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LEGISLATIVE ACTION

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



13 of this part do not apply to:

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  
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



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71 395.

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



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100 compliance with all federal and state laws. However, a health  
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



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129 issues securities traded on an exchange registered with the  
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.



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



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187 licensee renewing his or her license on or after July 1, 2012,  
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





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216 Statutes,  
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



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245 with the renewal of such license under procedures adopted by the  
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. Paragraphs (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



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274 subsection (5) of that section, to read:

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;

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

291 4. The clinic is affiliated with an accredited medical  
292 school at which training is provided for medical students,  
293 residents, or fellows;

294 5. The clinic does not prescribe or dispense controlled  
295 substances for the treatment of pain; ~~or~~

296 6. The clinic is owned by a corporate entity exempt from  
297 federal taxation under 26 U.S.C. s. 501(c) (3); or—

298 7. The majority of the physicians who provide services in  
299 the clinic are physicians who specialize in interventional pain  
300 management in accordance with the American Society of  
301 Interventional Pain Physicians.

302 (2) PHYSICIAN RESPONSIBILITIES.—These responsibilities



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303 apply to any physician who provides professional services in a  
304 pain-management clinic that is required to be registered in  
305 subsection (1).

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

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

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

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

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



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

335 (5) PENALTIES; ENFORCEMENT.—

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

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

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

354 458.327 Penalty for violations.—

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

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



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

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

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

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

386 (h) Prescribing or dispensing in excess of a 72-hour dose  
387 of controlled substances for the treatment of chronic  
388 nonmalignant pain of a patient occurring two times within a 6-  
389 month period without documenting in the patient's record the



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390 reason that such dosage is within the standard of care. For the  
391 purpose of this paragraph, the standard of care is set forth in  
392 rule 64B8-9.013(3), Florida Administrative Code.

393 (3) Each of the following acts constitutes a misdemeanor of  
394 the second degree, punishable as provided in s. 775.082 or s.  
395 775.083:

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

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

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

407 458.331 Grounds for disciplinary action; action by the  
408 board and department.-

409 (11) Notwithstanding subsection (2), upon finding that a  
410 physician has prescribed or dispensed, or caused to be  
411 prescribed or dispensed, a controlled substance in a pain-  
412 management clinic in a manner that violates the standard of  
413 practice as set forth in chapter 458 or rules adopted pursuant  
414 to chapter 458, the board shall, at a minimum, suspend the  
415 physician's license for at least 6 months and impose a fine of  
416 at least \$10,000 per count. Repeated violations shall result in  
417 increased penalties.

418 Section 10. Present subsections (3), (4), and (5) of



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419 section 459.003, Florida Statutes, are redesignated as  
420 subsections (4), (5), and (6), respectively, and a new  
421 subsection (3) is added to that section, to read:

422 459.003 Definitions.—As used in this chapter:

423 (3) "Dispensing physician" means an osteopathic physician  
424 who is registered as a dispensing practitioner under s.  
425 465.0276.

426 Section 11. Paragraphs (f) and (g) are added to subsection  
427 (1), paragraphs (e) and (f) are added to subsection (2), and  
428 paragraphs (d) and (e) are added to subsection (3) of section  
429 459.013, Florida Statutes, to read:

430 459.013 Penalty for violations.—

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

434 (f) Failing to perform a physical examination of a patient  
435 on the same day that the osteopathic physician dispenses or  
436 prescribes a controlled substance to the patient at a pain-  
437 management clinic occurring three or more times within a 6-month  
438 period, or failing to perform a physical examination on three or  
439 more different patients on the same day that the osteopathic  
440 physician dispenses or prescribes a controlled substance to each  
441 patient at a pain-management clinic within a 6-month period.

442 (g) Prescribing or dispensing in excess of a 72-hour dose  
443 of controlled substances for the treatment of chronic  
444 nonmalignant pain of a patient occurring three or more times  
445 within a 6-month period without documenting in the patient's  
446 record the reason that such dosage is within the standard of  
447 care. For the purpose of this paragraph, the standard of care is





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448 set forth in rule 64B8-9.013(3), Florida Administrative Code.

449 (2) Each of the following acts constitutes a misdemeanor of  
450 the first degree, punishable as provided in s. 775.082 or s.  
451 775.083:

452 (e) Failing to perform a physical examination of a patient  
453 on the same day that the osteopathic physician dispenses or  
454 prescribes a controlled substance to the patient at a pain-  
455 management clinic occurring two times within a 6-month period,  
456 or failing to perform a physical examination on two different  
457 patients on the same day that the osteopathic physician  
458 dispenses or prescribes a controlled substance to each patient  
459 at a pain-management clinic within a 6-month period.

460 (f) Prescribing or dispensing in excess of a 72-hour dose  
461 of controlled substances for the treatment of chronic  
462 nonmalignant pain of a patient occurring two times within a 6-  
463 month period without documenting in the patient's record the  
464 reason that such dosage is within the standard of care. For the  
465 purpose of this paragraph, the standard of care is set forth in  
466 rule 64B8-9.013(3), Florida Administrative Code.

467 (3) Each of the following constitutes a misdemeanor of the  
468 second degree, punishable as provided in s. 775.082 or s.  
469 775.083:

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

474 (e) A first offense of failing to document in a patient's  
475 record the reason that such dosage is within the standard of  
476 care for prescribing or dispensing in excess of a 72-hour dose



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477 of controlled substances for the treatment of chronic  
478 nonmalignant pain. For the purpose of this paragraph, the  
479 standard of care is set forth in rule 64B8-9.013(3), Florida  
480 Administrative Code.

481 Section 12. Paragraph (c) of subsection (2) of section  
482 459.0137, Florida Statutes, is amended, and a new paragraphs (f)  
483 and (g) are added to subsection (5) of that section, to read:

484 459.0137 Pain-management clinics.—

485 (2) PHYSICIAN RESPONSIBILITIES.—These responsibilities  
486 apply to any osteopathic physician who provides professional  
487 services in a pain-management clinic that is required to be  
488 registered in subsection (1).

489 (c) An osteopathic physician must perform a physical  
490 examination of a patient on the same day that he or she  
491 dispenses or prescribes a controlled substance to a patient at a  
492 pain-management clinic. If the osteopathic physician prescribes  
493 or dispenses more than a 72-hour dose of controlled substances  
494 for the treatment of chronic nonmalignant pain, the osteopathic  
495 physician must document in the patient's record the reason for  
496 which prescribing or dispensing a dosage in excess of a 72-hour  
497 dose of controlled substances for the treatment of chronic  
498 nonmalignant pain is within the standard of care for prescribing  
499 or dispensing that quantity.

500 (5) PENALTIES; ENFORCEMENT.—

501 (f) A licensee or other person who serves as the designated  
502 physician of a pain-management clinic as defined in s. 458.3265  
503 or s. 459.0137 and registers a pain-management clinic through  
504 intentional misrepresentation or fraud or procures or attempts  
505 to procure the registration of a pain-management clinic for any



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506 other person by making or causing to be made any false or  
507 fraudulent representation commits a felony of the third degree,  
508 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

515 Section 13. Subsection (11) is added to section 459.015,  
516 Florida Statutes, to read:

517 459.015 Grounds for disciplinary action; action by the  
518 board and department.—

519 (11) Notwithstanding subsection (2), upon finding that an  
520 osteopathic physician has prescribed or dispensed, or caused to  
521 be prescribed or dispensed, a controlled substance in a pain-  
522 management clinic in a manner that violates the standard of  
523 practice as set forth in chapter 459 or rules adopted pursuant  
524 to chapter 459, the board shall, at a minimum, suspend the  
525 osteopathic physician's license for at least 6 months and impose  
526 a fine of at least \$10,000 per count. Repeated violations shall  
527 result in increased penalties.

528 Section 14. Subsections (3) and (4) of section 465.015,  
529 Florida Statutes, are renumbered as subsections (4) and (5),  
530 respectively, and subsection (3) is added to that section, to  
531 read:

532 465.015 Violations and penalties.—

533 (3) (a) A licensed pharmacist, pharmacy technician, or any  
534 person working under the direction or supervision of a



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535 pharmacist or pharmacy technician, may not knowingly fail to  
536 timely report to the local county sheriff's office the name of  
537 any person who obtains or attempts to obtain a substance  
538 controlled by s. 893.03 which the pharmacist, pharmacy intern,  
539 or other person employed by or at a pharmacy knows or reasonably  
540 should have known was obtained or attempted to be obtained from  
541 the pharmacy through any fraudulent method or representation. A  
542 pharmacist, pharmacy intern, or other person employed by or at a  
543 pharmacy who fails to make such a report within 24 hours after  
544 learning of the fraud or attempted fraud commits a misdemeanor  
545 of the first degree, punishable as provided in s. 775.082 or s.  
546 775.083.

547 (b) A sufficient report of the fraudulent obtaining of or  
548 attempt to obtain a controlled substance under this section must  
549 contain, at a minimum, a copy of the prescription used or  
550 presented and a narrative, including all information available  
551 to the pharmacy regarding:

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

554 2. The name, description, and any personal identification  
555 information pertaining to the person presenting the  
556 prescription; and

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

559  
560 A pharmacist, pharmacy intern, or other person employed by or at  
561 a pharmacy is not subject to disciplinary action for reporting  
562 under this subsection.

563 Section 15. Subsection (6) is added to section 465.0276,



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564 Florida Statutes, to read:

565 465.0276 Dispensing practitioner.—

566 (6) In order to dispense a controlled substance listed in  
567 Schedule II, Schedule III, or Schedule IV in s. 893.03, a  
568 practitioner authorized by law to prescribe a controlled  
569 substance shall register with the Board of Pharmacy as a  
570 dispensing practitioner who dispenses controlled substances and  
571 pay a fee not to exceed \$100. The department shall adopt rules  
572 establishing procedures for renewal of the registration every 4  
573 years.

574 Section 16. Paragraph (a) of subsection (1) of section  
575 766.101, Florida Statutes, is amended to read:

576 766.101 Medical review committee, immunity from liability.—

577 (1) As used in this section:

578 (a) The term “medical review committee” or “committee”  
579 means:

580 1.a. A committee of a hospital or ambulatory surgical  
581 center licensed under chapter 395 or a health maintenance  
582 organization certificated under part I of chapter 641,

583 b. A committee of a physician-hospital organization, a  
584 provider-sponsored organization, or an integrated delivery  
585 system,

586 c. A committee of a state or local professional society of  
587 health care providers,

588 d. A committee of a medical staff of a licensed hospital or  
589 nursing home, provided the medical staff operates pursuant to  
590 written bylaws that have been approved by the governing board of  
591 the hospital or nursing home,

592 e. A committee of the Department of Corrections or the



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593 Correctional Medical Authority as created under s. 945.602, or  
594 employees, agents, or consultants of either the department or  
595 the authority or both,

596 f. A committee of a professional service corporation formed  
597 under chapter 621 or a corporation organized under chapter 607  
598 or chapter 617, which is formed and operated for the practice of  
599 medicine as defined in s. 458.305(4) ~~s. 458.305(3)~~, and which  
600 has at least 25 health care providers who routinely provide  
601 health care services directly to patients,

602 g. A committee of the Department of Children and Family  
603 Services which includes employees, agents, or consultants to the  
604 department as deemed necessary to provide peer review,  
605 utilization review, and mortality review of treatment services  
606 provided pursuant to chapters 394, 397, and 916,

607 h. A committee of a mental health treatment facility  
608 licensed under chapter 394 or a community mental health center  
609 as defined in s. 394.907, provided the quality assurance program  
610 operates pursuant to the guidelines which have been approved by  
611 the governing board of the agency,

612 i. A committee of a substance abuse treatment and education  
613 prevention program licensed under chapter 397 provided the  
614 quality assurance program operates pursuant to the guidelines  
615 which have been approved by the governing board of the agency,

616 j. A peer review or utilization review committee organized  
617 under chapter 440,

618 k. A committee of the Department of Health, a county health  
619 department, healthy start coalition, or certified rural health  
620 network, when reviewing quality of care, or employees of these  
621 entities when reviewing mortality records, or



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622           1. A continuous quality improvement committee of a pharmacy  
623 licensed pursuant to chapter 465,

624  
625 which committee is formed to evaluate and improve the quality of  
626 health care rendered by providers of health service, to  
627 determine that health services rendered were professionally  
628 indicated or were performed in compliance with the applicable  
629 standard of care, or that the cost of health care rendered was  
630 considered reasonable by the providers of professional health  
631 services in the area; or

632           2. A committee of an insurer, self-insurer, or joint  
633 underwriting association of medical malpractice insurance, or  
634 other persons conducting review under s. 766.106.

635           Section 17. Subsection (3) of section 810.02, Florida  
636 Statutes, is amended to read:

637           810.02 Burglary.—

638           (3) Burglary is a felony of the second degree, punishable  
639 as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the  
640 course of committing the offense, the offender does not make an  
641 assault or battery and is not and does not become armed with a  
642 dangerous weapon or explosive, and the offender enters or  
643 remains in a:

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

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

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

650           (d) Conveyance, and there is another person in the



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651 conveyance at the time the offender enters or remains; ~~or~~  
652 (e) Authorized emergency vehicle, as defined in s. 316.003;  
653 or-

654 (f) Structure or conveyance when the offense intended to be  
655 committed is theft of a substance controlled by s. 893.03.  
656 Notwithstanding any contrary provisions of law, separate  
657 judgments and sentences for burglary with the intent to commit  
658 theft of a controlled substance under this paragraph and for any  
659 applicable offense for possession of a controlled substance  
660 under s. 893.13, or an offense for trafficking in a controlled  
661 substance under s. 893.135, may be imposed if all such offenses  
662 involve the same amount or amounts of a controlled substance.

663  
664 However, if the burglary is committed within a county that is  
665 subject to a state of emergency declared by the Governor under  
666 chapter 252 after the declaration of emergency is made and the  
667 perpetration of the burglary is facilitated by conditions  
668 arising from the emergency, the burglary is a felony of the  
669 first degree, punishable as provided in s. 775.082, s. 775.083,  
670 or s. 775.084. As used in this subsection, the term "conditions  
671 arising from the emergency" means civil unrest, power outages,  
672 curfews, voluntary or mandatory evacuations, or a reduction in  
673 the presence of or response time for first responders or  
674 homeland security personnel. A person arrested for committing a  
675 burglary within a county that is subject to such a state of  
676 emergency may not be released until the person appears before a  
677 committing magistrate at a first appearance hearing. For  
678 purposes of sentencing under chapter 921, a felony offense that  
679 is reclassified under this subsection is ranked one level above





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680 the ranking under s. 921.0022 or s. 921.0023 of the offense  
681 committed.

682 Section 18. Paragraph (c) of subsection (2) of section  
683 812.014, Florida Statutes, is amended to read:

684 812.014 Theft.—

685 (2)

686 (c) It is grand theft of the third degree and a felony of  
687 the third degree, punishable as provided in s. 775.082, s.  
688 775.083, or s. 775.084, if the property stolen is:

- 689 1. Valued at \$300 or more, but less than \$5,000.
- 690 2. Valued at \$5,000 or more, but less than \$10,000.
- 691 3. Valued at \$10,000 or more, but less than \$20,000.
- 692 4. A will, codicil, or other testamentary instrument.
- 693 5. A firearm.
- 694 6. A motor vehicle, except as provided in paragraph (a).
- 695 7. Any commercially farmed animal, including any animal of  
696 the equine, bovine, or swine class, or other grazing animal, and  
697 including aquaculture species raised at a certified aquaculture  
698 facility. If the property stolen is aquaculture species raised  
699 at a certified aquaculture facility, then a \$10,000 fine shall  
700 be imposed.
- 701 8. Any fire extinguisher.
- 702 9. Any amount of citrus fruit consisting of 2,000 or more  
703 individual pieces of fruit.
- 704 10. Taken from a designated construction site identified by  
705 the posting of a sign as provided for in s. 810.09(2)(d).
- 706 11. Any stop sign.
- 707 12. Anhydrous ammonia.
- 708 13. Any amount of a substance controlled by s. 893.03.



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709 Notwithstanding any contrary provisions of law, separate  
710 judgments and sentences for theft of a controlled substance  
711 under this subparagraph, and for any applicable offense for  
712 possession of a controlled substance under s. 893.13, or an  
713 offense for trafficking in a controlled substance under s.  
714 893.135 may be imposed if all such offenses involve the same  
715 amount or amounts of controlled substance.

716  
717 However, if the property is stolen within a county that is  
718 subject to a state of emergency declared by the Governor under  
719 chapter 252, the property is stolen after the declaration of  
720 emergency is made, and the perpetration of the theft is  
721 facilitated by conditions arising from the emergency, the  
722 offender commits a felony of the second degree, punishable as  
723 provided in s. 775.082, s. 775.083, or s. 775.084, if the  
724 property is valued at \$5,000 or more, but less than \$10,000, as  
725 provided under subparagraph 2., or if the property is valued at  
726 \$10,000 or more, but less than \$20,000, as provided under  
727 subparagraph 3. As used in this paragraph, the term "conditions  
728 arising from the emergency" means civil unrest, power outages,  
729 curfews, voluntary or mandatory evacuations, or a reduction in  
730 the presence of or the response time for first responders or  
731 homeland security personnel. For purposes of sentencing under  
732 chapter 921, a felony offense that is reclassified under this  
733 paragraph is ranked one level above the ranking under s.  
734 921.0022 or s. 921.0023 of the offense committed.

735 Section 19. Section 893.021, Florida Statutes, is created  
736 to read:

737 893.021 Adulterated drug.—



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

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

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

747           (2) A physician is not prevented from directing or  
748 prescribing a change to the recognized manufactured  
749 recommendations for use in a patient who presents a medical need  
750 for such a requirement change of any controlled substance. The  
751 prescribing physician shall clearly indicate any deviation of  
752 the recognized manufacturer's recommended use of a controlled  
753 substance on the original prescription, and the licensed  
754 pharmacist shall clearly indicate such deviation on the label of  
755 the prescription upon dispensing the controlled substance.

756           Section 20. Paragraphs (c), (d), and (e) of subsection (1)  
757 of section 893.04, Florida Statutes, are amended to read:

758           893.04 Pharmacist and practitioner.—

759           (1) A pharmacist, in good faith and in the course of  
760 professional practice only, may dispense controlled substances  
761 upon a written or oral prescription of a practitioner, under the  
762 following conditions:

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

766           1. The full name and address of the person for whom, or the



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767 owner of the animal for which, the controlled substance is  
768 dispensed.

769 2. The full name and address of the prescribing  
770 practitioner and the practitioner's federal controlled substance  
771 registry number shall be printed thereon.

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

774 4. The name of the controlled substance prescribed and the  
775 strength, quantity, and directions for use thereof. The  
776 directions for use must specify the authorization by the  
777 physician, any instructions requiring the adulteration of the  
778 dispensed form of the medication, and the medical necessity for  
779 the adulteration in accordance with s. 893.021.

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

782 6. The initials of the pharmacist filling the prescription  
783 and the date filled.

784 (d) The prescription must ~~shall~~ be retained on file by the  
785 proprietor of the pharmacy in which it is filled for a period of  
786 2 years.

787 (e) A label bearing the following information must be  
788 affixed to the original container in which a controlled  
789 substance is delivered as upon a prescription or authorized  
790 refill thereof, ~~as hereinafter provided, there shall be a label~~  
791 bearing the following information:

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

794 2. The date on which the prescription for such controlled  
795 substance was filled.



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

798           4. The name of the prescribing practitioner.

799           5. The name of the patient for whom, or of the owner and  
800 species of the animal for which, the controlled substance is  
801 prescribed.

802           6. The directions for the use of the controlled substance  
803 prescribed in the prescription.

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

807           Section 21. Section 893.055, Florida Statutes, is amended  
808 to read:

809           893.055 Prescription drug monitoring program.—

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

811           (a) "Patient advisory report" or "advisory report" means  
812 information provided by the department in writing, or as  
813 determined by the department, to a prescriber, dispenser,  
814 pharmacy, or patient concerning the dispensing of controlled  
815 substances. All advisory reports are for informational purposes  
816 only and impose no obligations of any nature or any legal duty  
817 on a prescriber, dispenser, pharmacy, or patient. The patient  
818 advisory report shall be provided in accordance with s.

819 893.13(7)(a)8. The advisory reports issued by the department are  
820 not subject to discovery or introduction into evidence in any  
821 civil or administrative action against a prescriber, dispenser,  
822 pharmacy, or patient arising out of matters that are the subject  
823 of the report; and a person who participates in preparing,  
824 reviewing, issuing, or any other activity related to an advisory



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825 report may not be permitted or required to testify in any such  
826 civil action as to any findings, recommendations, evaluations,  
827 opinions, or other actions taken in connection with preparing,  
828 reviewing, or issuing such a report.

829 (b) "Controlled substance" means a controlled substance  
830 listed in Schedule II, Schedule III, or Schedule IV in s.  
831 893.03.

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

834 (d) "Health care practitioner" or "practitioner" means any  
835 practitioner who is subject to licensure or regulation by the  
836 department under chapter 458, chapter 459, chapter 461, chapter  
837 462, chapter 464, chapter 465, or chapter 466.

838 (e) "Health care regulatory board" means any board for a  
839 practitioner or health care practitioner who is licensed or  
840 regulated by the department.

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

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

847 (h) "Active investigation" means an investigation that is  
848 being conducted with a reasonable, good faith belief that it  
849 could lead to the filing of administrative, civil, or criminal  
850 proceedings, or that is ongoing and continuing and for which  
851 there is a reasonable, good faith anticipation of securing an  
852 arrest or prosecution in the foreseeable future.

853 (i) "Law enforcement agency" means the Department of Law



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854 Enforcement, a Florida sheriff's department, a Florida police  
855 department, or a law enforcement agency of the Federal  
856 Government which enforces the laws of this state or the United  
857 States relating to controlled substances, and which its agents  
858 and officers are empowered by law to conduct criminal  
859 investigations and make arrests.

860 (j) "Program manager" means an employee of or a person  
861 contracted by the Department of Health who is designated to  
862 ensure the integrity of the prescription drug monitoring program  
863 in accordance with the requirements established in paragraphs  
864 (2) (a) and (b).

865 (2) (a) By December 1, 2010, the department shall design and  
866 establish a comprehensive electronic database system that has  
867 controlled substance prescriptions provided to it and that  
868 provides prescription information to a patient's health care  
869 practitioner and pharmacist who inform the department that they  
870 wish the patient advisory report provided to them. Otherwise,  
871 the patient advisory report will not be sent to the  
872 practitioner, pharmacy, or pharmacist. The system shall be  
873 designed to provide information regarding dispensed  
874 prescriptions of controlled substances and shall not infringe  
875 upon the legitimate prescribing or dispensing of a controlled  
876 substance by a prescriber or dispenser acting in good faith and  
877 in the course of professional practice. The system shall be  
878 consistent with standards of the American Society for Automation  
879 in Pharmacy (ASAP). The electronic system shall also comply with  
880 the Health Insurance Portability and Accountability Act (HIPAA)  
881 as it pertains to protected health information (PHI), electronic  
882 protected health information (EPHI), the National All Schedules



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883 Prescription Electronic Reporting (NASPER) Act's minimum  
884 requirements for authentication of a practitioner who requests  
885 information in the prescription drug monitoring program database  
886 and certification of the purpose for which information is  
887 requested, and all other relevant state and federal privacy and  
888 security laws and regulations. The department shall establish  
889 policies and procedures as appropriate regarding the reporting,  
890 accessing the database, evaluation, management, development,  
891 implementation, operation, storage, and security of information  
892 within the system. The reporting of prescribed controlled  
893 substances shall include a dispensing transaction with a  
894 dispenser pursuant to chapter 465 or through a dispensing  
895 transaction to an individual or address in this state with a  
896 pharmacy that is not located in this state but that is otherwise  
897 subject to the jurisdiction of this state as to that dispensing  
898 transaction. The reporting of patient advisory reports refers  
899 only to reports to patients, pharmacies, and practitioners.  
900 Separate reports that contain patient prescription history  
901 information and that are not patient advisory reports are  
902 provided to persons and entities as authorized in paragraphs  
903 (7) (b) and (c) and s. 893.0551.

904 (b) The department, when the direct support organization  
905 receives at least \$20,000 in nonstate moneys or the state  
906 receives at least \$20,000 in federal grants for the prescription  
907 drug monitoring program, and in consultation with the Office of  
908 Drug Control, shall adopt rules as necessary concerning the  
909 reporting, accessing the database, evaluation, management,  
910 development, implementation, operation, security, and storage of  
911 information within the system, including rules for when patient





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912 advisory reports are provided to pharmacies and prescribers. The  
913 patient advisory report shall be provided in accordance with s.  
914 893.13(7)(a)8. The department shall work with the professional  
915 health care licensure boards, such as the Board of Medicine, the  
916 Board of Osteopathic Medicine, and the Board of Pharmacy; other  
917 appropriate organizations, such as the Florida Pharmacy  
918 Association, the Office of Drug Control, the Florida Medical  
919 Association, the Florida Retail Federation, and the Florida  
920 Osteopathic Medical Association, including those relating to  
921 pain management; and the Attorney General, the Department of Law  
922 Enforcement, and the Agency for Health Care Administration to  
923 develop rules appropriate for the prescription drug monitoring  
924 program.

925 (c) All dispensers and prescribers subject to these  
926 reporting requirements shall be notified by the department of  
927 the implementation date for such reporting requirements.

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

932 (e) The department shall establish a method to allow  
933 corrections to the database when notified by a health care  
934 practitioner or pharmacist.

935 (3) The pharmacy dispensing the controlled substance and  
936 each prescriber who directly dispenses a controlled substance  
937 shall submit to the electronic system, by a procedure and in a  
938 format established by the department and consistent with an  
939 ASAP-approved format, the following information for inclusion in  
940 the database:



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941 (a) The name of the prescribing practitioner, the  
942 practitioner's federal Drug Enforcement Administration  
943 registration number, the practitioner's National Provider  
944 Identification (NPI) or other appropriate identifier, and the  
945 date of the prescription.

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

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

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

955 (e) The full name, federal Drug Enforcement Administration  
956 registration number, and address of the pharmacy or other  
957 location from which the controlled substance was dispensed. If  
958 the controlled substance was dispensed by a practitioner other  
959 than a pharmacist, the practitioner's full name, federal Drug  
960 Enforcement Administration registration number, and address.

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

964 (g) Other appropriate identifying information as determined  
965 by department rule.

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

969 (4) Each time a controlled substance is dispensed to an



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970 individual, the controlled substance shall be reported to the  
971 department through the system as soon thereafter as possible,  
972 but not more than 7 ~~15~~ days after the date the controlled  
973 substance is dispensed unless an extension is approved by the  
974 department for cause as determined by rule. A dispenser must  
975 meet the reporting requirements of this section by providing the  
976 required information concerning each controlled substance that  
977 it dispensed in a department-approved, secure methodology and  
978 format. Such approved formats may include, but are not limited  
979 to, submission via the Internet, on a disc, or by use of regular  
980 mail.

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

984 (a) A health care practitioner when administering a  
985 controlled substance directly to a patient if the amount of the  
986 controlled substance is adequate to treat the patient during  
987 that particular treatment session.

988 (b) A pharmacist or health care practitioner when  
989 administering a controlled substance to a patient or resident  
990 receiving care as a patient at a hospital, nursing home,  
991 ambulatory surgical center, hospice, or intermediate care  
992 facility for the developmentally disabled which is licensed in  
993 this state.

994 ~~(c) A practitioner when administering or dispensing a~~  
995 ~~controlled substance in the health care system of the Department~~  
996 ~~of Corrections.~~

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



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999            (d)~~(e)~~ A health care practitioner when administering or  
1000 dispensing a controlled substance to a person under the age of  
1001 16 if the amount of the controlled substance is adequate to  
1002 treat the patient during that particular treatment session.

1003            (e)~~(f)~~ A pharmacist or a dispensing practitioner when  
1004 dispensing a one-time, 48-hour ~~72-hour~~ emergency resupply of a  
1005 controlled substance to a patient.

1006            (6) The department may establish when to suspend and when  
1007 to resume reporting information during a state-declared or  
1008 nationally declared disaster.

1009            (7) (a) A practitioner or pharmacist who dispenses a  
1010 controlled substance must submit the information required by  
1011 this section in an electronic or other method in an ASAP format  
1012 approved by rule of the department unless otherwise provided in  
1013 this section. The cost to the dispenser in submitting the  
1014 information required by this section may not be material or  
1015 extraordinary. Costs not considered to be material or  
1016 extraordinary include, but are not limited to, regular postage,  
1017 electronic media, regular electronic mail, and facsimile  
1018 charges.

1019            (b)1. In order for a pharmacy, prescriber, practitioner, or  
1020 dispenser to ~~shall~~ have access to information in the  
1021 prescription drug monitoring program's database which relates to  
1022 a patient of that pharmacy, prescriber, practitioner, or  
1023 dispenser, the pharmacy, prescriber, practitioner, or dispenser  
1024 shall register with the department by submitting a registering  
1025 document provided by the department. The document and validation  
1026 of that document shall be determined by the department. Before a  
1027 pharmacy, prescriber, practitioner, or dispenser is granted



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1028 access to information in the database from the prescription drug  
1029 monitoring program, the department shall approve the submitted  
1030 document. Upon approval, the department shall grant the  
1031 registrant access to the appropriate information in the  
1032 prescription drug monitoring program's database ~~in a manner~~  
1033 ~~established by the department as needed for the purpose of~~  
1034 ~~reviewing the patient's controlled substance prescription~~  
1035 ~~history.~~

1036 2. Other access to the program's database shall be limited  
1037 to the program's manager and to the designated program and  
1038 support staff, who may act only at the direction of the program  
1039 manager or, in the absence of the program manager, as  
1040 authorized. Access by the program manager or such designated  
1041 staff is for prescription drug program management only or for  
1042 management of the program's database and its system in support  
1043 of the requirements of this section and in furtherance of the  
1044 prescription drug monitoring program. Confidential and exempt  
1045 information in the database shall be released only as provided  
1046 in paragraph (c) and s. 893.0551. The program manager,  
1047 designated program and support staff who act at the direction of  
1048 or in the absence of the program manager, and any individual who  
1049 has similar access regarding the management of the database from  
1050 the prescription drug monitoring program shall submit  
1051 fingerprints to the department for background screening. The  
1052 department shall follow the procedure established by the  
1053 Department of Law Enforcement to request a statewide criminal  
1054 history record check and to request that the Department of Law  
1055 Enforcement forward the fingerprints to the Federal Bureau of  
1056 Investigation for a national criminal history record check.



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1057 (c) The following entities may ~~shall~~ not have ~~be allowed~~  
1058 direct access to information in the prescription drug monitoring  
1059 program database but may request from the program manager and,  
1060 when authorized by the program manager, the program manager's  
1061 program and support staff, information that is confidential and  
1062 exempt under s. 893.0551. Prior to release, the request shall be  
1063 verified as authentic and authorized with the requesting  
1064 organization by the program manager, the program manager's  
1065 program and support staff, or as determined in rules by the  
1066 department as being authentic and as having been authorized by  
1067 the requesting entity:

1068 1. The department or its relevant health care regulatory  
1069 boards responsible for the licensure, regulation, or discipline  
1070 of practitioners, pharmacists, or other persons who are  
1071 authorized to prescribe, administer, or dispense controlled  
1072 substances and who are involved in a specific controlled  
1073 substance investigation involving a designated person for one or  
1074 more prescribed controlled substances.

1075 2. The Attorney General for Medicaid fraud cases or  
1076 Medicaid investigations involving prescribed controlled  
1077 substances.

1078 3. A law enforcement agency during active investigations  
1079 regarding potential criminal activity, fraud, or theft regarding  
1080 prescribed controlled substances.

1081 4. A patient or the legal guardian or designated health  
1082 care surrogate of an incapacitated patient as described in s.  
1083 893.0551 who, for the purpose of verifying the accuracy of the  
1084 database information, submits a written and notarized request  
1085 that includes the patient's full name, address, and date of



1086 birth, and includes the same information if the legal guardian  
1087 or health care surrogate submits the request. The patient's  
1088 phone number, current address, and a copy of a government-issued  
1089 photo identification must be provided in person to the program  
1090 manager along with the notarized request. The request shall be  
1091 validated by the department to verify the identity of the  
1092 patient and the legal guardian or health care surrogate, if the  
1093 patient's legal guardian or health care surrogate is the  
1094 requestor. Such verification is also required for any request to  
1095 change a patient's prescription history or other information  
1096 related to his or her information in the electronic database.

1097 5. The Agency for Health Care Administration for Medicaid  
1098 fraud cases or Medicaid investigations involving prescribed  
1099 controlled substances.

1100  
1101 Information in the database for the electronic prescription drug  
1102 monitoring system is not discoverable or admissible in any civil  
1103 or administrative action, except in an investigation and  
1104 disciplinary proceeding by the department or the appropriate  
1105 regulatory board.

1106 (d) The following entities may ~~shall~~ not have ~~be allowed~~  
1107 direct access to information in the prescription drug monitoring  
1108 program database but may request from the program manager and,  
1109 when authorized by the program manager, the program manager's  
1110 program and support staff, information that contains no  
1111 identifying information of any patient, physician, health care  
1112 practitioner, prescriber, or dispenser and that is not  
1113 confidential and exempt:

1114 1. Department staff for the purpose of calculating



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1115 performance measures pursuant to subsection (8).

1116         2. The Program Implementation and Oversight Task Force for  
1117 its reporting to the Governor, the President of the Senate, and  
1118 the Speaker of the House of Representatives regarding the  
1119 prescription drug monitoring program. This subparagraph expires  
1120 July 1, 2012.

1121         (e) All transmissions of data required by this section must  
1122 comply with relevant state and federal privacy and security laws  
1123 and regulations. However, any authorized agency or person under  
1124 s. 893.0551 receiving such information as allowed by s. 893.0551  
1125 may maintain the information received for up to 24 months before  
1126 purging it from his or her records or maintain it for longer  
1127 than 24 months if the information is pertinent to ongoing health  
1128 care or an active law enforcement investigation or prosecution.

1129         (f) The program manager, upon determining a pattern  
1130 consistent with the rules established under paragraph (2)(d) and  
1131 having cause to believe a violation of s. 893.13(7)(a)8.,  
1132 (8)(a), or (8)(b) has occurred, may provide relevant information  
1133 to the applicable law enforcement agency.

1134         (8) To assist in fulfilling program responsibilities,  
1135 performance measures shall be reported annually to the Governor,  
1136 the President of the Senate, and the Speaker of the House of  
1137 Representatives by the department each December 1, beginning in  
1138 2011. Data that does not contain patient, physician, health care  
1139 practitioner, prescriber, or dispenser identifying information  
1140 may be requested during the year by department employees so that  
1141 the department may undertake public health care and safety  
1142 initiatives that take advantage of observed trends. Performance  
1143 measures may include, but are not limited to, efforts to achieve





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1144 the following outcomes:

1145 (a) Reduction of the rate of inappropriate use of  
1146 prescription drugs through department education and safety  
1147 efforts.

1148 (b) Reduction of the quantity of pharmaceutical controlled  
1149 substances obtained by individuals attempting to engage in fraud  
1150 and deceit.

1151 (c) Increased coordination among partners participating in  
1152 the prescription drug monitoring program.

1153 (d) Involvement of stakeholders in achieving improved  
1154 patient health care and safety and reduction of prescription  
1155 drug abuse and prescription drug diversion.

1156 (9) Any person who willfully and knowingly fails to report  
1157 the dispensing of a controlled substance as required by this  
1158 section commits a misdemeanor of the first degree, punishable as  
1159 provided in s. 775.082 or s. 775.083.

1160 ~~(10) All costs incurred by the department in administering~~  
1161 ~~the prescription drug monitoring program shall be funded through~~  
1162 ~~federal grants or private funding applied for or received by the~~  
1163 ~~state. The department may not commit funds for the monitoring~~  
1164 ~~program without ensuring funding is available. The prescription~~  
1165 ~~drug monitoring program and the implementation thereof are~~  
1166 ~~contingent upon receipt of the nonstate funding.~~ The department  
1167 and state government shall cooperate with the direct-support  
1168 organization established pursuant to subsection (11) in seeking  
1169 federal grant funds, other nonstate grant funds, gifts,  
1170 donations, or other private moneys for the department so long as  
1171 the costs of doing so are not considered material. Nonmaterial  
1172 costs for this purpose include, but are not limited to, the



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1173 costs of mailing and personnel assigned to research or apply for  
1174 a grant. Notwithstanding the exemptions to competitive-  
1175 solicitation requirements under s. 287.057(3)(f), the department  
1176 shall comply with the competitive-solicitation requirements  
1177 under s. 287.057 for the procurement of any goods or services  
1178 required by this section.

1179 (11) The Office of Drug Control, in coordination with the  
1180 department, may establish a direct-support organization that has  
1181 a board consisting of at least five members to provide  
1182 assistance, funding, and promotional support for the activities  
1183 authorized for the prescription drug monitoring program.

1184 (a) As used in this subsection, the term "direct-support  
1185 organization" means an organization that is:

1186 1. A Florida corporation not for profit incorporated under  
1187 chapter 617, exempted from filing fees, and approved by the  
1188 Department of State.

1189 2. Organized and operated to conduct programs and  
1190 activities; raise funds; request and receive grants, gifts, and  
1191 bequests of money; acquire, receive, hold, and invest, in its  
1192 own name, securities, funds, objects of value, or other  
1193 property, either real or personal; and make expenditures or  
1194 provide funding to or for the direct or indirect benefit of the  
1195 department in the furtherance of the prescription drug  
1196 monitoring program.

1197 (b) The direct-support organization is not considered a  
1198 lobbying firm within the meaning of s. 11.045.

1199 (c) The director of the Office of Drug Control shall  
1200 appoint a board of directors for the direct-support  
1201 organization. The director may designate employees of the Office



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1202 of Drug Control, state employees other than state employees from  
1203 the department, and any other nonstate employees as appropriate,  
1204 to serve on the board. Members of the board shall serve at the  
1205 pleasure of the director of the Office of Drug Control. The  
1206 director shall provide guidance to members of the board to  
1207 ensure that moneys received by the direct-support organization  
1208 are not received from inappropriate sources. Inappropriate  
1209 sources include, but are not limited to, donors, grantors,  
1210 persons, or organizations that may monetarily or substantively  
1211 benefit from the purchase of goods or services by the department  
1212 in furtherance of the prescription drug monitoring program.

1213 (d) The direct-support organization shall operate under  
1214 written contract with the Office of Drug Control. The contract  
1215 must, at a minimum, provide for:

1216 1. Approval of the articles of incorporation and bylaws of  
1217 the direct-support organization by the Office of Drug Control.

1218 2. Submission of an annual budget for the approval of the  
1219 Office of Drug Control.

1220 3. Certification by the Office of Drug Control in  
1221 consultation with the department that the direct-support  
1222 organization is complying with the terms of the contract in a  
1223 manner consistent with and in furtherance of the goals and  
1224 purposes of the prescription drug monitoring program and in the  
1225 best interests of the state. Such certification must be made  
1226 annually and reported in the official minutes of a meeting of  
1227 the direct-support organization.

1228 4. The reversion, without penalty, to the Office of Drug  
1229 Control, or to the state if the Office of Drug Control ceases to  
1230 exist, of all moneys and property held in trust by the direct-



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1231 support organization for the benefit of the prescription drug  
1232 monitoring program if the direct-support organization ceases to  
1233 exist or if the contract is terminated.

1234 5. The fiscal year of the direct-support organization,  
1235 which must begin July 1 of each year and end June 30 of the  
1236 following year.

1237 6. The disclosure of the material provisions of the  
1238 contract to donors of gifts, contributions, or bequests,  
1239 including such disclosure on all promotional and fundraising  
1240 publications, and an explanation to such donors of the  
1241 distinction between the Office of Drug Control and the direct-  
1242 support organization.

1243 7. The direct-support organization's collecting, expending,  
1244 and providing of funds to the department for the development,  
1245 implementation, and operation of the prescription drug  
1246 monitoring program as described in this section and s. 2,  
1247 chapter 2009-198, Laws of Florida, as long as the task force is  
1248 authorized. The direct-support organization may collect and  
1249 expend funds to be used for the functions of the direct-support  
1250 organization's board of directors, as necessary and approved by  
1251 the director of the Office of Drug Control. In addition, the  
1252 direct-support organization may collect and provide funding to  
1253 the department in furtherance of the prescription drug  
1254 monitoring program by:

1255 a. Establishing and administering the prescription drug  
1256 monitoring program's electronic database, including hardware and  
1257 software.

1258 b. Conducting studies on the efficiency and effectiveness  
1259 of the program to include feasibility studies as described in



1260 subsection (13).

1261       c. Providing funds for future enhancements of the program  
1262 within the intent of this section.

1263       d. Providing user training of the prescription drug  
1264 monitoring program, including distribution of materials to  
1265 promote public awareness and education and conducting workshops  
1266 or other meetings, for health care practitioners, pharmacists,  
1267 and others as appropriate.

1268       e. Providing funds for travel expenses.

1269       f. Providing funds for administrative costs, including  
1270 personnel, audits, facilities, and equipment.

1271       g. Fulfilling all other requirements necessary to implement  
1272 and operate the program as outlined in this section.

1273       (e) The activities of the direct-support organization must  
1274 be consistent with the goals and mission of the Office of Drug  
1275 Control, as determined by the office in consultation with the  
1276 department, and in the best interests of the state. The direct-  
1277 support organization must obtain a written approval from the  
1278 director of the Office of Drug Control for any activities in  
1279 support of the prescription drug monitoring program before  
1280 undertaking those activities.

1281       (f) The Office of Drug Control, in consultation with the  
1282 department, may permit, without charge, appropriate use of  
1283 administrative services, property, and facilities of the Office  
1284 of Drug Control and the department by the direct-support  
1285 organization, subject to this section. The use must be directly  
1286 in keeping with the approved purposes of the direct-support  
1287 organization and may not be made at times or places that would  
1288 unreasonably interfere with opportunities for the public to use



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1289 such facilities for established purposes. Any moneys received  
1290 from rentals of facilities and properties managed by the Office  
1291 of Drug Control and the department may be held by the Office of  
1292 Drug Control or in a separate depository account in the name of  
1293 the direct-support organization and subject to the provisions of  
1294 the letter of agreement with the Office of Drug Control. The  
1295 letter of agreement must provide that any funds held in the  
1296 separate depository account in the name of the direct-support  
1297 organization must revert to the Office of Drug Control if the  
1298 direct-support organization is no longer approved by the Office  
1299 of Drug Control to operate in the best interests of the state.

1300 (g) The Office of Drug Control, in consultation with the  
1301 department, may adopt rules under s. 120.54 to govern the use of  
1302 administrative services, property, or facilities of the  
1303 department or office by the direct-support organization.

1304 (h) The Office of Drug Control may not permit the use of  
1305 any administrative services, property, or facilities of the  
1306 state by a direct-support organization if that organization does  
1307 not provide equal membership and employment opportunities to all  
1308 persons regardless of race, color, religion, gender, age, or  
1309 national origin.

1310 (i) The direct-support organization shall provide for an  
1311 independent annual financial audit in accordance with s.  
1312 215.981. Copies of the audit shall be provided to the Office of  
1313 Drug Control and the Office of Policy and Budget in the  
1314 Executive Office of the Governor.

1315 (j) The direct-support organization may not exercise any  
1316 power under s. 617.0302(12) or (16).

1317 (12) A prescriber or dispenser may have access to the



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1318 information under this section which relates to a patient of  
1319 that prescriber or dispenser as needed for the purpose of  
1320 reviewing the patient's controlled drug prescription history. A  
1321 prescriber or dispenser acting in good faith is immune from any  
1322 civil, criminal, or administrative liability that might  
1323 otherwise be incurred or imposed for receiving or using  
1324 information from the prescription drug monitoring program. This  
1325 subsection does not create a private cause of action, and a  
1326 person may not recover damages against a prescriber or dispenser  
1327 authorized to access information under this subsection for  
1328 accessing or failing to access such information.

1329 (13) To the extent that funding is provided for such  
1330 purpose through federal or private grants or gifts and other  
1331 types of available moneys, the department, in collaboration with  
1332 the Office of Drug Control, shall study the feasibility of  
1333 enhancing the prescription drug monitoring program for the  
1334 purposes of public health initiatives and statistical reporting  
1335 that respects the privacy of the patient, the prescriber, and  
1336 the dispenser. Such a study shall be conducted in order to  
1337 further improve the quality of health care services and safety  
1338 by improving the prescribing and dispensing practices for  
1339 prescription drugs, taking advantage of advances in technology,  
1340 reducing duplicative prescriptions and the overprescribing of  
1341 prescription drugs, and reducing drug abuse. The requirements of  
1342 the National All Schedules Prescription Electronic Reporting  
1343 (NASPER) Act are authorized in order to apply for federal NASPER  
1344 funding. In addition, the direct-support organization shall  
1345 provide funding for the department, in collaboration with the  
1346 Office of Drug Control, to conduct training for health care



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1347 practitioners and other appropriate persons in using the  
1348 monitoring program to support the program enhancements.

1349 (14) A pharmacist, pharmacy, or dispensing health care  
1350 practitioner or his or her agent, before releasing a controlled  
1351 substance to any person not known to such dispenser, shall  
1352 require the person purchasing, receiving, or otherwise acquiring  
1353 the controlled substance to present valid photographic  
1354 identification or other verification of his or her identity to  
1355 the dispenser. If the person does not have proper  
1356 identification, the dispenser may verify the validity of the  
1357 prescription and the identity of the patient with the prescriber  
1358 or his or her authorized agent. Verification of health plan  
1359 eligibility through a real-time inquiry or adjudication system  
1360 will be considered to be proper identification. This subsection  
1361 does not apply in an institutional setting or to a long-term  
1362 care facility, including, but not limited to, an assisted living  
1363 facility or a hospital to which patients are admitted. As used  
1364 in this subsection, the term "proper identification" means an  
1365 identification that is issued by a state or the Federal  
1366 Government containing the person's photograph, printed name, and  
1367 signature or a document considered acceptable under 8 C.F.R. s.  
1368 274a.2(b)(1)(v)(A) and (B).

1369 (15) The Agency for Health Care Administration shall  
1370 continue the promotion of electronic prescribing by health care  
1371 practitioners, health care facilities, and pharmacies under s.  
1372 408.0611.

1373 (16) By October 1, 2010, the department shall adopt rules  
1374 pursuant to ss. 120.536(1) and 120.54 to administer the  
1375 provisions of this section, which shall include as necessary the





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1376 reporting, accessing, evaluation, management, development,  
1377 implementation, operation, and storage of information within the  
1378 monitoring program's system.

1379 (17) After the prescription drug monitoring program has  
1380 been operational for 12 months, the State Surgeon General shall  
1381 enter into reciprocal agreements for the sharing of prescription  
1382 drug monitoring information with any other state that has a  
1383 compatible prescription drug monitoring program. If the State  
1384 Surgeon General evaluates the prescription drug monitoring  
1385 program of another state as authorized in this subsection,  
1386 priority shall be given to a state that is contiguous with the  
1387 borders of this state.

1388 (a) In determining compatibility, the State Surgeon General  
1389 shall consider:

1390 1. The essential purposes of the program and the success of  
1391 the program in fulfilling those purposes.

1392 2. The safeguards for privacy of patient records and the  
1393 success of the program in protecting patient privacy.

1394 3. The persons authorized to view the data collected by the  
1395 program. Comparable organizations and professions for  
1396 practitioners in other states, law enforcement agencies, the  
1397 Attorney General's Medicaid Fraud Unit, medical regulatory  
1398 boards, and, as needed, management staff who have similar duties  
1399 as management staff who work with the prescription drug  
1400 monitoring program as authorized in s. 893.0551 are authorized  
1401 access upon approval by the State Surgeon General.

1402 4. The schedules of the controlled substances that are  
1403 monitored.

1404 5. The data required to be submitted for each prescription.



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1405           6. Any implementing criteria deemed essential for a  
1406 thorough comparison.

1407           (b) The State Surgeon General shall annually review any  
1408 agreement to determine its continued compatibility with the  
1409 prescription drug monitoring program in this state.

1410           (c) Any agreement between the State Surgeon General and  
1411 another state shall prohibit the sharing of information  
1412 concerning a resident of this state or a practitioner,  
1413 pharmacist, or other prescriber for any purpose that is not  
1414 otherwise authorized by this section or s. 893.0551.

1415           Section 22. Present subsections (4), (5), (6), and (7) of  
1416 section 893.0551, Florida Statutes, are redesignated as  
1417 subsections (5), (6), (7), and (8), respectively, and a new  
1418 subsection (4) is added to that section, to read:

1419           893.0551 Public records exemption for the prescription drug  
1420 monitoring program.—

1421           (4) The department may disclose confidential and exempt  
1422 information contained in records held by the department under s.  
1423 893.055 if the State Surgeon General has entered into a  
1424 reciprocal agreement for the sharing of prescription drug  
1425 monitoring information with any other state that has a  
1426 compatible prescription drug monitoring program.

1427           (a) The reciprocal agreement may allow the following  
1428 persons from another state to receive information from the  
1429 prescription drug monitoring program if approved by the State  
1430 Surgeon General:

1431           1. A designated representative of a state professional  
1432 licensing, certification, or regulatory agency charged with  
1433 oversight of those persons authorized to prescribe or dispense



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1434 controlled substances for the purpose of a bona fide, specific  
1435 investigation of a prescription of a controlled substance which  
1436 involves a designated person. As required in s. 893.055, this  
1437 authorization does not preclude the requirement for the program  
1438 manager to review the request for information and validate it.

1439 2. A health care practitioner or pharmacist licensed in the  
1440 state from which the request originates. Such health care  
1441 practitioner or pharmacist shall certify that the requested  
1442 information is for the purpose of providing medical or  
1443 pharmaceutical treatment to a bona fide, current patient. The  
1444 health care practitioner or pharmacist shall follow all the  
1445 procedures required in s. 893.055 and rules established by the  
1446 department for a health care practitioner or pharmacist to  
1447 request information from the database.

1448 3. A law enforcement officer from another state:

1449 a. Who is a member of a sheriff's department or a police  
1450 department;

1451 b. Who is authorized by law to conduct criminal  
1452 investigations and make arrests;

1453 c. Whose duty it is to enforce the laws of his or her state  
1454 relating to controlled substances; and

1455 d. Who is engaged in a bona fide specific, active  
1456 investigation involving a designated person regarding  
1457 prescriptions for controlled substances.

1458  
1459 As required in s. 893.055, this authorization does not preclude  
1460 the requirement for the program manager to review the request  
1461 for information and validate it. This authorization also does  
1462 not preclude the ability to provide a report to a law



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1463 enforcement agency in another state under s. 893.055(7) or this  
1464 subsection.

1465 (b) Any agreement between the State Surgeon General and  
1466 another state shall prohibit the sharing of information  
1467 concerning a resident of this state, a patient whose information  
1468 is in the program's database, or a practitioner, pharmacy,  
1469 pharmacist, health care practitioner, or other prescriber for  
1470 any purpose that is not otherwise authorized by this section or  
1471 s. 893.055, and the information must be provided according to  
1472 the State Surgeon General's determination of compatibility as  
1473 described in s. 893.055(17).

1474 Section 23. Subsections (1), (4), and (5) of section  
1475 893.07, Florida Statutes, are amended, and a new subsection (6)  
1476 is added to that section to read:

1477 893.07 Records.—

1478 (1) Notwithstanding any other provision of law and in  
1479 consonance with the authority of State v. Carter, 23 So. 3d 798  
1480 (Fla. 1st DCA 2009) and State v. Tamulonis, 39 So. 3d 524 (Fla.  
1481 2nd DCA 2010), every person who engages in the manufacture,  
1482 compounding, mixing, cultivating, growing, or by any other  
1483 process producing or preparing, or in the dispensing,  
1484 importation, or, as a wholesaler, distribution, of controlled  
1485 substances shall:

1486 (a) On January 1, 1974, or as soon thereafter as any person  
1487 first engages in such activity, and every second year  
1488 thereafter, make a complete and accurate record of all stocks of  
1489 controlled substances on hand. The inventory may be prepared on  
1490 the regular physical inventory date which is nearest to, and  
1491 does not vary by more than 6 months from, the biennial date that



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1492 would otherwise apply. As additional substances are designated  
1493 for control under this chapter, they shall be inventoried as  
1494 provided for in this subsection.

1495 (b) On and after January 1, 1974, maintain, on a current  
1496 basis, a complete and accurate record of each substance  
1497 manufactured, received, sold, delivered, or otherwise disposed  
1498 of by him or her, except that this subsection shall not require  
1499 the maintenance of a perpetual inventory.

1500  
1501 Compliance with the provisions of federal law pertaining to the  
1502 keeping of records of controlled substances shall be deemed a  
1503 compliance with the requirements of this subsection.

1504 (4) Every inventory or record required by this chapter,  
1505 including prescription records, shall be maintained:

1506 (a) Separately from all other records of the registrant, or

1507 (b) Alternatively, in the case of Schedule III, IV, or V  
1508 controlled substances, in such form that information required by  
1509 this chapter is readily retrievable from the ordinary business  
1510 records of the registrant.

1511  
1512 In either case, such records described in this subsection shall  
1513 be kept and made available for a period of at least 2 years for  
1514 inspection and copying by law enforcement officers whose duty it  
1515 is to enforce the laws of this state relating to controlled  
1516 substances. This subsection does not require a law enforcement  
1517 officer to obtain a subpoena, court order, or search warrant in  
1518 order to obtain access to or copies of such records.

1519 (5) Each person shall maintain a record that contains ~~which~~  
1520 ~~shall contain~~ a detailed list of controlled substances lost,



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1521 destroyed, or stolen, if any; the kind and quantity of such  
1522 controlled substances; and the date of the discovering of such  
1523 loss, destruction, or theft. If a person discovers the theft or  
1524 loss of a controlled substance, such person shall report the  
1525 theft or loss to a local county sheriff's office within 48 hours  
1526 after the discovery of such theft or loss. A person who fails to  
1527 report the theft or loss of a controlled substance under this  
1528 subsection commits a misdemeanor of the second degree,  
1529 punishable as provided in s. 775.082 or s. 775.083. However, a  
1530 person who fails to report the theft or loss of a Schedule II  
1531 controlled substance commits a misdemeanor of the first degree,  
1532 punishable as provided in s. 775.082 or s. 775.083.

1533 (6) The Legislature finds that the opinions rendered in  
1534 State v. Carter, 23 So. 3d 798 (Fla. 1st DCA 2009), and State v.  
1535 Tamulonis, 39 So. 3d 524 (Fla. 2nd DCA 2010), correctly construe  
1536 this Legislature's intent that the inspection powers previously  
1537 conferred upon law enforcement officers which allow such  
1538 officers to access and review pharmacy records concerning  
1539 controlled substances are to be exercised properly by such law  
1540 enforcement officers without the requirement of a subpoena or  
1541 search warrant being sought or issued to examine and copy such  
1542 records, and without the requirement that those persons to whom  
1543 particular pharmacy records refer be given notice of the  
1544 records' examination and copying under this section.

1545 Section 24. Subsections (7) and (8) of section 893.13,  
1546 Florida Statutes, are amended to read:

1547 893.13 Prohibited acts; penalties.—

1548 (7) (a) A It is unlawful for any person may not:

1549 1. ~~To~~ Distribute or dispense a controlled substance in



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1550 violation of this chapter.

1551       2. ~~The~~ Refuse or fail to make, keep, or furnish any record,  
1552 notification, order form, statement, invoice, or information  
1553 required under this chapter.

1554       3. ~~The~~ Refuse ~~an~~ entry into any premises for any inspection  
1555 or ~~to~~ refuse to allow any inspection authorized by this chapter.

1556       4. ~~The~~ Distribute a controlled substance named or described  
1557 in s. 893.03(1) or (2) except pursuant to an order form as  
1558 required by s. 893.06.

1559       5. ~~The~~ Keep or maintain any store, shop, warehouse,  
1560 dwelling, building, vehicle, boat, aircraft, or other structure  
1561 or place which is resorted to by persons using controlled  
1562 substances in violation of this chapter for the purpose of using  
1563 these substances, or which is used for keeping or selling them  
1564 in violation of this chapter.

1565       6. ~~The~~ Use to his or her own personal advantage, or ~~to~~  
1566 reveal, any information obtained in enforcement of this chapter  
1567 except in a prosecution or administrative hearing for a  
1568 violation of this chapter.

1569       7. ~~The~~ Possess a prescription form which has not been  
1570 completed and signed by the practitioner whose name appears  
1571 printed thereon, unless the person is that practitioner, is an  
1572 agent or employee of that practitioner, is a pharmacist, or is a  
1573 supplier of prescription forms who is authorized by that  
1574 practitioner to possess those forms.

1575       8. ~~The~~ Withhold information from a practitioner from whom  
1576 the person seeks to obtain a controlled substance or a  
1577 prescription for a controlled substance that the person making  
1578 the request has received a controlled substance or a



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1579 prescription for a controlled substance of like therapeutic use  
1580 from another practitioner within the previous 30 days.

1581 9. ~~To~~ Acquire or obtain, or attempt to acquire or obtain,  
1582 possession of a controlled substance by misrepresentation,  
1583 fraud, forgery, deception, or subterfuge.

1584 10. ~~To~~ Affix any false or forged label to a package or  
1585 receptacle containing a controlled substance.

1586 11. ~~To~~ Furnish false or fraudulent material information in,  
1587 or omit any material information from, any report or other  
1588 document required to be kept or filed under this chapter or any  
1589 record required to be kept by this chapter.

1590 12. ~~To~~ Store anhydrous ammonia in a container that is not  
1591 approved by the United States Department of Transportation to  
1592 hold anhydrous ammonia or is not constructed in accordance with  
1593 sound engineering, agricultural, or commercial practices.

1594 13. With the intent to obtain a controlled substance or  
1595 combination of controlled substances that are not medically  
1596 necessary for the person or an amount of a controlled substance  
1597 or substances that are not medically necessary for the person,  
1598 obtain or attempt to obtain from a practitioner a controlled  
1599 substance or a prescription for a controlled substance by  
1600 misrepresentation, fraud, forgery, deception, subterfuge, or  
1601 concealment of a material fact. For purposes of this  
1602 subparagraph, a material fact includes whether the person has an  
1603 existing prescription for a controlled substance issued for the  
1604 same period of time by another practitioner or as described in  
1605 subparagraph 8.

1606 (b) A health care practitioner, with the intent to provide  
1607 a controlled substance or combination of controlled substances





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1608 that are not medically necessary to his or her patient or an  
1609 amount of controlled substances that are not medically necessary  
1610 for his or her patient, may not provide a controlled substance  
1611 or a prescription for a controlled substance by  
1612 misrepresentation, fraud, forgery, deception, subterfuge, or  
1613 concealment of a material fact. For purposes of this paragraph,  
1614 a material fact includes whether the patient has an existing  
1615 prescription for a controlled substance issued for the same  
1616 period of time by another practitioner or as described in  
1617 subparagraph (a)8.

1618 (c) Any person who adulterates a controlled substance for  
1619 directed off-label use without authorization by a prescribing  
1620 physician violates the provisions of subparagraph (a)1. and  
1621 causes the issuance of the entire prescription for the  
1622 controlled substance to become invalid. A law enforcement  
1623 officer in the performance of his or her official duties may  
1624 seize the adulterated or off-label prescribed controlled  
1625 substance as evidence. The controlled substance may be returned  
1626 to the owner only with a notarized affidavit from the original  
1627 prescribing practitioner who has knowledge and gave  
1628 authorization and explicit directions for the adulteration or  
1629 off-label use of the controlled substance.

1630 (d)~~(b)~~ Any person who violates the provisions of  
1631 subparagraphs (a)1.-7. commits a misdemeanor of the first  
1632 degree, punishable as provided in s. 775.082 or s. 775.083;  
1633 except that, upon a second or subsequent violation, the person  
1634 commits a felony of the third degree, punishable as provided in  
1635 s. 775.082, s. 775.083, or s. 775.084.

1636 (e)~~(c)~~ Any person who violates the provisions of



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1637 subparagraphs (a)8.-12. commits a felony of the third degree,  
1638 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1639 (f) A person or health care practitioner who violates the  
1640 provisions of paragraph (b) or subparagraph (a)13. commits a  
1641 felony of the third degree, punishable as provided in s.  
1642 775.082, s. 775.083, or s. 775.084, if any controlled substance  
1643 that is the subject of the offense is listed in Schedule II,  
1644 Schedule III, or Schedule IV.

1645 (8) (a) Notwithstanding subsection (9), a prescribing  
1646 practitioner may not:

1647 1. Knowingly assist a patient, other person, or the owner  
1648 of an animal in obtaining a controlled substance through  
1649 deceptive, untrue, or fraudulent representations in or related  
1650 to the practice of the prescribing practitioner's professional  
1651 practice;

1652 2. Employ a trick or scheme in the practice of the  
1653 prescribing practitioner's professional practice to assist a  
1654 patient, other person, or the owner of an animal in obtaining a  
1655 controlled substance;

1656 3. Knowingly write a prescription for a controlled  
1657 substance for a fictitious person; ~~or~~

1658 4. Write a prescription for a controlled substance for a  
1659 patient, other person, or an animal if the sole purpose of  
1660 writing such prescription is to provide a monetary benefit to,  
1661 or obtain a monetary benefit for, the prescribing practitioner;  
1662 or-

1663 5. Write a prescription for a controlled substance for a  
1664 patient, other person, or an animal and authorize or direct the  
1665 adulteration of the dispensed form of the controlled substance



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1666 for the purpose of ingestion by means of inhalation, injection,  
1667 or any other means that is not medically necessary for the  
1668 treatment of the patient.

1669 (b) If the prescribing practitioner wrote a prescription or  
1670 multiple prescriptions for a controlled substance for the  
1671 patient, other person, or animal for which there was no medical  
1672 necessity, or which was in excess of what was medically  
1673 necessary to treat the patient, other person, or animal, that  
1674 fact does not give rise to any presumption that the prescribing  
1675 practitioner violated subparagraph (a)1., but may be considered  
1676 with other competent evidence in determining whether the  
1677 prescribing practitioner knowingly assisted a patient, other  
1678 person, or the owner of an animal to obtain a controlled  
1679 substance in violation of subparagraph (a)1.

1680 (c) A person who violates paragraph (a) commits a felony of  
1681 the third degree, punishable as provided in s. 775.082, s.  
1682 775.083, or s. 775.084.

1683 (d) Notwithstanding paragraph (c), if a prescribing  
1684 practitioner has violated paragraph (a) and received \$1,000 or  
1685 more in payment for writing one or more prescriptions or, in the  
1686 case of a prescription written for a controlled substance  
1687 described in s. 893.135, has written one or more prescriptions  
1688 for a quantity of a controlled substance which, individually or  
1689 in the aggregate, meets the threshold for the offense of  
1690 trafficking in a controlled substance under s. 893.15, the  
1691 violation is reclassified as a felony of the second degree and  
1692 ranked in level 4 of the Criminal Punishment Code.

1693 Section 25. Present subsections (3) through (10) of section  
1694 893.138, Florida Statutes, are redesignated as subsections (4)



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1695 through (11), respectively, and a new subsection (3) is added to  
1696 that section, to read:

1697       893.138 Local administrative action to abate drug-related,  
1698 prostitution-related, or stolen-property-related public  
1699 nuisances and criminal gang activity.—

1700       (3) Any pain-management clinic, as described in s. 458.3265  
1701 or s. 459.0137, which has been used on more than two occasions  
1702 within a 6-month period as the site of a violation of:

1703       (a) Section 784.011, s. 784.021, s. 784.03, or s. 784.045,  
1704 relating to assault and battery;

1705       (b) Section 810.02, relating to burglary;

1706       (c) Section 812.014, relating to dealing in theft;

1707       (d) Section 812.131, relating to robbery by sudden  
1708 snatching; or

1709       (e) Section 893.13, relating to the unlawful distribution  
1710 of controlled substances,

1711  
1712 may be declared to be a public nuisance, and such nuisance may  
1713 be abated pursuant to the procedures provided in this section.

1714       Section 26. (1) DEFINITIONS.—As used in this section, the  
1715 term:

1716       (a) "Interchange or substitution of an opioid analgesic  
1717 drug" means the substitution of any opioid analgesic drug, brand  
1718 or generic, for the opioid analgesic drug incorporating a  
1719 tamper-resistance technology originally prescribed, irrespective  
1720 of whether the substituted drug is rated as pharmaceutically and  
1721 therapeutically equivalent by the United States Food and Drug  
1722 Administration or the Board of Pharmacy or whether the opioid  
1723 analgesic drug with tamper-resistance technology bears a



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1724 labeling claim with respect to reduction of tampering, abuse, or  
1725 abuse potential.

1726 (b) "Opioid analgesic drug" means a drug in the opioid  
1727 analgesic drug class prescribed to treat moderate to severe pain  
1728 or other conditions, whether in immediate release or extended  
1729 release form and whether or not combined with other drug  
1730 substances to form a single tablet or other dosage form.

1731 (c) "Opioid analgesic drug incorporating a tamper-  
1732 resistance technology" means an opioid analgesic drug listed as  
1733 such by the Board of Pharmacy based on a submission of evidence  
1734 by the drug manufacturer or distributor that the drug:

1735 1. Incorporates a tamper-resistance technology; and  
1736 2. Has been approved by the United States Food and Drug  
1737 Administration pursuant to an application that includes at least  
1738 one study on human tampering or abuse potential or a laboratory  
1739 study comparing the tamper- or abuse-resistance properties of  
1740 the drug to one or more opioid analgesic drugs that:

1741 a. Have been approved by the United States Food and Drug  
1742 Administration; and

1743 b. Serve as a positive control.

1744 (d) "Pharmacist" means any person licensed under chapter  
1745 465, Florida Statutes, to practice the profession of pharmacy,  
1746 including, but not limited to, a community pharmacist and a  
1747 pharmacist in a hospital-based pharmacy, when filling  
1748 prescriptions for inpatient or outpatient care.

1749 (2) LIST OF OPIOID ANALGESIC DRUGS INCORPORATING A TAMPER-  
1750 RESISTANCE TECHNOLOGY.—The Board of Pharmacy shall create a list  
1751 of opioid analgesic drugs for which information has been  
1752 submitted consistent with paragraph (1)(c). Inclusion of a drug



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1753 on such list does not require that the drug bear a labeling  
1754 claim with respect to reduction of tampering, abuse, or abuse  
1755 potential at the time of listing. Such list must also include a  
1756 determination by the Board of Pharmacy as to which listed opioid  
1757 analgesic drugs incorporating tamper-resistance technologies  
1758 provide substantially similar tamper-resistance properties,  
1759 based solely on studies submitted by the drug manufacturer  
1760 consistent with paragraph (1)(c).

1761 (3) PROHIBITION.—Notwithstanding s. 465.025, Florida  
1762 Statutes, a pharmacist may not interchange or substitute an  
1763 opioid analgesic drug, brand or generic, for an opioid analgesic  
1764 drug incorporating a tamper-resistance technology which is  
1765 listed pursuant to subsection (2) without:

1766 (a) Verifying that the opioid analgesic drug has been  
1767 listed by the Board of Pharmacy under subsection (2) as  
1768 providing tamper-resistance properties substantially similar to  
1769 the prescribed opioid analgesic drug incorporating a tamper-  
1770 resistance technology; or

1771 (b) Obtaining written, signed consent from the prescribing  
1772 physician for such interchange or substitution.

1773 Section 27. This act shall take effect October 1, 2011.

1774  
1775 ===== T I T L E A M E N D M E N T =====

1776 And the title is amended as follows:

1777 Delete everything before the enacting clause  
1778 and insert:

1779 A bill to be entitled  
1780 An act relating to controlled substances; amending s.  
1781 400.9905, F.S.; redefining the terms "clinic" and



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1782 "portable equipment provider" within the Health Care  
1783 Clinic Act; amending s. 456.013, F.S.; authorizing  
1784 certain health care practitioners to complete a  
1785 continuing education course relating to the  
1786 prescription drug monitoring program; providing  
1787 requirements for the course; requiring the Department  
1788 of Health or a board that is authorized to exercise  
1789 regulatory or rulemaking functions within the  
1790 department to approve the course offered through a  
1791 facility licensed under ch. 395, F.S., under certain  
1792 circumstances; providing application of the course  
1793 requirements; requiring a board or the Department of  
1794 Health to adopt rules; amending s. 458.305, F.S.;  
1795 defining the term "dispensing physician" as it relates  
1796 to the practice of medicine in this state; prohibiting  
1797 certain persons from using titles or displaying signs  
1798 that would lead the public to believe that they engage  
1799 in the dispensing of controlled substances;  
1800 prohibiting certain persons, firms, or corporations  
1801 from using a trade name, sign, letter, or  
1802 advertisement that implies that the persons, firms, or  
1803 corporations are licensed or registered to dispense  
1804 prescription drugs; prohibiting certain persons,  
1805 firms, or corporations from holding themselves out to  
1806 the public as licensed or registered to dispense  
1807 controlled substances; prohibiting certain persons  
1808 from performing the functions of a dispensing  
1809 physician; providing penalties; amending s. 458.3191,  
1810 F.S.; revising the information in the physician survey



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1811 that is submitted by persons who apply for licensure  
1812 renewal as a physician under ch. 458 or ch. 459, F.S.;  
1813 amending s. 458.3192, F.S.; requiring the Department  
1814 of Health to provide nonidentifying information to the  
1815 prescription drug monitoring program's Implementation  
1816 and Oversight Task Force regarding the number of  
1817 physicians that are registered with the prescription  
1818 drug monitoring program and that use the database from  
1819 the program in their practice; amending s. 458.3265,  
1820 F.S.; revising the list of entities that are not  
1821 required to register as a pain-management clinic;  
1822 deleting certain requirements for a physician to  
1823 practice medicine in a pain-management clinic;  
1824 requiring a physician who works in a pain-management  
1825 clinic to document the reason a prescription for a  
1826 certain dosage of a controlled substance is within the  
1827 proper standard of care; creating a felony of the  
1828 third-degree for any person to register or attempt to  
1829 register a pain-management clinic through  
1830 misrepresentation or fraud; amending s. 458.327, F.S.;  
1831 providing additional penalties; amending s. 458.331,  
1832 F.S.; providing additional grounds for disciplinary  
1833 action by the Board of Medicine; amending s. 459.003,  
1834 F.S.; defining the term "dispensing physician" as it  
1835 relates to the practice of osteopathic medicine in  
1836 this state; amending s. 459.013, F.S.; providing  
1837 additional penalties; amending s. 459.0137, F.S.;  
1838 requiring an osteopathic physician who works in a  
1839 pain-management clinic to document the reason a





1840 prescription for a certain dosage of a controlled  
1841 substance is within the proper standard of care;  
1842 creating a felony of the third-degree for a licensee  
1843 or other person who serves as the designated physician  
1844 of a pain-management clinic to register a pain-  
1845 management clinic through misrepresentation or fraud;  
1846 amending s. 459.015, F.S.; providing additional  
1847 grounds for disciplinary action by the Board of  
1848 Osteopathic Medicine; amending s. 465.015, F.S.;

1849 prohibiting certain persons from knowingly failing to  
1850 report to the local county sheriff's office and the  
1851 Department of Law Enforcement the commission of a  
1852 felony involving a person who acquires or obtains  
1853 possession of a controlled substance by  
1854 misrepresentation, fraud, forgery, deception, or  
1855 subterfuge under certain conditions; providing  
1856 penalties; providing requirements for reporting the  
1857 commission of the felony that involves a person who  
1858 acquires or obtains possession of a controlled  
1859 substance by misrepresentation, fraud, forgery,  
1860 deception, or subterfuge; providing that a pharmacist,  
1861 pharmacy intern, or other person employed by or at a  
1862 pharmacy is not subject to disciplinary action for  
1863 reporting; amending s. 465.0276, F.S.; requiring a  
1864 practitioner to register as a dispensing practitioner  
1865 in order to dispense controlled substances; amending  
1866 s. 766.101, F.S.; conforming a cross-reference;  
1867 amending s. 810.02, F.S.; redefining the offense of  
1868 burglary to include the theft of a controlled



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1869 substance within a dwelling, structure, or conveyance;  
1870 amending s. 812.014, F.S.; redefining the offense of  
1871 theft to include the theft of a controlled substance;  
1872 creating s. 893.021, F.S.; providing conditions in  
1873 which a drug is considered adulterated; providing that  
1874 a physician is not prevented from directing or  
1875 prescribing a change to the recognized manufactured  
1876 recommendations for use of any controlled substance in  
1877 a patient under certain circumstances; requiring a  
1878 prescribing physician to indicate any deviation of the  
1879 recognized manufacturer's recommended use of a  
1880 controlled substance on the original prescription;  
1881 requiring a pharmacist or physician to indicate such  
1882 deviation on the label of the prescription upon  
1883 dispensing; amending s. 893.04, F.S.; revising the  
1884 required information that must appear on the face of a  
1885 prescription or written record of a controlled  
1886 substance before it is dispensed by a pharmacist;  
1887 amending s. 893.055, F.S.; requiring that the  
1888 prescription drug monitoring program comply with the  
1889 minimum requirements of the National All Schedules  
1890 Prescription Electronic Reporting Act; requiring the  
1891 Department of Health to establish a method to allow  
1892 corrections to the database of the prescription drug  
1893 monitoring program; requiring the number of refills  
1894 ordered and whether the drug was dispensed as a refill  
1895 or a first-time request to be included in the database  
1896 of the prescription drug monitoring program; revising  
1897 the number of days in which a dispensed controlled



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1898 substance must be reported to the department through  
1899 the prescription drug monitoring program; revising the  
1900 list of acts of dispensing or administering which are  
1901 exempt from reporting; requiring a pharmacy,  
1902 prescriber, practitioner, or dispenser to register  
1903 with the department by submitting a registering  
1904 document in order to have access to certain  
1905 information in the prescription drug monitoring  
1906 program's database; requiring the department to  
1907 approve the registering document before granting  
1908 access to information in the prescription drug  
1909 monitoring program's database; requiring criminal  
1910 background screening for those persons who have direct  
1911 access to the prescription drug monitoring program's  
1912 database; authorizing the Attorney General to obtain  
1913 confidential and exempt information for Medicaid fraud  
1914 cases and Medicaid investigations; requiring certain  
1915 documentation to be provided to the program manager in  
1916 order to release confidential and exempt information  
1917 from the prescription drug monitoring program's  
1918 database to a patient, legal guardian, or a designated  
1919 health care surrogate; authorizing the Agency for  
1920 Health Care Administration to obtain confidential and  
1921 exempt information from the prescription drug  
1922 monitoring program's database for Medicaid fraud cases  
1923 and Medicaid investigations involving controlled  
1924 substances; deleting the provision that administrative  
1925 costs of the prescription drug monitoring program are  
1926 funded through federal grants and private sources;



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1927 requiring the State Surgeon General to enter into  
1928 reciprocal agreements for the sharing of information  
1929 in the prescription drug monitoring program with other  
1930 states that have a similar prescription drug  
1931 monitoring program; requiring the State Surgeon  
1932 General to annually review a reciprocal agreement to  
1933 determine its compatibility; providing requirements  
1934 for compatibility; prohibiting the sharing of certain  
1935 information; amending s. 893.0551, F.S.; authorizing  
1936 the Department of Health to disclose certain  
1937 confidential and exempt information in the  
1938 prescription drug monitoring program's database under  
1939 certain circumstances involving reciprocal agreements  
1940 with other states; prohibiting the sharing of  
1941 information from the prescription drug monitoring  
1942 program's database which is not for the purpose that  
1943 is statutorily authorized or according to the State  
1944 Surgeon General's determination of compatibility;  
1945 amending s. 893.07, F.S.; requiring that a person  
1946 report to the Department of Law Enforcement and the  
1947 local sheriff's office the theft or loss of a  
1948 controlled substance within a specified time;  
1949 providing penalties; providing legislative intent;  
1950 amending s. 893.13, F.S.; prohibiting a person from  
1951 obtaining or attempting to obtain from a practitioner  
1952 a controlled substance or a prescription for a  
1953 controlled substance by misrepresentation, fraud,  
1954 forgery, deception, subterfuge, or concealment of a  
1955 material fact; prohibiting a health care provider from



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1956 providing a controlled substance or a prescription for  
1957 a controlled substance by misrepresentation, fraud,  
1958 forgery, deception, subterfuge, or concealment of a  
1959 material fact; prohibiting a person from adulterating  
1960 a controlled substance for certain use without  
1961 authorization by a prescribing physician; authorizing  
1962 a law enforcement officer to seize as evidence the  
1963 adulteration or off-label use of a prescribed  
1964 controlled substance; providing that such adulterated  
1965 or off-label use of the controlled substance may be  
1966 returned to its owner only under certain conditions;  
1967 providing penalties; prohibiting a prescribing  
1968 practitioner from writing a prescription for a  
1969 controlled substance and authorizing or directing the  
1970 adulteration of the dispensed form of the controlled  
1971 substance for the purpose of ingestion by means that  
1972 is not medically necessary; amending s. 893.138, F.S.;  
1973 providing circumstances in which a pain-management  
1974 clinic may be declared a public nuisance; providing  
1975 definitions; requiring the Board of Pharmacy to create  
1976 a list of opioid analgesic drugs; providing  
1977 requirements for the list of opioid analgesic drugs;  
1978 prohibiting a pharmacist from interchanging or  
1979 substituting an opioid analgesic drug, brand, or  
1980 generic, for an opioid analgesic drug incorporating a  
1981 tamper-resistance technology unless certain  
1982 requirements are met; providing an effective date.