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1                   A bill to be entitled  
2     An act relating to controlled substances; amending s.  
3     400.9905, F.S.; redefining the terms "clinic" and  
4     "portable equipment provider" within the Health Care  
5     Clinic Act; amending s. 456.013, F.S.; authorizing  
6     certain health care practitioners to complete a  
7     continuing education course relating to the  
8     prescription drug monitoring program; providing  
9     requirements for the course; requiring the Department  
10    of Health or a board that is authorized to exercise  
11    regulatory or rulemaking functions within the  
12    department to approve the course offered through a  
13    facility licensed under ch. 395, F.S., under certain  
14    circumstances; providing for application of the course  
15    requirements; requiring a board or the Department of  
16    Health to adopt rules; amending s. 458.305, F.S.;  
17    defining the term "dispensing physician" as it relates  
18    to the practice of medicine in this state; prohibiting  
19    certain persons from using titles or displaying signs  
20    that would lead the public to believe that they engage  
21    in the dispensing of controlled substances;  
22    prohibiting certain persons, firms, or corporations  
23    from using a trade name, sign, letter, or  
24    advertisement that implies that the persons, firms, or  
25    corporations are licensed or registered to dispense  
26    prescription drugs; prohibiting certain persons,  
27    firms, or corporations from holding themselves out to  
28    the public as licensed or registered to dispense  
29    controlled substances; providing penalties; amending

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30 s. 458.3191, F.S.; revising the information in the  
31 physician survey that is submitted by persons who  
32 apply for licensure renewal as a physician under ch.  
33 458 or ch. 459, F.S.; amending s. 458.3192, F.S.;  
34 requiring the Department of Health to provide  
35 nonidentifying information to the prescription drug  
36 monitoring program's Implementation and Oversight Task  
37 Force regarding the number of physicians that are  
38 registered with the prescription drug monitoring  
39 program and that use the database from the program in  
40 their practice; amending s. 458.3265, F.S.; redefining  
41 the term "pain-management clinic" and defining the  
42 term "chronic nonmalignant pain"; revising the list of  
43 entities that are not required to register as a pain-  
44 management clinic; authorizing the department to  
45 revoke the certificate of registration of a pain-  
46 management clinic based upon a finding by a probable  
47 cause panel of a board that the clinic does not meet  
48 certain requirements; authorizing the department to  
49 revoke a clinic's certificate of registration and  
50 prohibit all physicians associated with that clinic  
51 from practicing at that clinic location based upon an  
52 annual inspection and evaluation and upon a final  
53 determination by the probable cause panel of the  
54 appropriate board that any physician associated with  
55 that pain-management clinic knew or should have known  
56 of certain violations; prohibiting the department from  
57 revoking or suspending a clinic's registration if the  
58 clinic appoints another designated physician;

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59 prohibiting persons owning or operating a pain-  
60 management clinic that has a revoked registration from  
61 applying to operate another pain-management clinic  
62 within a specified number of years upon a finding by  
63 the probable cause panel of the appropriate board, and  
64 an opportunity to be heard, that the persons operating  
65 such clinic knew or should have known of violations  
66 causing such revocation; deleting certain requirements  
67 for a physician to practice medicine in a pain-  
68 management clinic; requiring a physician, an advanced  
69 registered nurse practitioner, or a physician  
70 assistant to perform an appropriate medical  
71 examination of a patient on the same day that the  
72 physician dispenses or prescribes a controlled  
73 substance to the patient at a pain-management clinic;  
74 requiring a physician who works in a pain-management  
75 clinic to document the reason a prescription for a  
76 certain dosage of a controlled substance is within the  
77 proper standard of care; creating a felony of the  
78 third degree for any person to register or attempt to  
79 register a pain-management clinic through  
80 misrepresentation or fraud; amending s. 458.327, F.S.;  
81 providing additional penalties; amending s. 458.331,  
82 F.S.; providing additional grounds for disciplinary  
83 action by the Board of Medicine; amending s. 459.003,  
84 F.S.; defining the term "dispensing physician" as it  
85 relates to the practice of osteopathic medicine in  
86 this state; amending s. 459.0081, F.S.; revising the  
87 information that must be furnished in a physician

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88 survey to the Department of Health in order to renew a  
89 license to practice osteopathic medicine; amending s.  
90 459.0082, F.S.; requiring the department to provide  
91 certain nonidentifying information to the  
92 Implementation and Oversight Task Force of the  
93 prescription drug monitoring program; amending s.  
94 459.013, F.S.; providing additional penalties;  
95 amending s. 459.0137, F.S.; redefining the term "pain-  
96 management clinic" and defining the term "chronic  
97 nonmalignant pain"; providing an exemption from the  
98 requirement that all privately owned pain-management  
99 clinics, facilities, or offices that advertise in any  
100 medium for any type of pain-management services, or  
101 employ an osteopathic physician who is primarily  
102 engaged in the treatment of pain by prescribing or  
103 dispensing controlled substance medications, must  
104 register with the Department of Health; authorizing  
105 the department to revoke the certificate of  
106 registration of a pain-management clinic based upon a  
107 finding by a probable cause panel of a board that the  
108 clinic does not meet certain requirements; authorizing  
109 the department to revoke a clinic's certificate of  
110 registration and prohibit all physicians associated  
111 with that clinic from practicing at that clinic  
112 location based upon an annual inspection and  
113 evaluation and upon a final determination by the  
114 probable cause panel of the appropriate board that any  
115 physician associated with that pain-management clinic  
116 knew or should have known of certain violations;

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117 prohibiting the department from revoking or suspending  
118 a clinic's registration if the clinic appoints another  
119 designated physician; prohibiting persons owning or  
120 operating a pain-management clinic that has a revoked  
121 registration from applying to operate another pain-  
122 management clinic within a specified number of years  
123 upon a finding by the probable cause panel of the  
124 appropriate board, and an opportunity to be heard,  
125 when the persons operating such clinic knew or should  
126 have known of violations causing such revocation;  
127 revising the responsibilities of an osteopathic  
128 physician who provides professional services in a  
129 pain-management clinic; requiring an osteopathic  
130 physician, an advanced registered nurse practitioner,  
131 or a physician assistant to perform an appropriate  
132 medical examination of a patient on the same day that  
133 the physician dispenses or prescribes a controlled  
134 substance to the patient at a pain-management clinic;  
135 requiring an osteopathic physician who works in a  
136 pain-management clinic to document the reason a  
137 prescription for a certain dosage of a controlled  
138 substance is within the proper standard of care;  
139 creating a felony of the third degree for a licensee  
140 or other person who serves as the designated physician  
141 of a pain-management clinic to register a pain-  
142 management clinic through misrepresentation or fraud;  
143 amending s. 459.015, F.S.; providing additional  
144 grounds for disciplinary action by the Board of  
145 Osteopathic Medicine; amending s. 465.015, F.S.;

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146 prohibiting a licensed pharmacist from knowingly  
147 failing to report to the local county sheriff's office  
148 the commission of a felony involving a person who  
149 acquires or obtains possession of a controlled  
150 substance by misrepresentation, fraud, forgery,  
151 deception, or subterfuge under certain conditions;  
152 providing penalties; providing suggested criteria for  
153 reporting the commission of a felony that involves a  
154 person who acquires or obtains possession of a  
155 controlled substance by misrepresentation, fraud,  
156 forgery, deception, or subterfuge; providing that a  
157 licensed pharmacist is not subject to disciplinary  
158 action for reporting; amending s. 465.0276, F.S.;  
159 requiring a practitioner to register as a dispensing  
160 practitioner in order to dispense controlled  
161 substances; amending s. 499.01, F.S.; authorizing  
162 certain business entities to pay for prescription  
163 drugs obtained by practitioners licensed under ch.  
164 466, F.S.; amending s. 766.101, F.S.; conforming a  
165 cross-reference; amending s. 810.02, F.S.; redefining  
166 the offense of burglary to include the theft of a  
167 controlled substance within a structure or conveyance;  
168 amending s. 812.014, F.S.; redefining the offense of  
169 theft to include the theft of a controlled substance;  
170 creating s. 893.021, F.S.; providing conditions in  
171 which a drug is considered adulterated; providing that  
172 a physician is not prevented from directing or  
173 prescribing a change to the recognized manufactured  
174 recommendations for use of any controlled substance

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175 for a patient under certain circumstances; requiring a  
176 prescribing physician to indicate on the original  
177 prescription any deviation of the recognized  
178 manufacturer's recommended use of a controlled  
179 substance; requiring a pharmacist or physician to  
180 indicate such deviation on the label of the  
181 prescription upon dispensing; amending s. 893.04,  
182 F.S.; revising the required information that must  
183 appear on the face of a prescription or written record  
184 of a controlled substance before it is dispensed by a  
185 pharmacist; amending s. 893.055, F.S.; requiring that  
186 the prescription drug monitoring program comply with  
187 the minimum requirements established by the Department  
188 of Health; requiring the Department of Health to  
189 establish a method to allow corrections to the  
190 database of the prescription drug monitoring program;  
191 requiring the number of refills ordered and whether  
192 the drug was dispensed as a refill or a first-time  
193 request to be included in the database of the  
194 prescription drug monitoring program; revising the  
195 number of days in which a dispensed controlled  
196 substance must be reported to the department through  
197 the prescription drug monitoring program; revising the  
198 list of acts of dispensing or administering which are  
199 exempt from reporting; requiring a pharmacy,  
200 prescriber, practitioner, or dispenser to register  
201 with the department by submitting a registering  
202 document in order to have access to certain  
203 information in the prescription drug monitoring

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204 program's database; requiring the department to  
205 approve the registering document before granting  
206 access to information in the prescription drug  
207 monitoring program's database; requiring criminal  
208 background screening for those persons who have direct  
209 access to the prescription drug monitoring program's  
210 database; authorizing the Attorney General to obtain  
211 confidential and exempt information for Medicaid fraud  
212 cases and Medicaid investigations; requiring certain  
213 documentation to be provided to the program manager in  
214 order to release confidential and exempt information  
215 from the prescription drug monitoring program's  
216 database to a patient, legal guardian, or a designated  
217 health care surrogate; authorizing the Agency for  
218 Health Care Administration to obtain confidential and  
219 exempt information from the prescription drug  
220 monitoring program's database for Medicaid fraud cases  
221 and Medicaid investigations involving controlled  
222 substances; deleting a provision requiring that  
223 administrative costs of the prescription drug  
224 monitoring program be funded through federal grants  
225 and private sources; requiring the State Surgeon  
226 General to enter into reciprocal agreements for the  
227 sharing of information in the prescription drug  
228 monitoring program with other states that have a  
229 similar prescription drug monitoring program;  
230 requiring the State Surgeon General to annually review  
231 a reciprocal agreement to determine its compatibility;  
232 providing requirements for compatibility; prohibiting



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233 the sharing of certain information; providing an  
234 appropriation; amending s. 893.0551, F.S.; requiring  
235 the Department of Health to disclose confidential and  
236 exempt information pertaining to the prescription drug  
237 monitoring program to the Attorney General and  
238 designee when working on Medicaid fraud cases and  
239 Medicaid investigations involving prescribed  
240 controlled substances or when the Attorney General has  
241 initiated a review of specific identifiers that  
242 warrant a Medicaid investigation regarding prescribed  
243 controlled substances; prohibiting the Attorney  
244 General's Medicaid investigators from direct access to  
245 the prescription drug monitoring program's database;  
246 authorizing the Department of Health to disclose  
247 certain confidential and exempt information in the  
248 prescription drug monitoring program's database under  
249 certain circumstances involving reciprocal agreements  
250 with other states; prohibiting the sharing of  
251 information from the prescription drug monitoring  
252 program's database which is not for the purpose that  
253 is statutorily authorized or according to the State  
254 Surgeon General's determination of compatibility;  
255 amending s. 893.07, F.S.; requiring that a person  
256 report to the local sheriff's office the theft or  
257 significant loss of a controlled substance within a  
258 specified time; providing penalties; providing  
259 legislative intent; amending s. 893.13, F.S.;  
260 prohibiting a person from obtaining or attempting to  
261 obtain from a practitioner a controlled substance or a

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262 prescription for a controlled substance by  
263 misrepresentation, fraud, forgery, deception,  
264 subterfuge, or concealment of a material fact;  
265 prohibiting a health care provider from providing a  
266 controlled substance or a prescription for a  
267 controlled substance by misrepresentation, fraud,  
268 forgery, deception, subterfuge, or concealment of a  
269 material fact; prohibiting a person from adulterating  
270 a controlled substance for certain use without  
271 authorization by a prescribing physician; authorizing  
272 a law enforcement officer to seize as evidence the  
273 adulteration or off-label use of a prescribed  
274 controlled substance; providing that such adulterated  
275 or off-label use of the controlled substance may be  
276 returned to its owner only under certain conditions;  
277 providing penalties; prohibiting a prescribing  
278 practitioner from writing a prescription for a  
279 controlled substance and authorizing or directing the  
280 adulteration of the dispensed form of the controlled  
281 substance for the purpose of ingestion by means not  
282 medically necessary; amending s. 893.138, F.S.;  
283 providing circumstances in which a pain-management  
284 clinic may be declared a public nuisance; amending s.  
285 465.025, F.S.; requiring the Board of Pharmacy to  
286 create a list of opioid analgesic drugs; providing  
287 requirements for the list of opioid analgesic drugs;  
288 prohibiting a pharmacist from substituting an opioid  
289 analgesic drug for an opioid analgesic drug that  
290 incorporates a tamper-resistant technology; providing

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291 an effective date.

292

293 Be It Enacted by the Legislature of the State of Florida:

294

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

297 400.9905 Definitions.—

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

304 (a) Entities licensed or registered by the state under  
305 chapter 395; or entities licensed or registered by the state and  
306 providing only health care services within the scope of services  
307 authorized under their respective licenses granted under ss.  
308 383.30-383.335, chapter 390, chapter 394, chapter 397, this  
309 chapter except part X, chapter 429, chapter 463, chapter 465,  
310 chapter 466, chapter 478, part I of chapter 483, chapter 484, or  
311 chapter 651; end-stage renal disease providers authorized under  
312 42 C.F.R. part 405, subpart U; or providers certified under 42  
313 C.F.R. part 485, subpart B or subpart H; or any entity that  
314 provides neonatal or pediatric hospital-based health care  
315 services or other health care services by licensed practitioners  
316 solely within a hospital licensed under chapter 395.

317 (b) Entities that own, directly or indirectly, entities  
318 licensed or registered by the state pursuant to chapter 395; or  
319 entities that own, directly or indirectly, entities licensed or

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320 registered by the state and providing only health care services  
321 within the scope of services authorized pursuant to their  
322 respective licenses granted under ss. 383.30-383.335, chapter  
323 390, chapter 394, chapter 397, this chapter except part X,  
324 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,  
325 part I of chapter 483, chapter 484, chapter 651; end-stage renal  
326 disease providers authorized under 42 C.F.R. part 405, subpart  
327 U; or providers certified under 42 C.F.R. part 485, subpart B or  
328 subpart H; or any entity that provides neonatal or pediatric  
329 hospital-based health care services by licensed practitioners  
330 solely within a hospital licensed under chapter 395.

331 (c) Entities that are owned, directly or indirectly, by an  
332 entity licensed or registered by the state pursuant to chapter  
333 395; or entities that are owned, directly or indirectly, by an  
334 entity licensed or registered by the state and providing only  
335 health care services within the scope of services authorized  
336 pursuant to their respective licenses granted under ss. 383.30-  
337 383.335, chapter 390, chapter 394, chapter 397, this chapter  
338 except part X, chapter 429, chapter 463, chapter 465, chapter  
339 466, chapter 478, part I of chapter 483, chapter 484, or chapter  
340 651; end-stage renal disease providers authorized under 42  
341 C.F.R. part 405, subpart U; or providers certified under 42  
342 C.F.R. part 485, subpart B or subpart H; or any entity that  
343 provides neonatal or pediatric hospital-based health care  
344 services by licensed practitioners solely within a hospital  
345 under chapter 395.

346 (d) Entities that are under common ownership, directly or  
347 indirectly, with an entity licensed or registered by the state  
348 pursuant to chapter 395; or entities that are under common

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349 ownership, directly or indirectly, with an entity licensed or  
350 registered by the state and providing only health care services  
351 within the scope of services authorized pursuant to their  
352 respective licenses granted under ss. 383.30-383.335, chapter  
353 390, chapter 394, chapter 397, this chapter except part X,  
354 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,  
355 part I of chapter 483, chapter 484, or chapter 651; end-stage  
356 renal disease providers authorized under 42 C.F.R. part 405,  
357 subpart U; or providers certified under 42 C.F.R. part 485,  
358 subpart B or subpart H; or any entity that provides neonatal or  
359 pediatric hospital-based health care services by licensed  
360 practitioners solely within a hospital licensed under chapter  
361 395.

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

371 (f) A sole proprietorship, group practice, partnership, or  
372 corporation that provides health care services by physicians  
373 covered by s. 627.419, that is directly supervised by one or  
374 more of such physicians, and that is wholly owned by one or more  
375 of those physicians or by a physician and the spouse, parent,  
376 child, or sibling of that physician.

377 (g) A sole proprietorship, group practice, partnership, or

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378 corporation that provides health care services by licensed  
379 health care practitioners under chapter 457, chapter 458,  
380 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,  
381 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,  
382 chapter 490, chapter 491, or part I, part III, part X, part  
383 XIII, or part XIV of chapter 468, or s. 464.012, which are  
384 wholly owned by one or more licensed health care practitioners,  
385 or the licensed health care practitioners set forth in this  
386 paragraph and the spouse, parent, child, or sibling of a  
387 licensed health care practitioner, so long as one of the owners  
388 who is a licensed health care practitioner is supervising the  
389 business activities and is legally responsible for the entity's  
390 compliance with all federal and state laws. However, a health  
391 care practitioner may not supervise services beyond the scope of  
392 the practitioner's license, except that, for the purposes of  
393 this part, a clinic owned by a licensee in s. 456.053(3)(b) that  
394 provides only services authorized pursuant to s. 456.053(3)(b)  
395 may be supervised by a licensee specified in s. 456.053(3)(b).

396 (h) Clinical facilities affiliated with an accredited  
397 medical school at which training is provided for medical  
398 students, residents, or fellows.

399 (i) Entities that provide only oncology or radiation  
400 therapy services by physicians licensed under chapter 458 or  
401 chapter 459 or entities that provide oncology or radiation  
402 therapy services by physicians licensed under chapter 458 or  
403 chapter 459 which are owned by a corporation whose shares are  
404 publicly traded on a recognized stock exchange.

405 (j) Clinical facilities affiliated with a college of  
406 chiropractic accredited by the Council on Chiropractic Education

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407 at which training is provided for chiropractic students.

408 (k) Entities that provide licensed practitioners to staff  
409 emergency departments or to deliver anesthesia services in  
410 facilities licensed under chapter 395 and that derive at least  
411 90 percent of their gross annual revenues from the provision of  
412 such services. Entities claiming an exemption from licensure  
413 under this paragraph must provide documentation demonstrating  
414 compliance.

415 (l) Orthotic or prosthetic clinical facilities that are a  
416 publicly traded corporation or that are wholly owned, directly  
417 or indirectly, by a publicly traded corporation. As used in this  
418 paragraph, a publicly traded corporation is a corporation that  
419 issues securities traded on an exchange registered with the  
420 United States Securities and Exchange Commission as a national  
421 securities exchange.

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

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

430 456.013 Department; general licensing provisions.—

431 (7) (a) The boards, or the department when there is no  
432 board, shall require the completion of a 2-hour course relating  
433 to prevention of medical errors as part of the licensure and  
434 renewal process. The 2-hour course counts ~~shall count~~ towards  
435 the total number of continuing education hours required for the

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436 profession. The board or department shall approve the course  
437 ~~shall be approved by the board or department,~~ as appropriate,  
438 which must and shall include a study of root-cause analysis,  
439 error reduction and prevention, and patient safety. In addition,  
440 the course approved by the Board of Medicine and the Board of  
441 Osteopathic Medicine must shall include information relating to  
442 the five most misdiagnosed conditions during the previous  
443 biennium, as determined by the board. If the course is being  
444 offered by a facility licensed under ~~pursuant to~~ chapter 395 for  
445 its employees, the board may approve up to 1 hour of the 2-hour  
446 course to be specifically related to error reduction and  
447 prevention methods used in that facility.

448 (b) As a condition of initial licensure and at each  
449 subsequent license renewal, the boards, or the department if  
450 there is no board, shall allow each practitioner licensed under  
451 chapter 458, chapter 459, chapter 461, chapter 465, or chapter  
452 466 whose lawful scope of practice authorizes the practitioner  
453 to prescribe, administer, or dispense controlled substances to  
454 complete a 1-hour continuing education course relating to the  
455 prescription drug monitoring program. The course must include,  
456 but need not be limited to:

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

458 2. The practitioners' capabilities for improving the  
459 standard of care for patients by using the prescription drug  
460 monitoring program.

461 3. How the prescription drug monitoring program can help  
462 practitioners detect doctor shopping.

463 4. The involvement of law enforcement personnel, the  
464 Attorney General's Medicaid Fraud Unit, and medical regulatory



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465 investigators with the prescription drug monitoring program.

466 5. The procedures for registering for access to the  
467 prescription drug monitoring program.

468  
469 The course hours may be included in the total number of hours of  
470 continuing education required by the profession and must be  
471 approved by the board or by the department if there is no board.

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

476 (c) The course requirements in paragraph (b) apply to each  
477 licensee renewing his or her license on or after July 1, 2012,  
478 and to each applicant approved for licensure on or after January  
479 1, 2013.

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

483 Section 3. Section 458.305, Florida Statutes, is amended to  
484 read:

485 458.305 Definitions.—As used in this chapter:

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

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

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

490 (4)~~(3)~~ "Practice of medicine" means the diagnosis,  
491 treatment, operation, or prescription for any human disease,  
492 pain, injury, deformity, or other physical or mental condition.

493 (5)~~(4)~~ "Physician" means a person who is licensed to

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494 practice medicine in this state.

495 Section 4. Advertising of controlled substances by a  
496 dispensing physician.—

497 (1) (a) Only a dispensing physician licensed under chapter  
498 458 or chapter 459, Florida Statutes, may use the title  
499 “dispensing physician” or “dispenser” or otherwise lead the  
500 public to believe that he or she is engaged in the dispensing of  
501 controlled substances.

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

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

505 2. Health clinic licensed under chapter 400, Florida  
506 Statutes,

507  
508 may not display any sign or take any other action that would  
509 lead the public to believe that such person is engaged in the  
510 business of dispensing a controlled substance. Any advertisement  
511 that states “dispensing onsite” or “onsite pharmacy” violates  
512 this paragraph. This paragraph does not preclude a person who is  
513 not licensed as a medical practitioner from owning a pain-  
514 management clinic.

515 (c) A person, firm, or corporation, unless licensed under  
516 chapter 465, Florida Statutes, may not use in a trade name,  
517 sign, letter, or advertisement any term, including “drug,”  
518 “pharmacy,” “onsite pharmacy,” “dispensing,” “dispensing  
519 onsite,” “prescription drugs,” “Rx,” or “apothecary,” which  
520 implies that the person, firm, or corporation is licensed or  
521 registered to dispense prescription drugs in this state.

522 (2) A person who violates paragraph (1) (a) or paragraph

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523 (1) (b) commits a misdemeanor of the first degree, punishable as  
524 provided in s. 775.082 or s. 775.083, Florida Statutes. A person  
525 who violates paragraph (1) (c) commits a felony of the third  
526 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
527 775.084, Florida Statutes. In any warrant, information, or  
528 indictment, it is not necessary to negate any exceptions, and  
529 the burden of any exception is upon the defendant.

530 Section 5. Paragraph (a) of subsection (1) of section  
531 458.3191, Florida Statutes, is amended to read:

532 458.3191 Physician survey.—

533 (1) Each person who applies for licensure renewal as a  
534 physician under this chapter or chapter 459 must, in conjunction  
535 with the renewal of such license under procedures adopted by the  
536 Department of Health and in addition to any other information  
537 that may be required from the applicant, furnish the following  
538 to the Department of Health in a physician survey:

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

540 1. Frequency and geographic location of practice within the  
541 state.

542 2. Practice setting.

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

544 4. Anticipated change to license or practice status.

545 5. Areas of specialty or certification.

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

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

551 Section 6. Subsection (3) is added to section 458.3192,

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552 Florida Statutes, to read:

553 458.3192 Analysis of survey results; report.—

554 (3) By November 1 each year, the Department of Health shall  
555 provide nonidentifying information to the prescription drug  
556 monitoring program's Implementation and Oversight Task Force  
557 regarding the number of physicians who are registered with the  
558 prescription drug monitoring program and who also use the  
559 database from the prescription drug monitoring program for their  
560 patients in their medical practice.

561 Section 7. Paragraphs (a), (f), (g), (h), and (k) of  
562 subsection (1) and paragraphs (a) and (c) of subsection (2) of  
563 section 458.3265, Florida Statutes, are amended, and paragraphs  
564 (f) and (g) are added to subsection (5) of that section, to  
565 read:

566 458.3265 Pain-management clinics.—

567 (1) REGISTRATION.—

568 (a) "Pain-management clinic," hereinafter referred to as  
569 "clinic," means a publicly or privately owned facility where in  
570 any month a majority of patients are prescribed opioids,  
571 benzodiazepines, barbiturates, or carisoprodol, for the  
572 treatment of chronic nonmalignant pain. "Chronic nonmalignant  
573 pain" means pain unrelated to cancer or rheumatoid arthritis  
574 which persists beyond the usual course of disease or the injury  
575 that is the cause of the pain or more than 90 days after  
576 surgery. All ~~privately owned pain-management clinics,~~  
577 ~~facilities, or offices, hereinafter referred to as "clinics,"~~  
578 ~~which advertise in any medium for any type of pain-management~~  
579 ~~services, or employ a physician who is primarily engaged in the~~  
580 ~~treatment of pain by prescribing or dispensing controlled~~

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581 ~~substance medications,~~ must register with the department unless:

582 1. That clinic is licensed as a facility pursuant to  
583 chapter 395;

584 2. The majority of the physicians who provide services in  
585 the clinic primarily provide surgical services or interventional  
586 pain procedures of the type routinely billed using surgical  
587 codes;

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

593 4. The clinic is affiliated with an accredited medical  
594 school at which training is provided for medical students,  
595 residents, or fellows;

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

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

600 (f) If the department finds upon a hearing by the probable  
601 cause panel of the appropriate board that a pain-management  
602 clinic does not meet the requirement of paragraph (d) or is  
603 owned, directly or indirectly, by a person meeting any criteria  
604 listed in paragraph (e), the department shall revoke the  
605 certificate of registration previously issued by the department.  
606 As determined by rule, the department may grant an exemption to  
607 denying a registration or revoking a previously issued  
608 registration if more than 10 years have elapsed since  
609 adjudication. As used in this subsection, the term "convicted"

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610 includes an adjudication of guilt following a plea of guilty or  
611 nolo contendere or the forfeiture of a bond when charged with a  
612 crime.

613 (g) The department may revoke the clinic's certificate of  
614 registration and prohibit all physicians associated with that  
615 pain-management clinic from practicing at that clinic location  
616 based upon an annual inspection and evaluation of the factors  
617 described in subsection (3) and upon a final determination by  
618 the probable cause panel of the appropriate board that any  
619 physician associated with that pain-management clinic knew or  
620 should have known of any violations of the factors described in  
621 subsection (3).

622 (h) 1. If the registration of a pain-management clinic is  
623 revoked or suspended, the designated physician of the pain-  
624 management clinic, the owner or lessor of the pain-management  
625 clinic property, the manager, and the proprietor shall cease to  
626 operate the facility as a pain-management clinic as of the  
627 effective date of the suspension or revocation.

628 2. Notwithstanding subparagraph 1., the clinic's  
629 registration shall not be revoked or suspended if the clinic,  
630 within 24 hours after notification of suspension or revocation,  
631 appoints another designated physician who has a full, active,  
632 and unencumbered license under this chapter or chapter 459 to  
633 operate a pain-management clinic.

634 (k) If the clinic's registration is revoked, any person  
635 named in the registration documents of the pain-management  
636 clinic, including persons owning or operating the pain-  
637 management clinic, may not, as an individual or as a part of a  
638 group, apply to operate a pain-management clinic for 5 years

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639 after the date the registration is revoked upon a finding by the  
640 probable cause panel of the appropriate board, and an  
641 opportunity to be heard, that the persons operating such clinic  
642 knew or should have known of violations causing such revocation.

643 (2) PHYSICIAN RESPONSIBILITIES.—These responsibilities  
644 apply to any physician who provides professional services in a  
645 pain-management clinic that is required to be registered in  
646 subsection (1).

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

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

651 ~~2. Effective July 1, 2012, the physician has not~~  
652 ~~successfully completed a pain-medicine fellowship that is~~  
653 ~~accredited by the Accreditation Council for Graduate Medical~~  
654 ~~Education or a pain-medicine residency that is accredited by the~~  
655 ~~Accreditation Council for Graduate Medical Education or, prior~~  
656 ~~to July 1, 2012, does not comply with rules adopted by the~~  
657 ~~board.~~

658  
659 Any physician who qualifies to practice medicine in a pain-  
660 management clinic pursuant to rules adopted by the Board of  
661 Medicine as of July 1, 2012, may continue to practice medicine  
662 in a pain-management clinic as long as the physician continues  
663 to meet the qualifications set forth in the board rules. A  
664 physician who violates this paragraph is subject to disciplinary  
665 action by his or her appropriate medical regulatory board.

666 (c) A physician, an advanced registered nurse practitioner,  
667 or a physician assistant must perform an appropriate medical a

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668 ~~physical~~ examination of a patient on the same day that the  
669 physician ~~he or she~~ dispenses or prescribes a controlled  
670 substance to a patient at a pain-management clinic. If the  
671 physician prescribes or dispenses more than a 72-hour dose of  
672 controlled substances for the treatment of chronic nonmalignant  
673 pain, the physician must document in the patient's record the  
674 reason such dosage is within the standard of care. For the  
675 purpose of this paragraph, the standard of care is set forth in  
676 rule 64B8-9.013(3), Florida Administrative Code ~~for prescribing~~  
677 ~~or dispensing that quantity.~~

678 (5) PENALTIES; ENFORCEMENT.—

679 (f) A licensee or other person who serves as the designated  
680 physician of a pain-management clinic as defined in this section  
681 or s. 459.0137 and registers a pain-management clinic through  
682 misrepresentation or fraud or procures or attempts to procure  
683 the registration of a pain-management clinic for any other  
684 person by making or causing to be made any false or fraudulent  
685 representation commits a felony of the third degree, punishable  
686 as provided in s. 775.082, s. 775.083, or s. 775.084.

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

693 Section 8. Paragraphs (f) and (g) are added to subsection  
694 (1), paragraphs (g) and (h) are added to subsection (2), and  
695 subsection (3) is added to section 458.327, Florida Statutes, to  
696 read:



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697 458.327 Penalty for violations.—

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

701 (f) Failing to perform a physical examination of a patient  
702 by a physician or a licensed designee acting under the  
703 physician's supervision on the same day that the treating  
704 physician dispenses or prescribes a controlled substance to the  
705 patient at a pain-management clinic occurring three or more  
706 times within a 6-month period, or failing to perform a physical  
707 examination on three or more different patients on the same day  
708 that the treating physician dispenses or prescribes a controlled  
709 substance to each patient at a pain-management clinic within a  
710 6-month period.

711 (g) Prescribing or dispensing in excess of a 72-hour dose  
712 of controlled substances at a pain-management clinic for the  
713 treatment of chronic nonmalignant pain of a patient occurring  
714 three or more times within a 6-month period without documenting  
715 in the patient's record the reason that such dosage is within  
716 the standard of care. For the purpose of this paragraph, the  
717 standard of care is set forth in rule 64B8-9.013(3), Florida  
718 Administrative Code.

719 (2) Each of the following acts constitutes a misdemeanor of  
720 the first degree, punishable as provided in s. 775.082 or s.  
721 775.083:

722 (g) Failing to perform a physical examination of a patient  
723 on the same day that the treating physician dispenses or  
724 prescribes a controlled substance to the patient at a pain-  
725 management clinic two times in a 6-month period, or failing to

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726 perform a physical examination on two different patients on the  
727 same day that the treating physician dispenses or prescribes a  
728 controlled substance to each patient at a pain-management clinic  
729 within a 6-month period.

730 (h) Prescribing or dispensing in excess of a 72-hour dose  
731 of controlled substances at a pain-management clinic for the  
732 treatment of chronic nonmalignant pain of a patient occurring  
733 two times within a 6-month period without documenting in the  
734 patient's record the reason that such dosage is within the  
735 standard of care. For the purpose of this paragraph, the  
736 standard of care is set forth in rule 64B8-9.013(3), Florida  
737 Administrative Code.

738 (3) Each of the following acts constitutes a misdemeanor of  
739 the second degree, punishable as provided in s. 775.082 or s.  
740 775.083:

741 (a) A first offense of failing to perform a physical  
742 examination of a patient on the same day that the treating  
743 physician dispenses or prescribes a controlled substance to the  
744 patient at a pain-management clinic.

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

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

752 458.331 Grounds for disciplinary action; action by the  
753 board and department.—

754 (11) Notwithstanding subsection (2), upon finding that a

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755 physician has prescribed or dispensed, or caused to be  
756 prescribed or dispensed, a controlled substance in a pain-  
757 management clinic in a manner that violates the standard of  
758 practice as set forth in this chapter or rules adopted pursuant  
759 to this chapter, the board shall, at a minimum, suspend the  
760 physician's license for at least 6 months and impose a fine of  
761 at least \$10,000 per count. Repeated violations shall result in  
762 increased penalties.

763 Section 10. Present subsections (3), (4), and (5) of  
764 section 459.003, Florida Statutes, are redesignated as  
765 subsections (4), (5), and (6), respectively, and a new  
766 subsection (3) is added to that section, to read:

767 459.003 Definitions.—As used in this chapter:

768 (3) "Dispensing physician" means an osteopathic physician  
769 who is registered as a dispensing practitioner under s.  
770 465.0276.

771 Section 11. Paragraph (a) of subsection (1) of section  
772 459.0081, Florida Statutes, is amended to read:

773 459.0081 Physician survey.—

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

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

- 781 1. Frequency and geographic location of practice within the  
782 state.
- 783 2. Practice setting.

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

785 4. Anticipated change to license or practice status.

786 5. Areas of specialty or certification.

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

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

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

794 459.0082 Analysis of survey results; report.—

795 (3) By November 1 of each year, the Department of Health  
796 shall provide nonidentifying information to the Implementation  
797 and Oversight Task Force of the prescription drug monitoring  
798 program regarding the number of physicians who are registered  
799 with the prescription drug monitoring program and who also use  
800 the database from the prescription drug monitoring program for  
801 their patients in their medical practice.

802 Section 13. Paragraphs (f) and (g) are added to subsection  
803 (1), paragraphs (e) and (f) are added to subsection (2), and  
804 paragraphs (d) and (e) are added to subsection (3) of section  
805 459.013, Florida Statutes, to read:

806 459.013 Penalty for violations.—

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

810 (f) Failing to perform a physical examination of a patient  
811 on the same day that the osteopathic physician dispenses or  
812 prescribes a controlled substance to the patient at a pain-

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813 management clinic occurring three or more times within a 6-month  
814 period, or failing to perform a physical examination on three or  
815 more different patients on the same day that the osteopathic  
816 physician dispenses or prescribes a controlled substance to each  
817 patient at a pain-management clinic within a 6-month period.

818 (g) Prescribing or dispensing in excess of a 72-hour dose  
819 of controlled substances at a pain-management clinic for the  
820 treatment of chronic nonmalignant pain of a patient occurring  
821 three or more times within a 6-month period without documenting  
822 in the patient's record the reason that such dosage is within  
823 the standard of care. For the purpose of this paragraph, the  
824 standard of care is set forth in rule 64B15-14.005(3), Florida  
825 Administrative Code.

826 (2) Each of the following acts constitutes a misdemeanor of  
827 the first degree, punishable as provided in s. 775.082 or s.  
828 775.083:

829 (e) Failing to perform a physical examination of a patient  
830 on the same day that the osteopathic physician dispenses or  
831 prescribes a controlled substance to the patient at a pain-  
832 management clinic occurring two times within a 6-month period,  
833 or failing to perform a physical examination on two different  
834 patients on the same day that the osteopathic physician  
835 dispenses or prescribes a controlled substance to each patient  
836 at a pain-management clinic within a 6-month period.

837 (f) Prescribing or dispensing in excess of a 72-hour dose  
838 of controlled substances at a pain-management clinic for the  
839 treatment of chronic nonmalignant pain of a patient occurring  
840 two times within a 6-month period without documenting in the  
841 patient's record the reason that such dosage is within the

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842 standard of care. For the purpose of this paragraph, the  
843 standard of care is set forth in rule 64B15-14.005(3), Florida  
844 Administrative Code.

845 (3) Each of the following constitutes a misdemeanor of the  
846 second degree, punishable as provided in s. 775.082 or s.  
847 775.083:

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

852 (e) A first offense of failing to document in a patient's  
853 record the reason that such dosage is within the standard of  
854 care for prescribing or dispensing in excess of a 72-hour dose  
855 of controlled substances at a pain-management clinic for the  
856 treatment of chronic nonmalignant pain. For the purpose of this  
857 paragraph, the standard of care is set forth in rule 64B15-  
858 14.005(3), Florida Administrative Code.

859 Section 14. Paragraphs (a), (f), (g), (h), and (k) of  
860 subsection (1) and paragraphs (a) and (c) of subsection (2) of  
861 section 459.0137, Florida Statutes, are amended, and paragraphs  
862 (f) and (g) are added to subsection (5) of that section, to  
863 read:

864 459.0137 Pain-management clinics.—

865 (1) REGISTRATION.—

866 (a) "Pain-management clinic," hereinafter referred to as  
867 "clinic," means a publicly or privately owned facility where in  
868 any month a majority of patients are prescribed opioids,  
869 benzodiazepines, barbiturates, or carisoprodol for the treatment  
870 of chronic nonmalignant pain. "Chronic nonmalignant pain" means

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871 pain unrelated to cancer or rheumatoid arthritis which persists  
872 beyond the usual course of a disease or the injury that is the  
873 cause of the pain or more than 90 days after surgery. All  
874 ~~privately owned pain-management clinics, facilities, or offices,~~  
875 ~~hereinafter referred to as "clinics," which advertise in any~~  
876 ~~medium for any type of pain-management services, or employ an~~  
877 ~~osteopathic physician who is primarily engaged in the treatment~~  
878 ~~of pain by prescribing or dispensing controlled substance~~  
879 ~~medications,~~ must register with the department unless:

880 1. That clinic is licensed as a facility pursuant to  
881 chapter 395;

882 2. The majority of the physicians who provide services in  
883 the clinic primarily provide surgical services or interventional  
884 pain procedures of the type routinely billed using surgical  
885 codes;

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

890 4. The clinic is affiliated with an accredited medical  
891 school at which training is provided for medical students,  
892 residents, or fellows;

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

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

897 (f) If the department finds upon a hearing by the probable  
898 cause panel of the appropriate board that a pain-management  
899 clinic does not meet the requirement of paragraph (d) or is

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900 owned, directly or indirectly, by a person meeting any criteria  
901 listed in paragraph (e), the department shall revoke the  
902 certificate of registration previously issued by the department.  
903 As determined by rule, the department may grant an exemption to  
904 denying a registration or revoking a previously issued  
905 registration if more than 10 years have elapsed since  
906 adjudication. As used in this subsection, the term "convicted"  
907 includes an adjudication of guilt following a plea of guilty or  
908 nolo contendere or the forfeiture of a bond when charged with a  
909 crime.

910 (g) The department may revoke the clinic's certificate of  
911 registration and prohibit all physicians associated with that  
912 pain-management clinic from practicing at that clinic location  
913 based upon an annual inspection and evaluation of the factors  
914 described in subsection (3) and upon a final determination by  
915 the probable cause panel of the appropriate board that any  
916 physician associated with that pain-management clinic knew or  
917 should have known of any violations of the factors described in  
918 subsection (3).

919 (h) 1. If the registration of a pain-management clinic is  
920 revoked or suspended, the designated physician of the pain-  
921 management clinic, the owner or lessor of the pain-management  
922 clinic property, the manager, and the proprietor shall cease to  
923 operate the facility as a pain-management clinic as of the  
924 effective date of the suspension or revocation.

925 2. Notwithstanding subparagraph 1., the clinic's  
926 registration shall not be revoked or suspended if the clinic,  
927 within 24 hours after notification of suspension or revocation,  
928 appoints another designated physician who has a full, active,



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929 and unencumbered license under this chapter or chapter 458 to  
930 operate a pain-management clinic.

931 (k) If the clinic's registration is revoked, any person  
932 named in the registration documents of the pain-management  
933 clinic, including persons owning or operating the pain-  
934 management clinic, may not, as an individual or as a part of a  
935 group, make application for a permit to operate a pain-  
936 management clinic for 5 years after the date the registration is  
937 revoked upon a finding by the probable cause panel of the  
938 appropriate board, and an opportunity to be heard, that the  
939 persons operating such clinic knew or should have known of  
940 violations causing such revocation.

941 (2) PHYSICIAN RESPONSIBILITIES.—These responsibilities  
942 apply to any osteopathic physician who provides professional  
943 services in a pain-management clinic that is required to be  
944 registered in subsection (1).

945 (a) An osteopathic physician may not practice medicine in a  
946 pain-management clinic, as described in subsection (4), if:

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

949 ~~2. Effective July 1, 2012, the physician has not~~  
950 ~~successfully completed a pain-medicine fellowship that is~~  
951 ~~accredited by the Accreditation Council for Graduate Medical~~  
952 ~~Education or the American Osteopathic Association or a pain-~~  
953 ~~medicine residency that is accredited by the Accreditation~~  
954 ~~Council for Graduate Medical Education or the American~~  
955 ~~Osteopathic Association or, prior to July 1, 2012, does not~~  
956 ~~comply with rules adopted by the board.~~

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958 Any physician who qualifies to practice medicine in a pain-  
959 management clinic pursuant to rules adopted by the Board of  
960 Osteopathic Medicine as of July 1, 2012, may continue to  
961 practice medicine in a pain-management clinic as long as the  
962 physician continues to meet the qualifications set forth in the  
963 board rules. An osteopathic physician who violates this  
964 paragraph is subject to disciplinary action by his or her  
965 appropriate medical regulatory board.

966 (c) An osteopathic physician, an advanced registered nurse  
967 practitioner, or a physician assistant must perform an  
968 appropriate medical ~~a physical~~ examination of a patient on the  
969 same day that the physician ~~he or she~~ dispenses or prescribes a  
970 controlled substance to a patient at a pain-management clinic.  
971 If the osteopathic physician prescribes or dispenses more than a  
972 72-hour dose of controlled substances for the treatment of  
973 chronic nonmalignant pain, the osteopathic physician must  
974 document in the patient's record the reason for which  
975 prescribing or dispensing a dosage in excess of a 72-hour dose  
976 of controlled substances for the treatment of chronic  
977 nonmalignant pain is within the standard of care ~~for prescribing~~  
978 ~~or dispensing that quantity.~~

979 (5) PENALTIES; ENFORCEMENT.—

980 (f) A licensee or other person who serves as the designated  
981 physician of a pain-management clinic as defined in s. 458.3265  
982 or s. 459.0137 and registers a pain-management clinic through  
983 intentional misrepresentation or fraud or procures or attempts  
984 to procure the registration of a pain-management clinic for any  
985 other person by making or causing to be made any false or  
986 fraudulent representation commits a felony of the third degree,

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987 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

996 459.015 Grounds for disciplinary action; action by the  
997 board and department.—

998 (11) Notwithstanding subsection (2), upon finding that an  
999 osteopathic physician has prescribed or dispensed, or caused to  
1000 be prescribed or dispensed, a controlled substance in a pain-  
1001 management clinic in a manner that violates the standard of  
1002 practice as set forth in this chapter or rules adopted pursuant  
1003 to this chapter, the board shall, at a minimum, suspend the  
1004 osteopathic physician's license for at least 6 months and impose  
1005 a fine of at least \$10,000 per count. Repeated violations shall  
1006 result in increased penalties.

1007 Section 16. Present subsections (3) and (4) of section  
1008 465.015, Florida Statutes, are renumbered as subsections (4) and  
1009 (5), respectively, and a new subsection (3) is added to that  
1010 section, to read:

1011 465.015 Violations and penalties.—

1012 (3) (a) A licensed pharmacist may not knowingly fail to  
1013 timely report to the local county sheriff's office the name of  
1014 any person who obtains or attempts to obtain a substance  
1015 controlled by s. 893.03 which the licensed pharmacist knows or

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1016 reasonably should have known was obtained or attempted to be  
1017 obtained from the pharmacy through any fraudulent method or  
1018 representation. A licensed pharmacist who fails to make such a  
1019 report within 24 hours after learning of the fraud or attempted  
1020 fraud commits a misdemeanor of the first degree, punishable as  
1021 provided in s. 775.082 or s. 775.083.

1022 (b) A sufficient report of the fraudulent obtaining of or  
1023 attempt to obtain a controlled substance under this subsection  
1024 may contain, at a minimum, a copy of the prescription used or  
1025 presented and a narrative, including all information available  
1026 to the pharmacy regarding:

1027 1. The transaction, such as the name and telephone number  
1028 of the prescribing physician;

1029 2. The name, description, and any personal identification  
1030 information pertaining to the person presenting the  
1031 prescription; and

1032 3. All other material information, such as photographic or  
1033 video surveillance of the transaction.

1034  
1035 A licensed pharmacist is not subject to disciplinary action for  
1036 reporting under this subsection.

1037 Section 17. Subsection (6) is added to section 465.0276,  
1038 Florida Statutes, to read:

1039 465.0276 Dispensing practitioner.—

1040 (6) In order to dispense a controlled substance listed in  
1041 Schedule II, Schedule III, or Schedule IV in s. 893.03, a  
1042 practitioner authorized by law to prescribe a controlled  
1043 substance shall register with the Board of Pharmacy as a  
1044 dispensing practitioner who dispenses controlled substances and

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1045 pay a fee not to exceed \$100. The department shall adopt rules  
1046 establishing procedures for renewal of the registration every 4  
1047 years.

1048 Section 18. Paragraph (t) of subsection (2) of section  
1049 499.01, Florida Statutes, is amended to read:

1050 499.01 Permits.—

1051 (2) The following permits are established:

1052 (t) *Health care clinic establishment permit.*—Effective  
1053 January 1, 2009, a health care clinic establishment permit is  
1054 required for the purchase of a prescription drug by a place of  
1055 business at one general physical location that provides health  
1056 care or veterinary services, which is owned and operated by a  
1057 business entity that has been issued a federal employer tax  
1058 identification number. For the purpose of this paragraph, the  
1059 term “qualifying practitioner” means a licensed health care  
1060 practitioner defined in s. 456.001, or a veterinarian licensed  
1061 under chapter 474, who is authorized under the appropriate  
1062 practice act to prescribe and administer a prescription drug.

1063 1. An establishment must provide, as part of the  
1064 application required under s. 499.012, designation of a  
1065 qualifying practitioner who will be responsible for complying  
1066 with all legal and regulatory requirements related to the  
1067 purchase, recordkeeping, storage, and handling of the  
1068 prescription drugs. In addition, the designated qualifying  
1069 practitioner shall be the practitioner whose name, establishment  
1070 address, and license number is used on all distribution  
1071 documents for prescription drugs purchased or returned by the  
1072 health care clinic establishment. Upon initial appointment of a  
1073 qualifying practitioner, the qualifying practitioner and the

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1074 health care clinic establishment shall notify the department on  
1075 a form furnished by the department within 10 days after such  
1076 employment. In addition, the qualifying practitioner and health  
1077 care clinic establishment shall notify the department within 10  
1078 days after any subsequent change.

1079 2. The health care clinic establishment must employ a  
1080 qualifying practitioner at each establishment.

1081 3. In addition to the remedies and penalties provided in  
1082 this part, a violation of this chapter by the health care clinic  
1083 establishment or qualifying practitioner constitutes grounds for  
1084 discipline of the qualifying practitioner by the appropriate  
1085 regulatory board.

1086 4. The purchase of prescription drugs by the health care  
1087 clinic establishment is prohibited during any period of time  
1088 when the establishment does not comply with this paragraph.

1089 5. A health care clinic establishment permit is not a  
1090 pharmacy permit or otherwise subject to chapter 465. A health  
1091 care clinic establishment that meets the criteria of a modified  
1092 Class II institutional pharmacy under s. 465.019 is not eligible  
1093 to be permitted under this paragraph.

1094 6. This paragraph does not apply to the purchase of a  
1095 prescription drug by a licensed practitioner under his or her  
1096 license. A professional corporation or limited liability company  
1097 composed of dentists and operating as authorized in s. 466.0285  
1098 may pay for prescription drugs obtained by a practitioner  
1099 licensed under chapter 466, and the licensed practitioner is  
1100 deemed the purchaser and owner of the prescription drugs.

1101 Section 19. Paragraph (a) of subsection (1) of section  
1102 766.101, Florida Statutes, is amended to read:

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1103 766.101 Medical review committee, immunity from liability.-

1104 (1) As used in this section:

1105 (a) The term "medical review committee" or "committee"  
1106 means:

1107 1.a. A committee of a hospital or ambulatory surgical  
1108 center licensed under chapter 395 or a health maintenance  
1109 organization certificated under part I of chapter 641,

1110 b. A committee of a physician-hospital organization, a  
1111 provider-sponsored organization, or an integrated delivery  
1112 system,

1113 c. A committee of a state or local professional society of  
1114 health care providers,

1115 d. A committee of a medical staff of a licensed hospital or  
1116 nursing home, provided the medical staff operates pursuant to  
1117 written bylaws that have been approved by the governing board of  
1118 the hospital or nursing home,

1119 e. A committee of the Department of Corrections or the  
1120 Correctional Medical Authority as created under s. 945.602, or  
1121 employees, agents, or consultants of either the department or  
1122 the authority or both,

1123 f. A committee of a professional service corporation formed  
1124 under chapter 621 or a corporation organized under chapter 607  
1125 or chapter 617, which is formed and operated for the practice of  
1126 medicine as defined in s. 458.305(4) ~~s. 458.305(3)~~, and which  
1127 has at least 25 health care providers who routinely provide  
1128 health care services directly to patients,

1129 g. A committee of the Department of Children and Family  
1130 Services which includes employees, agents, or consultants to the  
1131 department as deemed necessary to provide peer review,

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1132 utilization review, and mortality review of treatment services  
1133 provided pursuant to chapters 394, 397, and 916,

1134 h. A committee of a mental health treatment facility  
1135 licensed under chapter 394 or a community mental health center  
1136 as defined in s. 394.907, provided the quality assurance program  
1137 operates pursuant to the guidelines which have been approved by  
1138 the governing board of the agency,

1139 i. A committee of a substance abuse treatment and education  
1140 prevention program licensed under chapter 397 provided the  
1141 quality assurance program operates pursuant to the guidelines  
1142 which have been approved by the governing board of the agency,

1143 j. A peer review or utilization review committee organized  
1144 under chapter 440,

1145 k. A committee of the Department of Health, a county health  
1146 department, healthy start coalition, or certified rural health  
1147 network, when reviewing quality of care, or employees of these  
1148 entities when reviewing mortality records, or

1149 l. A continuous quality improvement committee of a pharmacy  
1150 licensed pursuant to chapter 465,

1151  
1152 which committee is formed to evaluate and improve the quality of  
1153 health care rendered by providers of health service, to  
1154 determine that health services rendered were professionally  
1155 indicated or were performed in compliance with the applicable  
1156 standard of care, or that the cost of health care rendered was  
1157 considered reasonable by the providers of professional health  
1158 services in the area; or

1159 2. A committee of an insurer, self-insurer, or joint  
1160 underwriting association of medical malpractice insurance, or



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1161 other persons conducting review under s. 766.106.

1162 Section 20. Subsection (3) of section 810.02, Florida  
1163 Statutes, is amended to read:

1164 810.02 Burglary.—

1165 (3) Burglary is a felony of the second degree, punishable  
1166 as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the  
1167 course of committing the offense, the offender does not make an  
1168 assault or battery and is not and does not become armed with a  
1169 dangerous weapon or explosive, and the offender enters or  
1170 remains in a:

1171 (a) Dwelling, and there is another person in the dwelling  
1172 at the time the offender enters or remains;

1173 (b) Dwelling, and there is not another person in the  
1174 dwelling at the time the offender enters or remains;

1175 (c) Structure, and there is another person in the structure  
1176 at the time the offender enters or remains;

1177 (d) Conveyance, and there is another person in the  
1178 conveyance at the time the offender enters or remains; ~~or~~

1179 (e) Authorized emergency vehicle, as defined in s. 316.003;  
1180 or—

1181 (f) Structure or conveyance when the offense intended to be  
1182 committed is theft of a substance controlled by s. 893.03.

1183 Notwithstanding any contrary provisions of law, separate  
1184 judgments and sentences for burglary with the intent to commit  
1185 theft of a controlled substance under this paragraph and for any  
1186 applicable offense for possession of a controlled substance  
1187 under s. 893.13, or an offense for trafficking in a controlled  
1188 substance under s. 893.135, may be imposed if all such offenses  
1189 involve the same amount or amounts of a controlled substance.

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1190  
1191 However, if the burglary is committed within a county that is  
1192 subject to a state of emergency declared by the Governor under  
1193 chapter 252 after the declaration of emergency is made and the  
1194 perpetration of the burglary is facilitated by conditions  
1195 arising from the emergency, the burglary is a felony of the  
1196 first degree, punishable as provided in s. 775.082, s. 775.083,  
1197 or s. 775.084. As used in this subsection, the term "conditions  
1198 arising from the emergency" means civil unrest, power outages,  
1199 curfews, voluntary or mandatory evacuations, or a reduction in  
1200 the presence of or response time for first responders or  
1201 homeland security personnel. A person arrested for committing a  
1202 burglary within a county that is subject to such a state of  
1203 emergency may not be released until the person appears before a  
1204 committing magistrate at a first appearance hearing. For  
1205 purposes of sentencing under chapter 921, a felony offense that  
1206 is reclassified under this subsection is ranked one level above  
1207 the ranking under s. 921.0022 or s. 921.0023 of the offense  
1208 committed.

1209 Section 21. Paragraph (c) of subsection (2) of section  
1210 812.014, Florida Statutes, is amended to read:

1211 812.014 Theft.—

1212 (2)

1213 (c) It is grand theft of the third degree and a felony of  
1214 the third degree, punishable as provided in s. 775.082, s.  
1215 775.083, or s. 775.084, if the property stolen is:

- 1216 1. Valued at \$300 or more, but less than \$5,000.  
1217 2. Valued at \$5,000 or more, but less than \$10,000.  
1218 3. Valued at \$10,000 or more, but less than \$20,000.

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- 1219 4. A will, codicil, or other testamentary instrument.
- 1220 5. A firearm.
- 1221 6. A motor vehicle, except as provided in paragraph (a).
- 1222 7. Any commercially farmed animal, including any animal of
- 1223 the equine, bovine, or swine class, or other grazing animal, and
- 1224 including aquaculture species raised at a certified aquaculture
- 1225 facility. If the property stolen is aquaculture species raised
- 1226 at a certified aquaculture facility, then a \$10,000 fine shall
- 1227 be imposed.
- 1228 8. Any fire extinguisher.
- 1229 9. Any amount of citrus fruit consisting of 2,000 or more
- 1230 individual pieces of fruit.
- 1231 10. Taken from a designated construction site identified by
- 1232 the posting of a sign as provided for in s. 810.09(2)(d).
- 1233 11. Any stop sign.
- 1234 12. Anhydrous ammonia.
- 1235 13. Any amount of a substance controlled by s. 893.03.
- 1236 Notwithstanding any contrary provisions of law, separate
- 1237 judgments and sentences for theft of a controlled substance
- 1238 under this subparagraph, and for any applicable offense for
- 1239 possession of a controlled substance under s. 893.13, or an
- 1240 offense for trafficking in a controlled substance under s.
- 1241 893.135 may be imposed if all such offenses involve the same
- 1242 amount or amounts of controlled substance.
- 1243
- 1244 However, if the property is stolen within a county that is
- 1245 subject to a state of emergency declared by the Governor under
- 1246 chapter 252, the property is stolen after the declaration of
- 1247 emergency is made, and the perpetration of the theft is

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1248 facilitated by conditions arising from the emergency, the  
1249 offender commits a felony of the second degree, punishable as  
1250 provided in s. 775.082, s. 775.083, or s. 775.084, if the  
1251 property is valued at \$5,000 or more, but less than \$10,000, as  
1252 provided under subparagraph 2., or if the property is valued at  
1253 \$10,000 or more, but less than \$20,000, as provided under  
1254 subparagraph 3. As used in this paragraph, the term "conditions  
1255 arising from the emergency" means civil unrest, power outages,  
1256 curfews, voluntary or mandatory evacuations, or a reduction in  
1257 the presence of or the response time for first responders or  
1258 homeland security personnel. For purposes of sentencing under  
1259 chapter 921, a felony offense that is reclassified under this  
1260 paragraph is ranked one level above the ranking under s.  
1261 921.0022 or s. 921.0023 of the offense committed.

1262 Section 22. Section 893.021, Florida Statutes, is created  
1263 to read:

1264 893.021 Adulterated drug.—

1265 (1) As used in this chapter, a drug is adulterated if it is  
1266 a controlled substance that:

1267 (a) Has been produced, prepared, packed, and marketed for  
1268 oral consumption by the manufacturer; and

1269 (b) Has had any change to its integrity or composition for  
1270 use by means of inhalation, injection, or any other form of  
1271 ingestion not in accordance with the manufacturer's recommended  
1272 use, and such mode of use has not been previously directed and  
1273 approved by the prescribing physician.

1274 (2) A physician is not prevented from directing or  
1275 prescribing a change to the recognized manufactured  
1276 recommendations for use in a patient who presents a medical need

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1277 for such a requirement change of any controlled substance. The  
1278 prescribing physician shall clearly indicate any deviation of  
1279 the recognized manufacturer's recommended use of a controlled  
1280 substance on the original prescription, and the licensed  
1281 pharmacist shall clearly indicate such deviation on the label of  
1282 the prescription upon dispensing the controlled substance.

1283 Section 23. Paragraphs (c), (d), and (e) of subsection (1)  
1284 of section 893.04, Florida Statutes, are amended to read:

1285 893.04 Pharmacist and practitioner.—

1286 (1) A pharmacist, in good faith and in the course of  
1287 professional practice only, may dispense controlled substances  
1288 upon a written or oral prescription of a practitioner, under the  
1289 following conditions:

1290 (c) The following information must ~~There shall~~ appear on  
1291 the face of the prescription or written record of a thereof ~~for~~  
1292 ~~the controlled substance the following information:~~

1293 1. The full name and address of the person for whom, or the  
1294 owner of the animal for which, the controlled substance is  
1295 dispensed.

1296 2. The full name and address of the prescribing  
1297 practitioner and the practitioner's federal controlled substance  
1298 registry number shall be printed thereon.

1299 3. If the prescription is for an animal, the species of  
1300 animal for which the controlled substance is prescribed.

1301 4. The name of the controlled substance prescribed and the  
1302 strength, quantity, and directions for use thereof. The  
1303 directions for use must specify the authorization by the  
1304 physician, any instructions requiring the adulteration of the  
1305 dispensed form of the medication, and the medical necessity for

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1306 the adulteration in accordance with s. 893.021.

1307 5. The number of the prescription, as recorded in the  
1308 prescription files of the pharmacy in which it is filled.

1309 6. The initials of the pharmacist filling the prescription  
1310 and the date filled.

1311 (d) The prescription must ~~shall~~ be retained on file by the  
1312 proprietor of the pharmacy in which it is filled for a period of  
1313 2 years.

1314 (e) A label bearing the following information must be  
1315 affixed to the original container in which a controlled  
1316 substance is delivered as upon a prescription or authorized  
1317 refill ~~thereof, as hereinafter provided, there shall be a label~~  
1318 ~~bearing the following information:~~

1319 1. The name and address of the pharmacy from which such  
1320 controlled substance was dispensed.

1321 2. The date on which the prescription for such controlled  
1322 substance was filled.

1323 3. The number of such prescription, as recorded in the  
1324 prescription files of the pharmacy in which it is filled.

1325 4. The name of the prescribing practitioner.

1326 5. The name of the patient for whom, or of the owner and  
1327 species of the animal for which, the controlled substance is  
1328 prescribed.

1329 6. The directions for the use of the controlled substance  
1330 prescribed in the prescription.

1331 7. A clear, concise warning that it is a crime to transfer  
1332 the controlled substance to any person other than the patient  
1333 for whom prescribed.

1334 Section 24. Section 893.055, Florida Statutes, is amended

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1335 to read:

1336 893.055 Prescription drug monitoring program.—

1337 (1) As used in this section, the term:

1338 (a) "Patient advisory report" or "advisory report" means  
1339 information provided by the department in writing, or as  
1340 determined by the department, to a prescriber, dispenser,  
1341 pharmacy, or patient concerning the dispensing of controlled  
1342 substances. All advisory reports are for informational purposes  
1343 only and impose no obligations of any nature or any legal duty  
1344 on a prescriber, dispenser, pharmacy, or patient. The patient  
1345 advisory report shall be provided in accordance with s.  
1346 893.13(7)(a)8. The advisory reports issued by the department are  
1347 not subject to discovery or introduction into evidence in any  
1348 civil or administrative action against a prescriber, dispenser,  
1349 pharmacy, or patient arising out of matters that are the subject  
1350 of the report; and a person who participates in preparing,  
1351 reviewing, issuing, or any other activity related to an advisory  
1352 report may not be permitted or required to testify in any such  
1353 civil action as to any findings, recommendations, evaluations,  
1354 opinions, or other actions taken in connection with preparing,  
1355 reviewing, or issuing such a report.

1356 (b) "Controlled substance" means a controlled substance  
1357 listed in Schedule II, Schedule III, or Schedule IV in s.  
1358 893.03.

1359 (c) "Dispenser" means a pharmacy, dispensing pharmacist, or  
1360 dispensing health care practitioner.

1361 (d) "Health care practitioner" or "practitioner" means any  
1362 practitioner who is subject to licensure or regulation by the  
1363 department under chapter 458, chapter 459, chapter 461, chapter

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1364 462, chapter 464, chapter 465, or chapter 466.

1365 (e) "Health care regulatory board" means any board for a  
1366 practitioner or health care practitioner who is licensed or  
1367 regulated by the department.

1368 (f) "Pharmacy" means any pharmacy that is subject to  
1369 licensure or regulation by the department under chapter 465 and  
1370 that dispenses or delivers a controlled substance to an  
1371 individual or address in this state.

1372 (g) "Prescriber" means a prescribing physician, prescribing  
1373 practitioner, or other prescribing health care practitioner.

1374 (h) "Active investigation" means an investigation that is  
1375 being conducted with a reasonable, good faith belief that it  
1376 could lead to the filing of administrative, civil, or criminal  
1377 proceedings, or that is ongoing and continuing and for which  
1378 there is a reasonable, good faith anticipation of securing an  
1379 arrest or prosecution in the foreseeable future.

1380 (i) "Law enforcement agency" means the Department of Law  
1381 Enforcement, a Florida sheriff's department, a Florida police  
1382 department, or a law enforcement agency of the Federal  
1383 Government which enforces the laws of this state or the United  
1384 States relating to controlled substances, and which its agents  
1385 and officers are empowered by law to conduct criminal  
1386 investigations and make arrests.

1387 (j) "Program manager" means an employee of or a person  
1388 contracted by the Department of Health who is designated to  
1389 ensure the integrity of the prescription drug monitoring program  
1390 in accordance with the requirements established in paragraphs  
1391 (2) (a) and (b).

1392 (2) (a) By December 1, 2010, the department shall design and



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1393 establish a comprehensive electronic database system that has  
1394 controlled substance prescriptions provided to it and that  
1395 provides prescription information to a patient's health care  
1396 practitioner and pharmacist who inform the department that they  
1397 wish the patient advisory report provided to them. Otherwise,  
1398 the patient advisory report will not be sent to the  
1399 practitioner, pharmacy, or pharmacist. The system shall be  
1400 designed to provide information regarding dispensed  
1401 prescriptions of controlled substances and shall not infringe  
1402 upon the legitimate prescribing or dispensing of a controlled  
1403 substance by a prescriber or dispenser acting in good faith and  
1404 in the course of professional practice. The system shall be  
1405 consistent with standards of the American Society for Automation  
1406 in Pharmacy (ASAP). The electronic system shall also comply with  
1407 the Health Insurance Portability and Accountability Act (HIPAA)  
1408 as it pertains to protected health information (PHI), electronic  
1409 protected health information (EPHI), minimum requirements as  
1410 established by the department for authentication of a  
1411 practitioner who requests information in the prescription drug  
1412 monitoring program database and certification of the purpose for  
1413 which information is requested, and all other relevant state and  
1414 federal privacy and security laws and regulations. The  
1415 department shall establish policies and procedures as  
1416 appropriate regarding the reporting, accessing the database,  
1417 evaluation, management, development, implementation, operation,  
1418 storage, and security of information within the system. The  
1419 reporting of prescribed controlled substances shall include a  
1420 dispensing transaction with a dispenser pursuant to chapter 465  
1421 or through a dispensing transaction to an individual or address

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1422 in this state with a pharmacy that is not located in this state  
1423 but that is otherwise subject to the jurisdiction of this state  
1424 as to that dispensing transaction. The reporting of patient  
1425 advisory reports refers only to reports to patients, pharmacies,  
1426 and practitioners. Separate reports that contain patient  
1427 prescription history information and that are not patient  
1428 advisory reports are provided to persons and entities as  
1429 authorized in paragraphs (7) (b) and (c) and s. 893.0551.

1430 (b) The department, when the direct support organization  
1431 receives at least \$20,000 in nonstate moneys or the state  
1432 receives at least \$20,000 in federal grants for the prescription  
1433 drug monitoring program, and in consultation with the Office of  
1434 Drug Control, shall adopt rules as necessary concerning the  
1435 reporting, accessing the database, evaluation, management,  
1436 development, implementation, operation, security, and storage of  
1437 information within the system, including rules for when patient  
1438 advisory reports are provided to pharmacies and prescribers. The  
1439 patient advisory report shall be provided in accordance with s.  
1440 893.13(7) (a)8. The department shall work with the professional  
1441 health care licensure boards, such as the Board of Medicine, the  
1442 Board of Osteopathic Medicine, and the Board of Pharmacy; other  
1443 appropriate organizations, such as the Florida Pharmacy  
1444 Association, the Office of Drug Control, the Florida Medical  
1445 Association, the Florida Retail Federation, and the Florida  
1446 Osteopathic Medical Association, including those relating to  
1447 pain management; and the Attorney General, the Department of Law  
1448 Enforcement, and the Agency for Health Care Administration to  
1449 develop rules appropriate for the prescription drug monitoring  
1450 program.

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1451 (c) All dispensers and prescribers subject to these  
1452 reporting requirements shall be notified by the department of  
1453 the implementation date for such reporting requirements.

1454 (d) The program manager shall work with professional health  
1455 care licensure boards and the stakeholders listed in paragraph  
1456 (b) to develop rules appropriate for identifying indicators of  
1457 controlled substance abuse.

1458 (e) The department shall establish a method to allow  
1459 corrections to the database when notified by a health care  
1460 practitioner or pharmacist.

1461 (3) The pharmacy dispensing the controlled substance and  
1462 each prescriber who directly dispenses a controlled substance  
1463 shall submit to the electronic system, by a procedure and in a  
1464 format established by the department and consistent with an  
1465 ASAP-approved format, the following information for inclusion in  
1466 the database:

1467 (a) The name of the prescribing practitioner, the  
1468 practitioner's federal Drug Enforcement Administration  
1469 registration number, the practitioner's National Provider  
1470 Identification (NPI) or other appropriate identifier, and the  
1471 date of the prescription.

1472 (b) The date the prescription was filled and the method of  
1473 payment, such as cash by an individual, insurance coverage  
1474 through a third party, or Medicaid payment. This paragraph does  
1475 not authorize the department to include individual credit card  
1476 numbers or other account numbers in the database.

1477 (c) The full name, address, and date of birth of the person  
1478 for whom the prescription was written.

1479 (d) The name, national drug code, quantity, and strength of

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1480 the controlled substance dispensed.

1481 (e) The full name, federal Drug Enforcement Administration  
1482 registration number, and address of the pharmacy or other  
1483 location from which the controlled substance was dispensed. If  
1484 the controlled substance was dispensed by a practitioner other  
1485 than a pharmacist, the practitioner's full name, federal Drug  
1486 Enforcement Administration registration number, and address.

1487 (f) The name of the pharmacy or practitioner, other than a  
1488 pharmacist, dispensing the controlled substance and the  
1489 practitioner's National Provider Identification (NPI).

1490 (g) Other appropriate identifying information as determined  
1491 by department rule.

1492 (h) The number of refills ordered and whether the drug was  
1493 dispensed as a refill of a prescription or was a first-time  
1494 request.

1495 (4) Each time a controlled substance is dispensed to an  
1496 individual, the controlled substance shall be reported to the  
1497 department through the system as soon thereafter as possible,  
1498 but not more than 7 ~~15~~ days after the date the controlled  
1499 substance is dispensed unless an extension is approved by the  
1500 department for cause as determined by rule. A dispenser must  
1501 meet the reporting requirements of this section by providing the  
1502 required information concerning each controlled substance that  
1503 it dispensed in a department-approved, secure methodology and  
1504 format. Such approved formats may include, but are not limited  
1505 to, submission via the Internet, on a disc, or by use of regular  
1506 mail.

1507 (5) When the following acts of dispensing or administering  
1508 occur, the following are exempt from reporting under this

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1509 section for that specific act of dispensing or administration:

1510 (a) A health care practitioner when administering a  
1511 controlled substance directly to a patient if the amount of the  
1512 controlled substance is adequate to treat the patient during  
1513 that particular treatment session.

1514 (b) A pharmacist or health care practitioner when  
1515 administering a controlled substance to a patient or resident  
1516 receiving care as a patient at a hospital, nursing home,  
1517 ambulatory surgical center, hospice, or intermediate care  
1518 facility for the developmentally disabled which is licensed in  
1519 this state.

1520 ~~(c) A practitioner when administering or dispensing a~~  
1521 ~~controlled substance in the health care system of the Department~~  
1522 ~~of Corrections.~~

1523 (c) ~~(d)~~ A practitioner when administering a controlled  
1524 substance in the emergency room of a licensed hospital.

1525 (d) ~~(e)~~ A health care practitioner when administering or  
1526 dispensing a controlled substance to a person under the age of  
1527 16 if the amount of the controlled substance is adequate to  
1528 treat the patient during that particular treatment session.

1529 (e) ~~(f)~~ A pharmacist or a dispensing practitioner when  
1530 dispensing a one-time, 48-hour ~~72-hour~~ emergency resupply of a  
1531 controlled substance to a patient.

1532 (6) The department may establish when to suspend and when  
1533 to resume reporting information during a state-declared or  
1534 nationally declared disaster.

1535 (7) (a) A practitioner or pharmacist who dispenses a  
1536 controlled substance must submit the information required by  
1537 this section in an electronic or other method in an ASAP format

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1538 approved by rule of the department unless otherwise provided in  
1539 this section. The cost to the dispenser in submitting the  
1540 information required by this section may not be material or  
1541 extraordinary. Costs not considered to be material or  
1542 extraordinary include, but are not limited to, regular postage,  
1543 electronic media, regular electronic mail, and facsimile  
1544 charges.

1545       (b)1. In order for a pharmacy, prescriber, practitioner, or  
1546 dispenser to shall have access to information in the  
1547 prescription drug monitoring program's database which relates to  
1548 a patient of that pharmacy, prescriber, practitioner, or  
1549 dispenser, the pharmacy, prescriber, practitioner, or dispenser  
1550 shall register with the department by submitting a registering  
1551 document provided by the department. The document and validation  
1552 of that document shall be determined by the department. Before a  
1553 pharmacy, prescriber, practitioner, or dispenser is granted  
1554 access to information in the database from the prescription drug  
1555 monitoring program, the department shall approve the submitted  
1556 document. Upon approval, the department shall grant the  
1557 registrant access to the appropriate information in the  
1558 prescription drug monitoring program's database in a manner  
1559 ~~established by the department as needed for the purpose of~~  
1560 ~~reviewing the patient's controlled substance prescription~~  
1561 ~~history.~~

1562       2. Other access to the program's database shall be limited  
1563 to the program's manager and to the designated program and  
1564 support staff, who may act only at the direction of the program  
1565 manager or, in the absence of the program manager, as  
1566 authorized. Access by the program manager or such designated

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1567 staff is for prescription drug program management only or for  
1568 management of the program's database and its system in support  
1569 of the requirements of this section and in furtherance of the  
1570 prescription drug monitoring program. Confidential and exempt  
1571 information in the database shall be released only as provided  
1572 in paragraph (c) and s. 893.0551. The program manager,  
1573 designated program and support staff who act at the direction of  
1574 or in the absence of the program manager, and any individual who  
1575 has similar access regarding the management of the database from  
1576 the prescription drug monitoring program shall submit  
1577 fingerprints to the department for background screening. The  
1578 department shall follow the procedure established by the  
1579 Department of Law Enforcement to request a statewide criminal  
1580 history record check and to request that the Department of Law  
1581 Enforcement forward the fingerprints to the Federal Bureau of  
1582 Investigation for a national criminal history record check.

1583 (c) The following entities may ~~shall~~ not have be allowed  
1584 direct access to information in the prescription drug monitoring  
1585 program database but may request from the program manager and,  
1586 when authorized by the program manager, the program manager's  
1587 program and support staff, information that is confidential and  
1588 exempt under s. 893.0551. Prior to release, the request shall be  
1589 verified as authentic and authorized with the requesting  
1590 organization by the program manager, the program manager's  
1591 program and support staff, or as determined in rules by the  
1592 department as being authentic and as having been authorized by  
1593 the requesting entity:

1594 1. The department or its relevant health care regulatory  
1595 boards responsible for the licensure, regulation, or discipline

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1596 of practitioners, pharmacists, or other persons who are  
1597 authorized to prescribe, administer, or dispense controlled  
1598 substances and who are involved in a specific controlled  
1599 substance investigation involving a designated person for one or  
1600 more prescribed controlled substances.

1601 2. The Attorney General for Medicaid fraud cases or  
1602 Medicaid investigations involving prescribed controlled  
1603 substances.

1604 3. A law enforcement agency during active investigations  
1605 regarding potential criminal activity, fraud, or theft regarding  
1606 prescribed controlled substances.

1607 4. A patient or the legal guardian or designated health  
1608 care surrogate of an incapacitated patient as described in s.  
1609 893.0551 who, for the purpose of verifying the accuracy of the  
1610 database information, submits a written and notarized request  
1611 that includes the patient's full name, address, and date of  
1612 birth, and includes the same information if the legal guardian  
1613 or health care surrogate submits the request. The patient's  
1614 phone number, current address, and a copy of a government-issued  
1615 photo identification must be provided in person to the program  
1616 manager along with the notarized request. The request shall be  
1617 validated by the department to verify the identity of the  
1618 patient and the legal guardian or health care surrogate, if the  
1619 patient's legal guardian or health care surrogate is the  
1620 requestor. Such verification is also required for any request to  
1621 change a patient's prescription history or other information  
1622 related to his or her information in the electronic database.

1623 5. The Agency for Health Care Administration for Medicaid  
1624 fraud cases or Medicaid investigations involving prescribed



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1625 controlled substances.

1626

1627 Information in the database for the electronic prescription drug  
1628 monitoring system is not discoverable or admissible in any civil  
1629 or administrative action, except in an investigation and  
1630 disciplinary proceeding by the department or the appropriate  
1631 regulatory board.

1632 (d) The following entities may ~~shall~~ not have ~~be allowed~~  
1633 direct access to information in the prescription drug monitoring  
1634 program database but may request from the program manager and,  
1635 when authorized by the program manager, the program manager's  
1636 program and support staff, information that contains no  
1637 identifying information of any patient, physician, health care  
1638 practitioner, prescriber, or dispenser and that is not  
1639 confidential and exempt:

1640 1. Department staff for the purpose of calculating  
1641 performance measures pursuant to subsection (8).

1642 2. The Program Implementation and Oversight Task Force for  
1643 its reporting to the Governor, the President of the Senate, and  
1644 the Speaker of the House of Representatives regarding the  
1645 prescription drug monitoring program. This subparagraph expires  
1646 July 1, 2012.

1647 (e) All transmissions of data required by this section must  
1648 comply with relevant state and federal privacy and security laws  
1649 and regulations. However, any authorized agency or person under  
1650 s. 893.0551 receiving such information as allowed by s. 893.0551  
1651 may maintain the information received for up to 24 months before  
1652 purging it from his or her records or maintain it for longer  
1653 than 24 months if the information is pertinent to ongoing health

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1654 care or an active law enforcement investigation or prosecution.

1655 (f) The program manager, upon determining a pattern  
1656 consistent with the rules established under paragraph (2) (d) and  
1657 having cause to believe a violation of s. 893.13(7) (a)8.,  
1658 (8) (a), or (8) (b) has occurred, may provide relevant information  
1659 to the applicable law enforcement agency.

1660 (8) To assist in fulfilling program responsibilities,  
1661 performance measures shall be reported annually to the Governor,  
1662 the President of the Senate, and the Speaker of the House of  
1663 Representatives by the department each December 1, beginning in  
1664 2011. Data that does not contain patient, physician, health care  
1665 practitioner, prescriber, or dispenser identifying information  
1666 may be requested during the year by department employees so that  
1667 the department may undertake public health care and safety  
1668 initiatives that take advantage of observed trends. Performance  
1669 measures may include, but are not limited to, efforts to achieve  
1670 the following outcomes:

1671 (a) Reduction of the rate of inappropriate use of  
1672 prescription drugs through department education and safety  
1673 efforts.

1674 (b) Reduction of the quantity of pharmaceutical controlled  
1675 substances obtained by individuals attempting to engage in fraud  
1676 and deceit.

1677 (c) Increased coordination among partners participating in  
1678 the prescription drug monitoring program.

1679 (d) Involvement of stakeholders in achieving improved  
1680 patient health care and safety and reduction of prescription  
1681 drug abuse and prescription drug diversion.

1682 (9) Any person who willfully and knowingly fails to report

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1683 the dispensing of a controlled substance as required by this  
1684 section commits a misdemeanor of the first degree, punishable as  
1685 provided in s. 775.082 or s. 775.083.

1686 ~~(10) All costs incurred by the department in administering~~  
1687 ~~the prescription drug monitoring program shall be funded through~~  
1688 ~~federal grants or private funding applied for or received by the~~  
1689 ~~state. The department may not commit funds for the monitoring~~  
1690 ~~program without ensuring funding is available. The prescription~~  
1691 ~~drug monitoring program and the implementation thereof are~~  
1692 ~~contingent upon receipt of the nonstate funding.~~ The department  
1693 and state government shall cooperate with the direct-support  
1694 organization established pursuant to subsection (11) in seeking  
1695 federal grant funds, other nonstate grant funds, gifts,  
1696 donations, or other private moneys for the department so long as  
1697 the costs of doing so are not considered material. Nonmaterial  
1698 costs for this purpose include, but are not limited to, the  
1699 costs of mailing and personnel assigned to research or apply for  
1700 a grant. Notwithstanding the exemptions to competitive-  
1701 solicitation requirements under s. 287.057(3)(f), the department  
1702 shall comply with the competitive-solicitation requirements  
1703 under s. 287.057 for the procurement of any goods or services  
1704 required by this section.

1705 (11) The Office of Drug Control, in coordination with the  
1706 department, may establish a direct-support organization that has  
1707 a board consisting of at least five members to provide  
1708 assistance, funding, and promotional support for the activities  
1709 authorized for the prescription drug monitoring program.

1710 (a) As used in this subsection, the term "direct-support  
1711 organization" means an organization that is:

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1712 1. A Florida corporation not for profit incorporated under  
1713 chapter 617, exempted from filing fees, and approved by the  
1714 Department of State.

1715 2. Organized and operated to conduct programs and  
1716 activities; raise funds; request and receive grants, gifts, and  
1717 bequests of money; acquire, receive, hold, and invest, in its  
1718 own name, securities, funds, objects of value, or other  
1719 property, either real or personal; and make expenditures or  
1720 provide funding to or for the direct or indirect benefit of the  
1721 department in the furtherance of the prescription drug  
1722 monitoring program.

1723 (b) The direct-support organization is not considered a  
1724 lobbying firm within the meaning of s. 11.045.

1725 (c) The director of the Office of Drug Control shall  
1726 appoint a board of directors for the direct-support  
1727 organization. The director may designate employees of the Office  
1728 of Drug Control, state employees other than state employees from  
1729 the department, and any other nonstate employees as appropriate,  
1730 to serve on the board. Members of the board shall serve at the  
1731 pleasure of the director of the Office of Drug Control. The  
1732 director shall provide guidance to members of the board to  
1733 ensure that moneys received by the direct-support organization  
1734 are not received from inappropriate sources. Inappropriate  
1735 sources include, but are not limited to, donors, grantors,  
1736 persons, or organizations that may monetarily or substantively  
1737 benefit from the purchase of goods or services by the department  
1738 in furtherance of the prescription drug monitoring program.

1739 (d) The direct-support organization shall operate under  
1740 written contract with the Office of Drug Control. The contract

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1741 must, at a minimum, provide for:

1742 1. Approval of the articles of incorporation and bylaws of  
1743 the direct-support organization by the Office of Drug Control.

1744 2. Submission of an annual budget for the approval of the  
1745 Office of Drug Control.

1746 3. Certification by the Office of Drug Control in  
1747 consultation with the department that the direct-support  
1748 organization is complying with the terms of the contract in a  
1749 manner consistent with and in furtherance of the goals and  
1750 purposes of the prescription drug monitoring program and in the  
1751 best interests of the state. Such certification must be made  
1752 annually and reported in the official minutes of a meeting of  
1753 the direct-support organization.

1754 4. The reversion, without penalty, to the Office of Drug  
1755 Control, or to the state if the Office of Drug Control ceases to  
1756 exist, of all moneys and property held in trust by the direct-  
1757 support organization for the benefit of the prescription drug  
1758 monitoring program if the direct-support organization ceases to  
1759 exist or if the contract is terminated.

1760 5. The fiscal year of the direct-support organization,  
1761 which must begin July 1 of each year and end June 30 of the  
1762 following year.

1763 6. The disclosure of the material provisions of the  
1764 contract to donors of gifts, contributions, or bequests,  
1765 including such disclosure on all promotional and fundraising  
1766 publications, and an explanation to such donors of the  
1767 distinction between the Office of Drug Control and the direct-  
1768 support organization.

1769 7. The direct-support organization's collecting, expending,

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1770 and providing of funds to the department for the development,  
1771 implementation, and operation of the prescription drug  
1772 monitoring program as described in this section and s. 2,  
1773 chapter 2009-198, Laws of Florida, as long as the task force is  
1774 authorized. The direct-support organization may collect and  
1775 expend funds to be used for the functions of the direct-support  
1776 organization's board of directors, as necessary and approved by  
1777 the director of the Office of Drug Control. In addition, the  
1778 direct-support organization may collect and provide funding to  
1779 the department in furtherance of the prescription drug  
1780 monitoring program by:

1781 a. Establishing and administering the prescription drug  
1782 monitoring program's electronic database, including hardware and  
1783 software.

1784 b. Conducting studies on the efficiency and effectiveness  
1785 of the program to include feasibility studies as described in  
1786 subsection (13).

1787 c. Providing funds for future enhancements of the program  
1788 within the intent of this section.

1789 d. Providing user training of the prescription drug  
1790 monitoring program, including distribution of materials to  
1791 promote public awareness and education and conducting workshops  
1792 or other meetings, for health care practitioners, pharmacists,  
1793 and others as appropriate.

1794 e. Providing funds for travel expenses.

1795 f. Providing funds for administrative costs, including  
1796 personnel, audits, facilities, and equipment.

1797 g. Fulfilling all other requirements necessary to implement  
1798 and operate the program as outlined in this section.

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1799 (e) The activities of the direct-support organization must  
1800 be consistent with the goals and mission of the Office of Drug  
1801 Control, as determined by the office in consultation with the  
1802 department, and in the best interests of the state. The direct-  
1803 support organization must obtain a written approval from the  
1804 director of the Office of Drug Control for any activities in  
1805 support of the prescription drug monitoring program before  
1806 undertaking those activities.

1807 (f) The Office of Drug Control, in consultation with the  
1808 department, may permit, without charge, appropriate use of  
1809 administrative services, property, and facilities of the Office  
1810 of Drug Control and the department by the direct-support  
1811 organization, subject to this section. The use must be directly  
1812 in keeping with the approved purposes of the direct-support  
1813 organization and may not be made at times or places that would  
1814 unreasonably interfere with opportunities for the public to use  
1815 such facilities for established purposes. Any moneys received  
1816 from rentals of facilities and properties managed by the Office  
1817 of Drug Control and the department may be held by the Office of  
1818 Drug Control or in a separate depository account in the name of  
1819 the direct-support organization and subject to the provisions of  
1820 the letter of agreement with the Office of Drug Control. The  
1821 letter of agreement must provide that any funds held in the  
1822 separate depository account in the name of the direct-support  
1823 organization must revert to the Office of Drug Control if the  
1824 direct-support organization is no longer approved by the Office  
1825 of Drug Control to operate in the best interests of the state.

1826 (g) The Office of Drug Control, in consultation with the  
1827 department, may adopt rules under s. 120.54 to govern the use of

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1828 administrative services, property, or facilities of the  
1829 department or office by the direct-support organization.

1830 (h) The Office of Drug Control may not permit the use of  
1831 any administrative services, property, or facilities of the  
1832 state by a direct-support organization if that organization does  
1833 not provide equal membership and employment opportunities to all  
1834 persons regardless of race, color, religion, gender, age, or  
1835 national origin.

1836 (i) The direct-support organization shall provide for an  
1837 independent annual financial audit in accordance with s.  
1838 215.981. Copies of the audit shall be provided to the Office of  
1839 Drug Control and the Office of Policy and Budget in the  
1840 Executive Office of the Governor.

1841 (j) The direct-support organization may not exercise any  
1842 power under s. 617.0302(12) or (16).

1843 (12) A prescriber or dispenser may have access to the  
1844 information under this section which relates to a patient of  
1845 that prescriber or dispenser as needed for the purpose of  
1846 reviewing the patient's controlled drug prescription history. A  
1847 prescriber or dispenser acting in good faith is immune from any  
1848 civil, criminal, or administrative liability that might  
1849 otherwise be incurred or imposed for receiving or using  
1850 information from the prescription drug monitoring program. This  
1851 subsection does not create a private cause of action, and a  
1852 person may not recover damages against a prescriber or dispenser  
1853 authorized to access information under this subsection for  
1854 accessing or failing to access such information.

1855 (13) To the extent that funding is provided for such  
1856 purpose through federal or private grants or gifts and other



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1857 types of available moneys, the department, in collaboration with  
1858 the Office of Drug Control, shall study the feasibility of  
1859 enhancing the prescription drug monitoring program for the  
1860 purposes of public health initiatives and statistical reporting  
1861 that respects the privacy of the patient, the prescriber, and  
1862 the dispenser. Such a study shall be conducted in order to  
1863 further improve the quality of health care services and safety  
1864 by improving the prescribing and dispensing practices for  
1865 prescription drugs, taking advantage of advances in technology,  
1866 reducing duplicative prescriptions and the overprescribing of  
1867 prescription drugs, and reducing drug abuse. The requirements of  
1868 the National All Schedules Prescription Electronic Reporting  
1869 (NASPER) Act are authorized in order to apply for federal NASPER  
1870 funding. In addition, the direct-support organization shall  
1871 provide funding for the department, in collaboration with the  
1872 Office of Drug Control, to conduct training for health care  
1873 practitioners and other appropriate persons in using the  
1874 monitoring program to support the program enhancements.

1875 (14) A pharmacist, pharmacy, or dispensing health care  
1876 practitioner or his or her agent, before releasing a controlled  
1877 substance to any person not known to such dispenser, shall  
1878 require the person purchasing, receiving, or otherwise acquiring  
1879 the controlled substance to present valid photographic  
1880 identification or other verification of his or her identity to  
1881 the dispenser. If the person does not have proper  
1882 identification, the dispenser may verify the validity of the  
1883 prescription and the identity of the patient with the prescriber  
1884 or his or her authorized agent. Verification of health plan  
1885 eligibility through a real-time inquiry or adjudication system

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1886 will be considered to be proper identification. This subsection  
1887 does not apply in an institutional setting or to a long-term  
1888 care facility, including, but not limited to, an assisted living  
1889 facility or a hospital to which patients are admitted. As used  
1890 in this subsection, the term "proper identification" means an  
1891 identification that is issued by a state or the Federal  
1892 Government containing the person's photograph, printed name, and  
1893 signature or a document considered acceptable under 8 C.F.R. s.  
1894 274a.2(b)(1)(v)(A) and (B).

1895 (15) The Agency for Health Care Administration shall  
1896 continue the promotion of electronic prescribing by health care  
1897 practitioners, health care facilities, and pharmacies under s.  
1898 408.0611.

1899 (16) By October 1, 2010, the department shall adopt rules  
1900 pursuant to ss. 120.536(1) and 120.54 to administer the  
1901 provisions of this section, which shall include as necessary the  
1902 reporting, accessing, evaluation, management, development,  
1903 implementation, operation, and storage of information within the  
1904 monitoring program's system.

1905 (17) After the prescription drug monitoring program's  
1906 database has been operational for 12 months, the State Surgeon  
1907 General shall enter into reciprocal agreements for the sharing  
1908 of prescription drug monitoring information with any other state  
1909 that has a compatible prescription drug monitoring program. If  
1910 the State Surgeon General evaluates the prescription drug  
1911 monitoring program of another state as authorized in this  
1912 subsection, priority shall be given to a state that is  
1913 contiguous with the borders of this state.

1914 (a) In determining compatibility, the State Surgeon General

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1915 shall consider:

1916 1. The essential purposes of the program and the success of  
1917 the program in fulfilling those purposes.

1918 2. The safeguards for privacy of patient records and the  
1919 success of the program in protecting patient privacy.

1920 3. The persons authorized to view the data collected by the  
1921 program. Comparable organizations and professions for  
1922 practitioners in other states, law enforcement agencies, the  
1923 Attorney General's Medicaid Fraud Unit, medical regulatory  
1924 boards, and, as needed, management staff who have similar duties  
1925 as management staff who work with the prescription drug  
1926 monitoring program as authorized in s. 893.0551 are authorized  
1927 access upon approval by the State Surgeon General.

1928 4. The schedules of the controlled substances that are  
1929 monitored.

1930 5. The data required to be submitted for each prescription.

1931 6. Any implementing criteria deemed essential for a  
1932 thorough comparison.

1933 (b) The State Surgeon General shall annually review any  
1934 agreement to determine its continued compatibility with the  
1935 prescription drug monitoring program in this state.

1936 (c) Any agreement between the State Surgeon General and  
1937 another state shall prohibit the sharing of information  
1938 concerning a resident of this state or a practitioner,  
1939 pharmacist, or other prescriber for any purpose that is not  
1940 otherwise authorized by this section or s. 893.0551.

1941 Section 25. The sum of \$1.75 million is appropriated from  
1942 the General Revenue Fund to the Department of Health for the  
1943 purpose of paying salaries and other administrative expenses

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1944 necessary to carry out the implementation of the prescription  
1945 drug monitoring program.

1946 Section 26. Paragraph (a) of subsection (3) of section  
1947 893.0551, Florida Statutes, is amended, present subsections (4),  
1948 (5), (6), and (7) of that section are redesignated as  
1949 subsections (5), (6), (7), and (8), respectively, and a new  
1950 subsection (4) is added to that section, to read:

1951 893.0551 Public records exemption for the prescription drug  
1952 monitoring program.—

1953 (3) The department shall disclose such confidential and  
1954 exempt information to the following entities after using a  
1955 verification process to ensure the legitimacy of that person's  
1956 or entity's request for the information:

1957 (a) The Attorney General and his or her designee when  
1958 working on Medicaid fraud cases and Medicaid investigations  
1959 involving prescribed controlled substances ~~prescription drugs~~ or  
1960 when the Attorney General has initiated a review of specific  
1961 identifiers of Medicaid fraud or specific identifiers that  
1962 warrant a Medicaid investigation regarding prescribed controlled  
1963 substances ~~prescription drugs~~. The Attorney General or his or  
1964 her designee may disclose the confidential and exempt  
1965 information received from the department to a criminal justice  
1966 agency as defined in s. 119.011 as part of an active  
1967 investigation that is specific to a violation of prescription  
1968 drug abuse or prescription drug diversion law as it relates to  
1969 controlled substances. The Attorney General's Medicaid fraud  
1970 investigators and Medicaid investigators may not have direct  
1971 access to the department's database.

1972 (4) The department may disclose confidential and exempt

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1973 information contained in records held by the department under s.  
1974 893.055 if the State Surgeon General has entered into a  
1975 reciprocal agreement for the sharing of prescription drug  
1976 monitoring information with any other state that has a  
1977 compatible prescription drug monitoring program.

1978 (a) The reciprocal agreement may allow the following  
1979 persons from another state to receive information from the  
1980 prescription drug monitoring program if approved by the State  
1981 Surgeon General:

1982 1. A designated representative of a state professional  
1983 licensing, certification, or regulatory agency charged with  
1984 oversight of those persons authorized to prescribe or dispense  
1985 controlled substances for the purpose of a bona fide, specific  
1986 investigation of a prescription of a controlled substance which  
1987 involves a designated person. As required in s. 893.055, this  
1988 authorization does not preclude the requirement for the program  
1989 manager to review the request for information and validate it.

1990 2. A health care practitioner or pharmacist licensed in the  
1991 state from which the request originates. Such health care  
1992 practitioner or pharmacist shall certify that the requested  
1993 information is for the purpose of providing medical or  
1994 pharmaceutical treatment to a bona fide, current patient. The  
1995 health care practitioner or pharmacist shall follow all the  
1996 procedures required in s. 893.055 and rules established by the  
1997 department for a health care practitioner or pharmacist to  
1998 request information from the database.

1999 3. A law enforcement officer from another state:

2000 a. Who is a member of a sheriff's department or a police  
2001 department;

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2002 b. Who is authorized by law to conduct criminal  
2003 investigations and make arrests;

2004 c. Whose duty it is to enforce the laws of his or her state  
2005 relating to controlled substances; and

2006 d. Who is engaged in a bona fide specific, active  
2007 investigation involving a designated person regarding  
2008 prescriptions for controlled substances.

2009  
2010 As required in s. 893.055, this authorization does not preclude  
2011 the requirement for the program manager to review the request  
2012 for information and validate it. This authorization also does  
2013 not preclude the ability to provide a report to a law  
2014 enforcement agency in another state under s. 893.055(7) or this  
2015 subsection.

2016 (b) Any agreement between the State Surgeon General and  
2017 another state shall prohibit the sharing of information  
2018 concerning a resident of this state, a patient whose information  
2019 is in the program's database, or a practitioner, pharmacy,  
2020 pharmacist, health care practitioner, or other prescriber for  
2021 any purpose that is not otherwise authorized by this section or  
2022 s. 893.055, and the information must be provided according to  
2023 the State Surgeon General's determination of compatibility as  
2024 described in s. 893.055(17).

2025 Section 27. Subsections (1), (4), and (5) of section  
2026 893.07, Florida Statutes, are amended, and subsection (6) is  
2027 added to that section, to read:

2028 893.07 Records.—

2029 (1) Notwithstanding any other provision of law and in  
2030 consonance with the authority of *State v. Carter*, 23 So. 3d 798

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2031 (Fla. 1st DCA 2009) and *State v. Tamulonis*, 39 So. 3d 524 (Fla.  
2032 2d DCA 2010), every person who engages in the manufacture,  
2033 compounding, mixing, cultivating, growing, or by any other  
2034 process producing or preparing, or in the dispensing,  
2035 importation, or, as a wholesaler, distribution, of controlled  
2036 substances shall:

2037 (a) On January 1, 1974, or as soon thereafter as any person  
2038 first engages in such activity, and every second year  
2039 thereafter, make a complete and accurate record of all stocks of  
2040 controlled substances on hand. The inventory may be prepared on  
2041 the regular physical inventory date which is nearest to, and  
2042 does not vary by more than 6 months from, the biennial date that  
2043 would otherwise apply. As additional substances are designated  
2044 for control under this chapter, they shall be inventoried as  
2045 provided for in this subsection.

2046 (b) On and after January 1, 1974, maintain, on a current  
2047 basis, a complete and accurate record of each substance  
2048 manufactured, received, sold, delivered, or otherwise disposed  
2049 of by him or her, except that this subsection shall not require  
2050 the maintenance of a perpetual inventory.

2051  
2052 Compliance with the provisions of federal law pertaining to the  
2053 keeping of records of controlled substances shall be deemed a  
2054 compliance with the requirements of this subsection.

2055 (4) Every inventory or record required by this chapter,  
2056 including prescription records, shall be maintained:

2057 (a) Separately from all other records of the registrant, or

2058 (b) Alternatively, in the case of Schedule III, IV, or V  
2059 controlled substances, in such form that information required by

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2060 this chapter is readily retrievable from the ordinary business  
2061 records of the registrant.

2062  
2063 In either case, such records described in this subsection shall  
2064 be kept and made available for a period of at least 2 years for  
2065 inspection and copying by law enforcement officers whose duty it  
2066 is to enforce the laws of this state relating to controlled  
2067 substances. This subsection does not require a law enforcement  
2068 officer to obtain a subpoena, court order, or search warrant in  
2069 order to obtain access to or copies of such records.

2070 (5) Each person shall maintain a record that contains ~~which~~  
2071 ~~shall contain~~ a detailed list of controlled substances lost,  
2072 destroyed, or stolen, if any; the kind and quantity of such  
2073 controlled substances; and the date of the discovering of such  
2074 loss, destruction, or theft. If a person discovers the theft or  
2075 significant loss of a controlled substance, such person shall  
2076 report the theft or significant loss to a local county sheriff's  
2077 office within 48 hours after the discovery of such theft or  
2078 loss. A person who fails to report the theft or significant loss  
2079 of a controlled substance under this subsection commits a  
2080 misdemeanor of the second degree, punishable as provided in s.  
2081 775.082 or s. 775.083. However, a person who fails to report the  
2082 theft or significant loss of a Schedule II controlled substance  
2083 commits a misdemeanor of the first degree, punishable as  
2084 provided in s. 775.082 or s. 775.083.

2085 (6) The Legislature finds that the opinions rendered in  
2086 State v. Carter, 23 So. 3d 798 (Fla. 1st DCA 2009), and State v.  
2087 Tamulonis, 39 So. 3d 524 (Fla. 2d DCA 2010), correctly construe  
2088 this Legislature's intent that the inspection powers previously



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2089 conferred upon law enforcement officers which allow such  
2090 officers to access and review pharmacy records concerning  
2091 controlled substances are to be exercised properly by such law  
2092 enforcement officers without the requirement of a subpoena or  
2093 search warrant being sought or issued to examine and copy such  
2094 records, and without the requirement that those persons to whom  
2095 particular pharmacy records refer be given notice of the  
2096 records' examination and copying under this section.

2097 Section 28. Subsections (7) and (8) of section 893.13,  
2098 Florida Statutes, are amended to read:

2099 893.13 Prohibited acts; penalties.—

2100 (7) (a) A ~~It is unlawful for any person may not:~~

2101 1. ~~To~~ Distribute or dispense a controlled substance in  
2102 violation of this chapter.

2103 2. ~~To~~ Refuse or fail to make, keep, or furnish any record,  
2104 notification, order form, statement, invoice, or information  
2105 required under this chapter.

2106 3. ~~To~~ Refuse ~~an~~ entry into any premises for any inspection  
2107 or ~~to~~ refuse to allow any inspection authorized by this chapter.

2108 4. ~~To~~ Distribute a controlled substance named or described  
2109 in s. 893.03(1) or (2) except pursuant to an order form as  
2110 required by s. 893.06.

2111 5. ~~To~~ Keep or maintain any store, shop, warehouse,  
2112 dwelling, building, vehicle, boat, aircraft, or other structure  
2113 or place which is resorted to by persons using controlled  
2114 substances in violation of this chapter for the purpose of using  
2115 these substances, or which is used for keeping or selling them  
2116 in violation of this chapter.

2117 6. ~~To~~ Use to his or her own personal advantage, or ~~to~~

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2118 reveal, any information obtained in enforcement of this chapter  
2119 except in a prosecution or administrative hearing for a  
2120 violation of this chapter.

2121 7. ~~The~~ Possess a prescription form which has not been  
2122 completed and signed by the practitioner whose name appears  
2123 printed thereon, unless the person is that practitioner, is an  
2124 agent or employee of that practitioner, is a pharmacist, or is a  
2125 supplier of prescription forms who is authorized by that  
2126 practitioner to possess those forms.

2127 8. ~~The~~ Withhold information from a practitioner from whom  
2128 the person seeks to obtain a controlled substance or a  
2129 prescription for a controlled substance that the person making  
2130 the request has received a controlled substance or a  
2131 prescription for a controlled substance of like therapeutic use  
2132 from another practitioner within the previous 30 days.

2133 9. ~~The~~ Acquire or obtain, or attempt to acquire or obtain,  
2134 possession of a controlled substance by misrepresentation,  
2135 fraud, forgery, deception, or subterfuge.

2136 10. ~~The~~ Affix any false or forged label to a package or  
2137 receptacle containing a controlled substance.

2138 11. ~~The~~ Furnish false or fraudulent material information in,  
2139 or omit any material information from, any report or other  
2140 document required to be kept or filed under this chapter or any  
2141 record required to be kept by this chapter.

2142 12. ~~The~~ Store anhydrous ammonia in a container that is not  
2143 approved by the United States Department of Transportation to  
2144 hold anhydrous ammonia or is not constructed in accordance with  
2145 sound engineering, agricultural, or commercial practices.

2146 13. With the intent to obtain a controlled substance or

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2147 combination of controlled substances that are not medically  
2148 necessary for the person or an amount of a controlled substance  
2149 or substances that are not medically necessary for the person,  
2150 obtain or attempt to obtain from a practitioner a controlled  
2151 substance or a prescription for a controlled substance by  
2152 misrepresentation, fraud, forgery, deception, subterfuge, or  
2153 concealment of a material fact. For purposes of this  
2154 subparagraph, a material fact includes whether the person has an  
2155 existing prescription for a controlled substance issued for the  
2156 same period of time by another practitioner or as described in  
2157 subparagraph 8.

2158 (b) A health care practitioner, with the intent to provide  
2159 a controlled substance or combination of controlled substances  
2160 that are not medically necessary to his or her patient or an  
2161 amount of controlled substances that are not medically necessary  
2162 for his or her patient, may not provide a controlled substance  
2163 or a prescription for a controlled substance by  
2164 misrepresentation, fraud, forgery, deception, subterfuge, or  
2165 concealment of a material fact. For purposes of this paragraph,  
2166 a material fact includes whether the patient has an existing  
2167 prescription for a controlled substance issued for the same  
2168 period of time by another practitioner or as described in  
2169 subparagraph (a)8.

2170 (c) Any person who adulterates a controlled substance for  
2171 directed off-label use without authorization by a prescribing  
2172 physician violates the provisions of subparagraph (a)1. and  
2173 causes the issuance of the entire prescription for the  
2174 controlled substance to become invalid. A law enforcement  
2175 officer in the performance of his or her official duties may

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2176 seize the adulterated or off-label prescribed controlled  
2177 substance as evidence. The controlled substance may be returned  
2178 to the owner only with a notarized affidavit from the original  
2179 prescribing practitioner who has knowledge and gave  
2180 authorization and explicit directions for the adulteration or  
2181 off-label use of the controlled substance.

2182 (d)~~(b)~~ Any person who violates the provisions of  
2183 subparagraphs (a)1.-7. commits a misdemeanor of the first  
2184 degree, punishable as provided in s. 775.082 or s. 775.083;  
2185 except that, upon a second or subsequent violation, the person  
2186 commits a felony of the third degree, punishable as provided in  
2187 s. 775.082, s. 775.083, or s. 775.084.

2188 (e)~~(e)~~ Any person who violates the provisions of  
2189 subparagraphs (a)8.-12. commits a felony of the third degree,  
2190 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2191 (f) A person or health care practitioner who violates the  
2192 provisions of paragraph (b) or subparagraph (a)13. commits a  
2193 felony of the third degree, punishable as provided in s.  
2194 775.082, s. 775.083, or s. 775.084, if any controlled substance  
2195 that is the subject of the offense is listed in Schedule II,  
2196 Schedule III, or Schedule IV.

2197 (8) (a) Notwithstanding subsection (9), a prescribing  
2198 practitioner may not:

2199 1. Knowingly assist a patient, other person, or the owner  
2200 of an animal in obtaining a controlled substance through  
2201 deceptive, untrue, or fraudulent representations in or related  
2202 to the practice of the prescribing practitioner's professional  
2203 practice;

2204 2. Employ a trick or scheme in the practice of the

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2205 prescribing practitioner's professional practice to assist a  
2206 patient, other person, or the owner of an animal in obtaining a  
2207 controlled substance;

2208 3. Knowingly write a prescription for a controlled  
2209 substance for a fictitious person; ~~or~~

2210 4. Write a prescription for a controlled substance for a  
2211 patient, other person, or an animal if the sole purpose of  
2212 writing such prescription is to provide a monetary benefit to,  
2213 or obtain a monetary benefit for, the prescribing practitioner;  
2214 or-

2215 5. Write a prescription for a controlled substance for a  
2216 patient, other person, or an animal and authorize or direct the  
2217 adulteration of the dispensed form of the controlled substance  
2218 for the purpose of ingestion by means of inhalation, injection,  
2219 or any other means not medically necessary for the treatment of  
2220 the patient.

2221 (b) If the prescribing practitioner wrote a prescription or  
2222 multiple prescriptions for a controlled substance for the  
2223 patient, other person, or animal for which there was no medical  
2224 necessity, or which was in excess of what was medically  
2225 necessary to treat the patient, other person, or animal, that  
2226 fact does not give rise to any presumption that the prescribing  
2227 practitioner violated subparagraph (a)1., but may be considered  
2228 with other competent evidence in determining whether the  
2229 prescribing practitioner knowingly assisted a patient, other  
2230 person, or the owner of an animal to obtain a controlled  
2231 substance in violation of subparagraph (a)1.

2232 (c) A person who violates paragraph (a) commits a felony of  
2233 the third degree, punishable as provided in s. 775.082, s.

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2234 775.083, or s. 775.084.

2235 (d) Notwithstanding paragraph (c), if a prescribing  
2236 practitioner has violated paragraph (a) and received \$1,000 or  
2237 more in payment for writing one or more prescriptions or, in the  
2238 case of a prescription written for a controlled substance  
2239 described in s. 893.135, has written one or more prescriptions  
2240 for a quantity of a controlled substance which, individually or  
2241 in the aggregate, meets the threshold for the offense of  
2242 trafficking in a controlled substance under s. 893.15, the  
2243 violation is reclassified as a felony of the second degree and  
2244 ranked in level 4 of the Criminal Punishment Code.

2245 Section 29. Present subsections (3) through (10) of section  
2246 893.138, Florida Statutes, are redesignated as subsections (4)  
2247 through (11), respectively, and a new subsection (3) is added to  
2248 that section, to read:

2249 893.138 Local administrative action to abate drug-related,  
2250 prostitution-related, or stolen-property-related public  
2251 nuisances and criminal gang activity.—

2252 (3) Any pain-management clinic, as described in s. 458.3265  
2253 or s. 459.0137, which has been used on more than two occasions  
2254 within a 6-month period as the site of a violation of:

2255 (a) Section 784.011, s. 784.021, s. 784.03, or s. 784.045,  
2256 relating to assault and battery;

2257 (b) Section 810.02, relating to burglary;

2258 (c) Section 812.014, relating to dealing in theft;

2259 (d) Section 812.131, relating to robbery by sudden  
2260 snatching; or

2261 (e) Section 893.13, relating to the unlawful distribution  
2262 of controlled substances,

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2263  
2264 may be declared to be a public nuisance, and such nuisance may  
2265 be abated pursuant to the procedures provided in this section.

2266 Section 30. Subsection (9) is added to section 465.025,  
2267 Florida Statutes, to read:

2268 465.025 Substitution of drugs.—

2269 (9) The board shall establish by rule a list of opioid  
2270 drugs that incorporate tamper-resistant technology. Inclusion of  
2271 a drug on the list does not require that the drug bear a  
2272 labeling claim with respect to reduction of tampering, abuse, or  
2273 abuse potential at the time of listing. The board shall make a  
2274 determination whether to include a drug on the list based on a  
2275 submission of evidence by the drug manufacturer or distributor  
2276 that the drug:

2277 (a) Incorporates a tamper-resistance technology; and

2278 (b) Has been approved by the United States Food and Drug  
2279 Administration pursuant to an application that includes at least  
2280 one study on human tampering or abuse potential or a laboratory  
2281 study comparing the tamper-resistant or abuse-resistant  
2282 properties of the drug to one or more opioid drugs that have  
2283 been approved by the United States Food and Drug Administration  
2284 and serve as a positive control.

2285  
2286 Notwithstanding subsection (2), a pharmacist may not substitute  
2287 an opioid analgesic drug, either the brand name drug or generic  
2288 drug, for an opioid analgesic drug incorporating a tamper-  
2289 resistance technology which was originally prescribed and is  
2290 listed by the board pursuant to this subsection.

2291 Section 31. This act shall take effect October 1, 2011.