



390072

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/31/2012	.	
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The Committee on Health Regulation (Diaz de la Portilla)
recommended the following:

Senate Amendment (with title amendment)

Delete lines 163 - 263
and insert:
This subsection does not apply to a board-certified
anesthesiologist, physiatrist, psychiatrist, rheumatologist, or
neurologist, or to a board-certified physician who has surgical
privileges at a hospital or ambulatory surgery center and
primarily provides surgical services. This subsection does not
apply to a board-certified medical specialist who has also
completed a fellowship in pain medicine approved by the
Accreditation Council for Graduate Medical Education or the



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13 American Osteopathic Association, or who is board certified in
14 pain medicine by a board approved by the American Board of
15 Medical Specialties or the American Osteopathic Association and
16 performs interventional pain procedures of the type routinely
17 billed using surgical codes. This subsection does not apply to a
18 physician who is treating a patient in accordance with an
19 approved clinical trial.

20 Section 2. Paragraph (a) of subsection (1) of section
21 458.3265, Florida Statutes, is amended to read:

22 458.3265 Pain-management clinics.—

23 (1) REGISTRATION.—

24 (a)1. As used in this section, the term:

25 a. "Chronic nonmalignant pain" means pain unrelated to
26 cancer or rheumatoid arthritis which persists beyond the usual
27 course of disease or beyond the injury that is the cause of the
28 pain or which persists more than 90 days after surgery.

29 b. "Pain-management clinic" or "clinic" means any publicly
30 or privately owned facility:

31 (I) That advertises in any medium for any type of pain-
32 management services; or

33 (II) Where in any month a majority of patients are
34 prescribed opioids, benzodiazepines, barbiturates, or
35 carisoprodol for the treatment of chronic nonmalignant pain.

36 2. Each pain-management clinic must register with the
37 department unless:

38 a. The ~~That~~ clinic is licensed as a facility pursuant to
39 chapter 395;

40 b. The majority of the physicians who provide services in
41 the clinic ~~primarily~~ provide primarily surgical services;



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

46 d. The clinic is affiliated with an accredited medical
47 school at which training is provided for medical students,
48 residents, or fellows;

49 e. The clinic does not prescribe controlled substances for
50 the treatment of pain;

51 f. The clinic is owned by a corporate entity exempt from
52 federal taxation under 26 U.S.C. s. 501(c)(3);

53 g. The clinic is wholly owned and operated by one or more
54 board-certified anesthesiologists, psychiatrists,
55 rheumatologists, or neurologists; or

56 h. The clinic is wholly owned and operated by one or more
57 board-certified medical specialists who have also completed
58 fellowships in pain medicine approved by the Accreditation
59 Council for Graduate Medical Education, or who are also board-
60 certified in pain medicine by a board approved by the American
61 Board of Medical Specialties and perform interventional pain
62 procedures of the type routinely billed using surgical codes.

63 Section 3. Paragraph (a) of subsection (1) of section
64 459.0137, Florida Statutes, is amended to read:

65 459.0137 Pain-management clinics.—

66 (1) REGISTRATION.—

67 (a)1. As used in this section, the term:

68 a. "Chronic nonmalignant pain" means pain unrelated to
69 cancer or rheumatoid arthritis which persists beyond the usual
70 course of disease or beyond the injury that is the cause of the



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- 71 pain or which persists more than 90 days after surgery.
- 72 b. "Pain-management clinic" or "clinic" means any publicly
73 or privately owned facility:
- 74 (I) That advertises in any medium for any type of pain-
75 management services; or
- 76 (II) Where in any month a majority of patients are
77 prescribed opioids, benzodiazepines, barbiturates, or
78 carisoprodol for the treatment of chronic nonmalignant pain.
- 79 2. Each pain-management clinic must register with the
80 department unless:
- 81 a. The ~~That~~ clinic is licensed as a facility pursuant to
82 chapter 395;
- 83 b. The majority of the physicians who provide services in
84 the clinic ~~primarily~~ provide primarily surgical services;
- 85 c. The clinic is owned by a publicly held corporation whose
86 shares are traded on a national exchange or on the over-the-
87 counter market and whose total assets at the end of the
88 corporation's most recent fiscal quarter exceeded \$50 million;
- 89 d. The clinic is affiliated with an accredited medical
90 school at which training is provided for medical students,
91 residents, or fellows;
- 92 e. The clinic does not prescribe controlled substances for
93 the treatment of pain;
- 94 f. The clinic is owned by a corporate entity exempt from
95 federal taxation under 26 U.S.C. s. 501(c)(3);
- 96 g. The clinic is wholly owned and operated by one or more
97 board-certified anesthesiologists, physiatrists, psychiatrists,
98 rheumatologists, or neurologists; or
- 99 h. The clinic is wholly owned and operated by one or more



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100 board-certified medical specialists who have also completed
101 fellowships in pain medicine approved by the Accreditation
102 Council for Graduate Medical Education or the American
103 Osteopathic Association, or who are also board-certified in pain
104 medicine by a board approved by the American Board of Medical
105 Specialties or the American Osteopathic Association and perform
106 interventional pain procedures of the type routinely billed
107 using surgical codes.

108 Section 4. Paragraph (b) of subsection (1) of section
109 465.0276, Florida Statutes, is amended to read:

110 465.0276 Dispensing practitioner.—

111 (1)

112 (b) A practitioner registered under this section may not
113 dispense a controlled substance listed in Schedule II or
114 Schedule III as provided in s. 893.03. This paragraph does not
115 apply to:

116 1. The dispensing of complimentary packages of medicinal
117 drugs which are labeled as a drug sample or complimentary drug
118 as defined in s. 499.028 to the practitioner's own patients in
119 the regular course of her or his practice without the payment of
120 a fee or remuneration of any kind, whether direct or indirect,
121 as provided in subsection (5).

122 2. The dispensing of controlled substances in the health
123 care system of the Department of Corrections.

124 3. The dispensing of a controlled substance listed in
125 Schedule II or Schedule III in connection with the performance
126 of a surgical procedure. The amount dispensed pursuant to the
127 subparagraph may not exceed a 14-day supply. This exception does
128 not allow for the dispensing of a controlled substance listed in



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129 Schedule II or Schedule III more than 14 days after the
130 performance of the surgical procedure. For purposes of this
131 subparagraph, the term "surgical procedure" means any procedure
132 in any setting which involves, or reasonably should involve:

133 a. Perioperative medication and sedation that allows the
134 patient to tolerate unpleasant procedures while maintaining
135 adequate cardiorespiratory function and the ability to respond
136 purposefully to verbal or tactile stimulation and makes intra-
137 and postoperative monitoring necessary; or

138 b. The use of general anesthesia or major conduction
139 anesthesia and preoperative sedation.

140 4. The dispensing of a controlled substance listed in
141 Schedule II or Schedule III pursuant to an approved clinical
142 trial. For purposes of this subparagraph, the term "approved
143 clinical trial" means a clinical research study or clinical
144 investigation that, in whole or in part, is state or federally
145 funded or is conducted under protocols approved by an
146 ~~investigational new drug application that is reviewed by the~~
147 United States Food and Drug Administration.

148 5. The dispensing of methadone in a facility licensed under
149 s. 397.427 where medication-assisted treatment for opiate
150 addiction is provided.

151 6. The dispensing of a controlled substance listed in
152 Schedule II or Schedule III to a patient of a facility licensed
153 under part IV of chapter 400.

154
155 ===== T I T L E A M E N D M E N T =====

156 And the title is amended as follows:

157 Delete lines 11 - 19



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158 and insert:
159 when a pharmacy receives it; providing that the
160 standards of practice regarding the prescribing of
161 controlled substances do not apply to certain
162 physicians; amending ss. 458.3265 and 459.0137, F.S.;
163 requiring that a pain-management clinic register with
164 the Department of Health unless the clinic is wholly
165 owned and operated by certain health care
166 professionals, including a board-certified
167 psychiatrist or rheumatologist; amending s. 465.0276,
168 F.S.; redefining the term "approved clinical trial" as
169 it relates to the Florida Pharmacy Act;