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LEGISLATIVE ACTION

Senate

House

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Floor: WD

03/09/2012 05:46 PM

Senator Bogdanoff moved the following:

Senate Amendment (with title amendment)

Delete lines 302 - 407

and insert:

Section 8. Present paragraphs (a), (c), and (d) of subsection (1), paragraph (a) of subsection (2), and paragraph (e) of subsection (3) of section 456.44, Florida Statutes, are amended, and a new paragraph (d) is added to subsection (1) of that section, to read:

456.44 Controlled substance prescribing.—

(1) DEFINITIONS.—

(a) "Addiction medicine specialist" means a board-certified psychiatrist ~~psychiatrist~~ with a subspecialty certification in



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14 addiction medicine or who is eligible for such subspecialty
15 certification in addiction medicine, an addiction medicine
16 physician certified or eligible for certification by the
17 American Society of Addiction Medicine, or an osteopathic
18 physician who holds a certificate of added qualification in
19 Addiction Medicine through the American Osteopathic Association.

20 (c) "Board-certified pain management physician" means a
21 physician who possesses board certification in pain medicine by
22 the American Board of Pain Medicine, board certification by the
23 American Board of Interventional Pain Physicians, or board
24 certification or subcertification in pain management or pain
25 medicine by a specialty board recognized by the American
26 Association of Physician Specialists or the American Board of
27 Medical Specialties or an osteopathic physician who holds a
28 certificate in Pain Management by the American Osteopathic
29 Association.

30 (d) "Board eligible" means successful completion of an
31 anesthesia, physical medicine and rehabilitation, rheumatology,
32 or neurology residency program approved by the Accreditation
33 Council for Graduate Medical Education or the American
34 Osteopathic Association for a period of six years from
35 successful completion of such residency program.

36 (e) ~~(d)~~ "Chronic nonmalignant pain" means pain unrelated to
37 cancer ~~or rheumatoid arthritis~~ which persists beyond the usual
38 course of disease or the injury that is the cause of the pain or
39 more than 90 days after surgery.

40 (2) REGISTRATION.—Effective January 1, 2012, a physician
41 licensed under chapter 458, chapter 459, chapter 461, or chapter
42 466 who prescribes any controlled substance, listed in Schedule



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43 II, Schedule III, or Schedule IV as defined in s. 893.03, for
44 the treatment of chronic nonmalignant pain, must:

45 (a) Designate himself or herself as a controlled substance
46 prescribing practitioner on the physician's practitioner
47 profile.

48 (3) STANDARDS OF PRACTICE.—The standards of practice in
49 this section do not supersede the level of care, skill, and
50 treatment recognized in general law related to health care
51 licensure.

52 (e) The physician shall refer the patient as necessary for
53 additional evaluation and treatment in order to achieve
54 treatment objectives. Special attention shall be given to those
55 patients who are at risk for misusing their medications and
56 those whose living arrangements pose a risk for medication
57 misuse or diversion. The management of pain in patients with a
58 history of substance abuse or with a comorbid psychiatric
59 disorder requires extra care, monitoring, and documentation and
60 requires consultation with or referral to an addiction medicine
61 specialist or psychiatrist ~~addictionologist or psychiatrist~~.

62
63 This subsection does not apply to a board-eligible or board-
64 certified anesthesiologist, physiatrist, rheumatologist, or
65 neurologist, or to a board-certified physician who has surgical
66 privileges at a hospital or ambulatory surgery center and
67 primarily provides surgical services. This subsection does not
68 apply to a board-eligible or board-certified medical specialist
69 who has also completed a fellowship in pain medicine approved by
70 the Accreditation Council for Graduate Medical Education or the
71 American Osteopathic Association, or who is board eligible or



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72 board certified in pain medicine by the American Board of Pain
73 Medicine or a board approved by the American Board of Medical
74 Specialties or the American Osteopathic Association and performs
75 interventional pain procedures of the type routinely billed
76 using surgical codes.

77 Section 9. Paragraph (a) of subsection (1) of section
78 458.3265, Florida Statutes, is amended to read:

79 458.3265 Pain-management clinics.—

80 (1) REGISTRATION.—

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

82 a. "Board eligible" means successful completion of an
83 anesthesia, physical medicine and rehabilitation, rheumatology,
84 or neurology residency program approved by the Accreditation
85 Council for Graduate Medical Education or the American
86 Osteopathic Association for a period of six years from
87 successful completion of such residency program.

88 ~~b.a.~~ "Chronic nonmalignant pain" means pain unrelated to
89 cancer ~~or rheumatoid arthritis~~ which persists beyond the usual
90 course of disease or the injury that is the cause of the pain or
91 more than 90 days after surgery.

92 ~~c.b.~~ "Pain-management clinic" or "clinic" means any
93 publicly or privately owned facility:

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

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

99 2. Each pain-management clinic must register with the
100 department unless:



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- 101 a. That clinic is licensed as a facility pursuant to
102 chapter 395;
- 103 b. The majority of the physicians who provide services in
104 the clinic primarily provide surgical services;
- 105 c. The clinic is owned by a publicly held corporation whose
106 shares are traded on a national exchange or on the over-the-
107 counter market and whose total assets at the end of the
108 corporation's most recent fiscal quarter exceeded \$50 million;
- 109 d. The clinic is affiliated with an accredited medical
110 school at which training is provided for medical students,
111 residents, or fellows;
- 112 e. The clinic does not prescribe controlled substances for
113 the treatment of pain;
- 114 f. The clinic is owned by a corporate entity exempt from
115 federal taxation under 26 U.S.C. s. 501(c)(3);
- 116 g. The clinic is wholly owned and operated by one or more
117 board-eligible or board-certified anesthesiologists,
118 physiatrists, rheumatologists, or neurologists; or
- 119 h. The clinic is wholly owned and operated by a physician
120 multispecialty practice where one or more board-eligible or
121 board-certified medical specialists who have also completed
122 fellowships in pain medicine approved by the Accreditation
123 Council for Graduate Medical Education, or who are also board-
124 certified in pain medicine by the American Board of Pain
125 Medicine or a board approved by the American Board of Medical
126 Specialties, the American Association of Physician Specialists,
127 or the American Osteopathic Association and perform
128 interventional pain procedures of the type routinely billed
129 using surgical codes.



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130 Section 10. Paragraph (a) of subsection (1) of section
131 459.0137, Florida Statutes, is amended to read:

132 459.0137 Pain-management clinics.—

133 (1) REGISTRATION.—

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

135 a. “Board eligible” means successful completion of an
136 anesthesia, physical medicine and rehabilitation, rheumatology,
137 or neurology residency program approved by the Accreditation
138 Council for Graduate Medical Education or the American
139 Osteopathic Association for a period of six years from
140 successful completion of such residency program.

141 ~~b.a.~~ “Chronic nonmalignant pain” means pain unrelated to
142 cancer ~~or rheumatoid arthritis~~ which persists beyond the usual
143 course of disease or the injury that is the cause of the pain or
144 more than 90 days after surgery.

145 ~~c.b.~~ “Pain-management clinic” or “clinic” means any
146 publicly or privately owned facility:

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

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

152 2. Each pain-management clinic must register with the
153 department unless:

154 a. That clinic is licensed as a facility pursuant to
155 chapter 395;

156 b. The majority of the physicians who provide services in
157 the clinic primarily provide surgical services;

158 c. The clinic is owned by a publicly held corporation whose



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159 shares are traded on a national exchange or on the over-the-
160 counter market and whose total assets at the end of the
161 corporation's most recent fiscal quarter exceeded \$50 million;

162 d. The clinic is affiliated with an accredited medical
163 school at which training is provided for medical students,
164 residents, or fellows;

165 e. The clinic does not prescribe controlled substances for
166 the treatment of pain;

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

169 g. The clinic is wholly owned and operated by one or more
170 board-eligible or board-certified anesthesiologists,
171 physiatrists, rheumatologists, or neurologists; or

172 h. The clinic is wholly owned and operated by a physician
173 multispecialty practice where one or more board-eligible or
174 board-certified medical specialists who have also completed
175 fellowships in pain medicine approved by the Accreditation
176 Council for Graduate Medical Education or the American
177 Osteopathic Association, or who are also board-certified in pain
178 medicine by the American Board of Pain Medicine or a board
179 approved by the American Board of Medical Specialties, the
180 American Association of Physician Specialists, or the American
181 Osteopathic Association and perform interventional pain
182 procedures of the type routinely billed using surgical codes.

183
184 ===== T I T L E A M E N D M E N T =====

185 And the title is amended as follows:

186 Delete lines 32 - 42

187 and insert:



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188 are not residents; amending s. 456.44, F.S.; revising
189 the definition of the term "addiction medicine
190 specialist" to include board-certified psychiatrists;
191 defining the term "board eligible"; excluding a board-
192 certified physiatrist as an addiction medicine
193 specialist; including the American Board of Medical
194 Specialties as a recognized certification entity;
195 revising the definition of the term "chronic
196 nonmalignant pain" to exclude reference to rheumatoid
197 arthritis; exempting specified board-eligible health
198 care providers from application of certain provisions;
199 adding the American Board of Pain Medicine as a
200 recognized board-certification entity for purposes of
201 exemption from application of certain provisions;
202 amending s. 458.3265, F.S.; defining the term "board
203 eligible"; revising the definition of the term
204 "chronic nonmalignant pain" to exclude reference to
205 rheumatoid arthritis; permitting specified board-
206 eligible physicians to own a pain-management clinic
207 without registering the clinic; permitting a
208 rheumatologist to own a pain-management clinic without
209 registering the clinic; including a physician
210 multispecialty practice to permitted ownership forms
211 of pain-management clinics; requiring at least one
212 specialist in multispecialty practice to be board-
213 eligible; recognizing the American Board of Pain
214 Medicine, the American Association of Physician
215 Specialists, and the American Osteopathic Association
216 as board-certification organizations for purposes of



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217 determining a board-certified pain medicine specialist
218 as an owner of a pain-management clinic; amending s.
219 459.0137, F.S.; defining the term "board eligible";
220 revising the definition of the term "chronic
221 nonmalignant pain" to exclude reference to rheumatoid
222 arthritis; permitting a board-eligible rheumatologist
223 to own a pain-management clinic; including a physician
224 multispecialty practice to permitted ownership forms
225 of pain-management clinics; permitting specified
226 board-eligible physicians to own a pain-management
227 clinic without registering the clinic; permitting a
228 rheumatologist to own a pain-management clinic without
229 registering the clinic; adding multispecialty practice
230 to permitted ownership forms of pain-management
231 clinics; requiring at least one specialist in
232 multispecialty practice to be board-eligible;
233 recognizing the American Board of Pain Medicine and
234 the American Association of Physician Specialists as
235 board-certification organizations for purposes of
236 determining a board-certified pain medicine specialist
237 as owner of a pain-management clinic; amending