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LEGISLATIVE ACTION

Senate

House

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Floor: WD/3R

05/06/2011 11:21 AM

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Senator Fasano moved the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

400.9905 Definitions.—

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



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

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

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



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

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



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

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

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



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

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

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

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

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

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



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

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

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

140 456.013 Department; general licensing provisions.-

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

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



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

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

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

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

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

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

178  
179 The course hours may be included in the total number of hours of  
180 continuing education required by the profession and must be  
181 approved by the board or by the department if there is no board.

182 The boards, or the department if there is no board, shall  
183 approve the course offered through a facility licensed under  
184 chapter 395 for its employees if the course is at least 3 hours  
185 and covers the education requirements.

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



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

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

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

195 458.305 Definitions.—As used in this chapter:

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

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

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

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

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

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

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

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

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

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





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217  
218 may not display any sign or take any other action that would  
219 lead the public to believe that such person is engaged in the  
220 business of dispensing a controlled substance. Any advertisement  
221 that states "dispensing onsite" or "onsite pharmacy" violates  
222 this paragraph. This paragraph does not preclude a person who is  
223 not licensed as a medical practitioner from owning a pain-  
224 management clinic.

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

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

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

242 458.3191 Physician survey.—

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



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

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

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

252 2. Practice setting.

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

254 4. Anticipated change to license or practice status.

255 5. Areas of specialty or certification.

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

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

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

263 458.3192 Analysis of survey results; report.—

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

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



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275 458.3265 Pain-management clinics.-

276 (1) REGISTRATION.-

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

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

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

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

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

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

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

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



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304 subsection (1).

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

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

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

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

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



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

336 (5) PENALTIES; ENFORCEMENT.—

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

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

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

355 458.327 Penalty for violations.—

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

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



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

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

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

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

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



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

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

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

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

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

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

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



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420 increased penalties.

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

425 459.003 Definitions.—As used in this chapter:

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

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

431 459.0081 Physician survey.—

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

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

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

441 2. Practice setting.

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

443 4. Anticipated change to license or practice status.

444 5. Areas of specialty or certification.

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

448 7. Whether the physician uses the prescription drug





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

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

452 459.0082 Analysis of survey results; report.—

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

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

464 459.013 Penalty for violations.—

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

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

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



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

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

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

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

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

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



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

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

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

521 459.0137 Pain-management clinics.—

522 (1) REGISTRATION.—

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

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

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



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

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

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

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

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

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

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

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

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



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

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

585 (5) PENALTIES; ENFORCEMENT.—

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



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

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

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

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

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

617       465.015 Violations and penalties.—

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



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

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

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

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

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

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

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

645 465.0276 Dispensing practitioner.-

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



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

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

656 499.01 Permits.—

657 (2) The following permits are established:

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

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





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

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

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

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

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

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

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

709 766.101 Medical review committee, immunity from liability.-



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



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



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

770 810.02 Burglary.—

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

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

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

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

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

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

787 (f) Structure or conveyance when the offense intended to be  
788 committed is theft of a substance controlled by s. 893.03.

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



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

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

817 812.014 Theft.—

818 (2)

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

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



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



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

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

870 893.021 Adulterated drug.—

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

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

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

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



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

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

891 893.04 Pharmacist and practitioner.—

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

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

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

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

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

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





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

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

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

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

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

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

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

931           4. The name of the prescribing practitioner.

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

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

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

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



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942 893.055 Prescription drug monitoring program.—

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

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

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

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

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

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



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

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

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

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

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

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

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



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



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

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

1057 (c) All dispensers and prescribers subject to these



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

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

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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

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





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

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

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



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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

1318 1. A Florida corporation not for profit incorporated under



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

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

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

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

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



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





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

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

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

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

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

1400       e. Providing funds for travel expenses.

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

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

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



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

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

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



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1435 department or office by the direct-support organization.

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

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

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

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

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



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

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



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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

1579 (a) The reciprocal agreement may allow the following



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

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

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

1600 3. A law enforcement officer from another state:

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

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

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

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





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1609 prescriptions for controlled substances.

1610

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

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

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

1629 893.07 Records.—

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



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

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

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

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

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

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

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



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

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

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



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

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

1700 893.13 Prohibited acts; penalties.-

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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





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

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

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

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

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

1858 (b) Section 810.02, relating to burglary;

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

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

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

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

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

1869 465.025 Substitution of drugs.—



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

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

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

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

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

1896 And the title is amended as follows:

1897           Delete everything before the enacting clause  
1898 and insert:



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



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



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



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

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

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



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



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





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



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



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