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LEGISLATIVE ACTION

Senate

House

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Floor: 6/AD/2R

04/28/2011 02:16 PM

Senator Bogdanoff moved the following:

Senate Amendment (with directory and title amendments)

Delete lines 715 - 739

and insert:

(1) REGISTRATION.—

(a) "Pain-management clinic," hereinafter referred to as "clinic," means a publicly or privately owned facility where in any month a majority of patients are prescribed opioids, benzodiazepines, barbiturates, or carisoprodol for the treatment of chronic nonmalignant pain. "Chronic nonmalignant pain" means pain unrelated to cancer or rheumatoid arthritis which persists beyond the usual course of a disease or the injury that is the cause of the pain or more than 90 days after surgery. All



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14 ~~privately owned pain-management clinics, facilities, or offices,~~
15 ~~hereinafter referred to as "clinics," which advertise in any~~
16 ~~medium for any type of pain-management services, or employ an~~
17 ~~osteopathic physician who is primarily engaged in the treatment~~
18 ~~of pain by prescribing or dispensing controlled substance~~
19 ~~medications,~~ must register with the department unless:

20 1. That clinic is licensed as a facility pursuant to
21 chapter 395;

22 2. The majority of the physicians who provide services in
23 the clinic primarily provide surgical services or interventional
24 pain procedures of the type routinely billed using surgical
25 codes;

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

30 4. The clinic is affiliated with an accredited medical
31 school at which training is provided for medical students,
32 residents, or fellows;

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

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

37 (f) If the department finds upon a hearing by the probable
38 cause panel of the appropriate board that a pain-management
39 clinic does not meet the requirement of paragraph (d) or is
40 owned, directly or indirectly, by a person meeting any criteria
41 listed in paragraph (e), the department shall revoke the
42 certificate of registration previously issued by the department.



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43 As determined by rule, the department may grant an exemption to
44 denying a registration or revoking a previously issued
45 registration if more than 10 years have elapsed since
46 adjudication. As used in this subsection, the term "convicted"
47 includes an adjudication of guilt following a plea of guilty or
48 nolo contendere or the forfeiture of a bond when charged with a
49 crime.

50 (g) The department may revoke the clinic's certificate of
51 registration and prohibit all physicians associated with that
52 pain-management clinic from practicing at that clinic location
53 based upon an annual inspection and evaluation of the factors
54 described in subsection (3) and upon a final determination by
55 the probable cause panel of the appropriate board that any
56 physician associated with that pain-management clinic knew or
57 should have known of any violations of the factors described in
58 subsection (3).

59 (h) 1. If the registration of a pain-management clinic is
60 revoked or suspended, the designated physician of the pain-
61 management clinic, the owner or lessor of the pain-management
62 clinic property, the manager, and the proprietor shall cease to
63 operate the facility as a pain-management clinic as of the
64 effective date of the suspension or revocation.

65 2. Notwithstanding subparagraph 1., the clinic's
66 registration shall not be revoked or suspended if the clinic,
67 within 24 hours after notification of suspension or revocation,
68 appoints another designated physician who has a full, active,
69 and unencumbered license under this chapter or chapter 458 to
70 operate a pain-management clinic.

71 (k) If the clinic's registration is revoked, any person



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72 named in the registration documents of the pain-management
73 clinic, including persons owning or operating the pain-
74 management clinic, may not, as an individual or as a part of a
75 group, make application for a permit to operate a pain-
76 management clinic for 5 years after the date the registration is
77 revoked upon a finding by the probable cause panel of the
78 appropriate board, and an opportunity to be heard, that the
79 persons operating such clinic knew or should have known of
80 violations causing such revocation.

81
82 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

83 And the directory clause is amended as follows:

84 Delete line 710

85 and insert:

86 Section 12. Paragraphs (a), (f), (g), (h), and (k) of
87 subsection (1) and paragraph

88
89 ===== T I T L E A M E N D M E N T =====

90 And the title is amended as follows:

91 Delete lines 63 - 71

92 and insert:

93 additional penalties; amending s. 459.0137, F.S.;

94 redefining the term "pain-management clinic" and

95 defining the term "chronic nonmalignant pain";

96 providing an exemption from the requirement that all

97 privately owned pain-management clinics, facilities,

98 or offices that advertise in any medium for any type

99 of pain-management services, or employ an osteopathic

100 physician who is primarily engaged in the treatment of



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101 pain by prescribing or dispensing controlled substance
102 medications, must register with the Department of
103 Health; authorizing the department to revoke the
104 certificate of registration of a pain-management
105 clinic based upon a finding by a probable cause panel
106 of a board that the clinic does not meet certain
107 requirements; authorizing the department to revoke a
108 clinic's certificate of registration and prohibit all
109 physicians associated with that clinic from practicing
110 at that clinic location based upon an annual
111 inspection and evaluation and upon a final
112 determination by the probable cause panel of the
113 appropriate board that any physician associated with
114 that pain-management clinic knew or should have known
115 of certain violations; prohibiting the department from
116 revoking or suspending a clinic's registration if the
117 clinic appoints another designated physician;
118 prohibiting persons owning or operating a pain-
119 management clinic that has a revoked registration from
120 applying to operate another pain-management clinic
121 within a specified number of years upon a finding by
122 the probable cause panel of the appropriate board, and
123 an opportunity to be heard, when the persons operating
124 such clinic knew or should have known of violations
125 causing such revocation; requiring a physician, an
126 advanced registered