



533372

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2011	.	
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The Committee on Health Regulation (Altman) recommended the following:

Senate Amendment to Amendment (958050)

Delete lines 369 - 477
and insert:
of controlled substances at a pain-management clinic for the treatment of chronic nonmalignant pain of a patient occurring three or more times within a 6-month period without documenting in the patient's record the reason that such dosage is within the standard of care. For the purpose of this paragraph, the standard of care is set forth in rule 64B8-9.013(3), Florida Administrative Code.

(2) Each of the following acts constitutes a misdemeanor of



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13 the first degree, punishable as provided in s. 775.082 or s.
14 775.083:

15 (g) Failing to perform a physical examination of a patient
16 on the same day that the treating physician dispenses or
17 prescribes a controlled substance to the patient at a pain-
18 management clinic two times in a 6-month period, or failing to
19 perform a physical examination on two different patients on the
20 same day that the treating physician dispenses or prescribes a
21 controlled substance to each patient at a pain-management clinic
22 within a 6-month period.

23 (h) Prescribing or dispensing in excess of a 72-hour dose
24 of controlled substances at a pain-management clinic for the
25 treatment of chronic nonmalignant pain of a patient occurring
26 two times within a 6-month period without documenting in the
27 patient's record the reason that such dosage is within the
28 standard of care. For the purpose of this paragraph, the
29 standard of care is set forth in rule 64B8-9.013(3), Florida
30 Administrative Code.

31 (3) Each of the following acts constitutes a misdemeanor of
32 the second degree, punishable as provided in s. 775.082 or s.
33 775.083:

34 (a) A first offense of failing to perform a physical
35 examination of a patient on the same day that the treating
36 physician dispenses or prescribes a controlled substance to the
37 patient at a pain-management clinic.

38 (b) A first offense of failing to document in a patient's
39 record the reason that such dosage is within the standard of
40 care for prescribing or dispensing in excess of a 72-hour dose
41 of controlled substances at a pain-management clinic for the



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42 treatment of chronic nonmalignant pain.

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

45 458.331 Grounds for disciplinary action; action by the
46 board and department.—

47 (11) Notwithstanding subsection (2), upon finding that a
48 physician has prescribed or dispensed, or caused to be
49 prescribed or dispensed, a controlled substance in a pain-
50 management clinic in a manner that violates the standard of
51 practice as set forth in chapter 458 or rules adopted pursuant
52 to chapter 458, the board shall, at a minimum, suspend the
53 physician's license for at least 6 months and impose a fine of
54 at least \$10,000 per count. Repeated violations shall result in
55 increased penalties.

56 Section 10. Present subsections (3), (4), and (5) of
57 section 459.003, Florida Statutes, are redesignated as
58 subsections (4), (5), and (6), respectively, and a new
59 subsection (3) is added to that section, to read:

60 459.003 Definitions.—As used in this chapter:

61 (3) "Dispensing physician" means an osteopathic physician
62 who is registered as a dispensing practitioner under s.
63 465.0276.

64 Section 11. Paragraphs (f) and (g) are added to subsection
65 (1), paragraphs (e) and (f) are added to subsection (2), and
66 paragraphs (d) and (e) are added to subsection (3) of section
67 459.013, Florida Statutes, to read:

68 459.013 Penalty for violations.—

69 (1) Each of the following acts constitutes a felony of the
70 third degree, punishable as provided in s. 775.082, s. 775.083,



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71 or s. 775.084:

72 (f) Failing to perform a physical examination of a patient
73 on the same day that the osteopathic physician dispenses or
74 prescribes a controlled substance to the patient at a pain-
75 management clinic occurring three or more times within a 6-month
76 period, or failing to perform a physical examination on three or
77 more different patients on the same day that the osteopathic
78 physician dispenses or prescribes a controlled substance to each
79 patient at a pain-management clinic within a 6-month period.

80 (g) Prescribing or dispensing in excess of a 72-hour dose
81 of controlled substances at a pain-management clinic for the
82 treatment of chronic nonmalignant pain of a patient occurring
83 three or more times within a 6-month period without documenting
84 in the patient's record the reason that such dosage is within
85 the standard of care. For the purpose of this paragraph, the
86 standard of care is set forth in rule 64B8-9.013(3), Florida
87 Administrative Code.

88 (2) Each of the following acts constitutes a misdemeanor of
89 the first degree, punishable as provided in s. 775.082 or s.
90 775.083:

91 (e) Failing to perform a physical examination of a patient
92 on the same day that the osteopathic physician dispenses or
93 prescribes a controlled substance to the patient at a pain-
94 management clinic occurring two times within a 6-month period,
95 or failing to perform a physical examination on two different
96 patients on the same day that the osteopathic physician
97 dispenses or prescribes a controlled substance to each patient
98 at a pain-management clinic within a 6-month period.

99 (f) Prescribing or dispensing in excess of a 72-hour dose



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100 of controlled substances at a pain-management clinic for the
101 treatment of chronic nonmalignant pain of a patient occurring
102 two times within a 6-month period without documenting in the
103 patient's record the reason that such dosage is within the
104 standard of care. For the purpose of this paragraph, the
105 standard of care is set forth in rule 64B8-9.013(3), Florida
106 Administrative Code.

107 (3) Each of the following constitutes a misdemeanor of the
108 second degree, punishable as provided in s. 775.082 or s.
109 775.083:

110 (d) A first offense of failing to perform a physical
111 examination of a patient on the same day that the osteopathic
112 physician dispenses or prescribes a controlled substance to the
113 patient at a pain-management clinic.

114 (e) A first offense of failing to document in a patient's
115 record the reason that such dosage is within the standard of
116 care for prescribing or dispensing in excess of a 72-hour dose
117 of controlled substances at a pain-management clinic for the
118 treatment of chronic