and
111 indications of substance abuse or diversion at a minimum of 3-
112 month intervals.

113 (e) The physician shall refer the patient as necessary for
114 additional evaluation and treatment in order to achieve
115 treatment objectives. Special attention shall be given to those
116 patients who are at risk for misusing their medications and
117 those whose living arrangements pose a risk for medication
118 misuse or diversion. The management of pain in patients with a
119 history of substance abuse or with a comorbid psychiatric
120 disorder requires extra care, monitoring, and documentation and
121 requires consultation with or referral to an addictionologist or
122 psychiatrist.

123 (f) A physician registered under this section must maintain
124 accurate, current, and complete records that are accessible and
125 readily available for review and comply with the requirements of
126 this section, the applicable practice act, and applicable board
127 rules. The medical records must include, but are not limited to:

128 1. The complete medical history and a physical examination,
129 including history of drug abuse or dependence.



511982

130 2. Diagnostic, therapeutic, and laboratory results.

131 3. Evaluations and consultations.

132 4. Treatment objectives.

133 5. Discussion of risks and benefits.

134 6. Treatments.

135 7. Medications, including date, type, dosage, and quantity
136 prescribed.

137 8. Instructions and agreements.

138 9. Periodic reviews.

139 10. Results of any drug testing.

140 11. A photocopy of the patient's government-issued photo
141 identification.

142 12. If a written prescription for a controlled substance is
143 given to the patient, a duplicate of the prescription.

144 13. The physician's full name presented in a legible
145 manner.

146 (g) Patients with signs or symptoms of substance abuse
147 shall be immediately referred to a board-certified pain
148 management physician, an addiction medicine specialist, or a
149 mental health addiction facility as it pertains to drug abuse or
150 addiction unless the physician is board-certified or board-
151 eligible in pain management. Throughout the period of time
152 before receiving the consultant's report, a prescribing
153 physician shall clearly and completely document medical
154 justification for continued treatment with controlled substances
155 and those steps taken to ensure medically appropriate use of
156 controlled substances by the patient. Upon receipt of the
157 consultant's written report, the prescribing physician shall
158 incorporate the consultant's recommendations for continuing,



511982

159 modifying, or discontinuing controlled substance therapy. The
160 resulting changes in treatment shall be specifically documented
161 in the patient's medical record. Evidence or behavioral
162 indications of diversion shall be followed by discontinuation of
163 controlled substance therapy and the patient shall be discharged
164 and all results of testing and actions taken by the physician
165 shall be documented in the patient's medical record.

166
167 This subsection does not apply to a board-certified
168 anesthesiologist, physiatrist, or neurologist, or to a board-
169 certified physician who has surgical privileges at a hospital or
170 ambulatory surgery center and primarily provides surgical
171 services. This subsection does not apply to a board-certified
172 medical specialist who has also completed a fellowship in pain
173 medicine approved by the Accreditation Council for Graduate
174 Medical Education or the American Osteopathic Association, or
175 who is also board certified in pain medicine by a board approved
176 by the American Board of Medical Specialties or the American
177 Osteopathic Association and performs interventional pain
178 procedures of the type routinely billed using surgical codes.
179 This subsection does not apply to any physician licensed under
180 chapter 458 or chapter 459 who writes fewer than 50
181 prescriptions for a controlled substance for all of his or her
182 patients combined in any 1 calendar year.

183
184 ===== T I T L E A M E N D M E N T =====

185 And the title is amended as follows:

186 Delete line 4981

187 and insert:



511982

188 under certain circumstances; creating s. 456.44, F.S.;
189 providing definitions; requiring certain physicians to
190 designate themselves as controlled substance
191 prescribing practitioners on their practitioner
192 profiles; providing an effective date; requiring
193 registered physicians to meet certain standards of
194 practice; requiring a physical examination; requiring
195 a written protocol; requiring an assessment of risk
196 for aberrant behavior; requiring a treatment plan;
197 requiring specified informed consent; requiring
198 consultation and referral in certain circumstances;
199 requiring medical records meeting certain criteria;
200 providing an exemption for physicians meeting certain
201 criteria; providing for nonapplication; amending s.
202 483.035,