

By Senator Fasano

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1 A bill to be entitled
2 An act relating to controlled substances; amending s.
3 456.44, F.S.; revising the definition of the term
4 "addiction medicine specialist" to include a board-
5 certified psychiatrist, rather than a physiatrist;
6 providing that the management of pain in certain
7 patients requires consultation with or referral to a
8 psychiatrist, rather than a physiatrist; providing
9 that a prescription is deemed compliant with the
10 standards of practice and is valid for dispensing when
11 a pharmacy receives it; providing that the standards
12 of practice regarding the prescribing of controlled
13 substances do not apply to certain board-certified
14 psychiatrists and rheumatologists; amending ss.
15 458.3265 and 459.0137, F.S.; requiring that a pain-
16 management clinic register with the Department of
17 Health unless the clinic is wholly owned and operated
18 by certain health care professionals, including a
19 board-certified psychiatrist or rheumatologist;
20 amending s. 465.015, F.S.; revising the requirements
21 for reporting the fraudulent obtaining of a controlled
22 substance; revising the required contents of the
23 report; amending s. 465.022, F.S.; requiring that the
24 Department of Health or the Board of Pharmacy deny an
25 initial or renewal application for a pharmacy permit
26 if an applicant or an affiliated person of record of
27 the applicant, including a health care practitioner,
28 has been convicted of, or entered a plea of guilty or
29 nolo contendere to, regardless of adjudication,

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30 unlawfully providing a controlled substance or a
31 prescription for a controlled substance by
32 misrepresentation, fraud, forgery, deception,
33 subterfuge, or concealment of a material fact;
34 amending s. 465.023, F.S.; authorizing the department
35 or the board to revoke or suspend a pharmacy permit
36 and to fine, place on probation, or discipline a
37 pharmacy permittee if the permittee or any affiliated
38 person or agent of the permittee, including a health
39 care practitioner, has been convicted of, or entered a
40 plea of guilty or nolo contendere to, regardless of
41 adjudication, unlawfully providing a controlled
42 substance or a prescription for a controlled substance
43 by misrepresentation, fraud, forgery, deception,
44 subterfuge, or concealment of a material fact;
45 amending s. 499.003, F.S.; defining the term
46 "prescription" as it relates to the Florida Drug and
47 Cosmetic Act; creating s. 499.0032, F.S.; authorizing
48 a pharmacist to fill a prescription for drugs or
49 medicinal supplies which is transmitted or written by
50 a physician, dentist, veterinarian, or other
51 practitioner licensed to practice in another state
52 under certain circumstances; requiring the pharmacist
53 to obtain proof to a reasonable certainty of the
54 validity of the prescription under certain
55 circumstances; prohibiting the issuance of a
56 prescription order for a controlled substance on the
57 same prescription blank with another prescription
58 order for a controlled substance that is named or

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59 described in a different schedule; prohibiting the
60 issuance of a prescription order for a controlled
61 substance on the same prescription blank as a
62 prescription order for a medicinal drug; providing
63 that a prescription obtained in violation of state
64 law, or obtained through misrepresentation, fraud,
65 forgery, deception, or subterfuge, is not a valid
66 prescription; amending s. 893.02, F.S.; redefining the
67 term "prescription" as it relates to the Florida
68 Comprehensive Drug Abuse Prevention and Control Act to
69 clarify that a prescription obtained in violation of
70 law is not a valid prescription; amending s. 893.055,
71 F.S.; requiring that a prescriber access information
72 in the prescription drug monitoring database before
73 prescribing certain controlled substances listed in s.
74 893.03, F.S., under certain circumstances; amending s.
75 893.13, F.S.; revising prohibited acts regarding the
76 distribution of controlled substances; providing an
77 effective date.

78
79 Be It Enacted by the Legislature of the State of Florida:

80
81 Section 1. Paragraph (a) of subsection (1) and subsection
82 (3) of section 456.44, Florida Statutes, are amended to read:

83 456.44 Controlled substance prescribing.—

84 (1) DEFINITIONS.—

85 (a) "Addiction medicine specialist" means a board-certified
86 psychiatrist who holds ~~psychiatrist with~~ a subspecialty
87 certification in addiction medicine or who is eligible for such

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88 subspecialty certification in addiction medicine, an addiction
89 medicine physician who is certified or eligible for
90 certification by the American Society of Addiction Medicine, or
91 an osteopathic physician who holds a certificate of added
92 qualification in Addiction Medicine through the American
93 Osteopathic Association.

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

98 (a) A complete medical history and a physical examination
99 must be conducted before beginning any treatment and must be
100 documented in the medical record. The exact components of the
101 physical examination shall be left to the judgment of the
102 clinician who is expected to perform a physical examination
103 proportionate to the diagnosis that justifies a treatment. The
104 medical record must, at a minimum, document the nature and
105 intensity of the pain, current and past treatments for pain,
106 underlying or coexisting diseases or conditions, the effect of
107 the pain on physical and psychological function, a review of
108 previous medical records, previous diagnostic studies, and
109 history of alcohol and substance abuse. The medical record must
110 ~~shall~~ also document the presence of one or more recognized
111 medical indications for the use of a controlled substance. Each
112 registrant must develop a written plan for assessing each
113 patient's risk of aberrant drug-related behavior, which may
114 include patient drug testing. Registrants must assess each
115 patient's risk for aberrant drug-related behavior and monitor
116 that risk on an ongoing basis in accordance with the plan.

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117 (b) Each registrant must develop a written individualized
118 treatment plan for each patient. The treatment plan must ~~shall~~
119 state objectives that will be used to determine treatment
120 success, such as pain relief and improved physical and
121 psychosocial function, and must ~~shall~~ indicate if any further
122 diagnostic evaluations or other treatments are planned. After
123 treatment begins, the physician shall adjust drug therapy to the
124 individual medical needs of each patient. Other treatment
125 modalities, including a rehabilitation program, shall be
126 considered depending on the etiology of the pain and the extent
127 to which the pain is associated with physical and psychosocial
128 impairment. The interdisciplinary nature of the treatment plan
129 shall be documented.

130 (c) The physician shall discuss the risks and benefits of
131 the use of controlled substances, including the risks of abuse
132 and addiction, as well as physical dependence and its
133 consequences, with the patient, persons designated by the
134 patient, or the patient's surrogate or guardian if the patient
135 is incompetent. The physician shall use a written controlled
136 substance agreement between the physician and the patient
137 outlining the patient's responsibilities, including, but not
138 limited to:

139 1. Number and frequency of prescriptions and refills for
140 controlled substances ~~substance prescriptions and refills~~.

141 2. Patient compliance and reasons for which drug therapy
142 may be discontinued, such as a violation of the agreement.

143 3. An agreement that controlled substances for the
144 treatment of chronic nonmalignant pain shall be prescribed by a
145 single treating physician unless otherwise authorized by the

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146 treating physician and documented in the medical record.

147 (d) The patient shall be seen by the physician at regular
148 intervals, not to exceed 3 months, to assess the efficacy of
149 treatment, ensure that controlled-substance ~~controlled substance~~
150 therapy remains indicated, evaluate the patient's progress
151 toward treatment objectives, consider adverse drug effects, and
152 review the etiology of the pain. Continuation or modification of
153 therapy depends ~~shall depend~~ on the physician's evaluation of
154 the patient's progress. If treatment goals are not being
155 achieved, despite medication adjustments, the physician shall
156 reevaluate the appropriateness of continued treatment. The
157 physician shall monitor patient compliance in medication usage,
158 related treatment plans, controlled substance agreements, and
159 indications of substance abuse or diversion at a minimum of 3-
160 month intervals.

161 (e) The physician shall refer the patient as necessary for
162 additional evaluation and treatment in order to achieve
163 treatment objectives. Special attention shall be given to those
164 patients who are at risk for misusing their medications and
165 those whose living arrangements pose a risk for medication
166 misuse or diversion. The management of pain in patients with a
167 history of substance abuse or with a comorbid psychiatric
168 disorder requires extra care, monitoring, and documentation and
169 requires consultation with or referral to an addictionologist or
170 psychiatrist ~~physiatrist~~.

171 (f) A physician registered under this section must maintain
172 accurate, current, and complete records that are accessible and
173 readily available for review and comply with the requirements of
174 this section, the applicable practice act, and applicable board

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175 rules. The medical records must include, but are not limited to:

176 1. The complete medical history and a physical examination,
177 including history of drug abuse or dependence.

178 2. Diagnostic, therapeutic, and laboratory results.

179 3. Evaluations and consultations.

180 4. Treatment objectives.

181 5. Discussion of risks and benefits.

182 6. Treatments.

183 7. Medications, including date, type, dosage, and quantity
184 prescribed.

185 8. Instructions and agreements.

186 9. Periodic reviews.

187 10. Results of any drug testing.

188 11. A photocopy of the patient's government-issued photo
189 identification.

190 12. If a written prescription for a controlled substance is
191 given to the patient, a duplicate of the prescription.

192 13. The physician's full name presented in a legible
193 manner.

194 (g) Patients with signs or symptoms of substance abuse
195 shall be immediately referred to a board-certified pain
196 management physician, an addiction medicine specialist, or a
197 mental health addiction facility as it pertains to drug abuse or
198 addiction unless the physician is board-certified or board-
199 eligible in pain management. Throughout the period ~~of time~~
200 before receiving the consultant's report, a prescribing
201 physician shall clearly and completely document medical
202 justification for continued treatment with controlled substances
203 and those steps taken to ensure medically appropriate use of

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204 controlled substances by the patient. Upon receipt of the
205 consultant's written report, the prescribing physician shall
206 incorporate the consultant's recommendations for continuing,
207 modifying, or discontinuing the controlled-substance ~~controlled~~
208 ~~substance~~ therapy. The resulting changes in treatment shall be
209 specifically documented in the patient's medical record.
210 Evidence or behavioral indications of diversion shall be
211 followed by discontinuation of the controlled-substance
212 ~~controlled-substance~~ therapy, and the patient shall be
213 discharged, and all results of testing and actions taken by the
214 physician shall be documented in the patient's medical record.

215 (h) When a pharmacy subject to this section receives a
216 prescription, the prescription is deemed compliant with the
217 standards of practice under this section and, therefore, valid
218 for dispensing.

219
220 This subsection does not apply to a board-certified
221 anesthesiologist, physiatrist, psychiatrist, rheumatologist, or
222 neurologist, or to a board-certified physician who has surgical
223 privileges at a hospital or ambulatory surgery center and
224 primarily provides surgical services. This subsection does not
225 apply to a board-certified medical specialist who has also
226 completed a fellowship in pain medicine approved by the
227 Accreditation Council for Graduate Medical Education or the
228 American Osteopathic Association, or who is board certified in
229 pain medicine by a board approved by the American Board of
230 Medical Specialties or the American Osteopathic Association and
231 performs interventional pain procedures of the type routinely
232 billed using surgical codes.

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233 Section 2. Paragraph (a) of subsection (1) of section
234 458.3265, Florida Statutes, is amended to read:

235 458.3265 Pain-management clinics.—

236 (1) REGISTRATION.—

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

238 a. "Chronic nonmalignant pain" means pain unrelated to
239 cancer or rheumatoid arthritis which persists beyond the usual
240 course of disease or beyond the injury that is the cause of the
241 pain or which persists more than 90 days after surgery.

242 b. "Pain-management clinic" or "clinic" means any publicly
243 or privately owned facility:

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

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

249 2. Each pain-management clinic must register with the
250 department unless:

251 a. The ~~That~~ clinic is licensed as a facility pursuant to
252 chapter 395;

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

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

259 d. The clinic is affiliated with an accredited medical
260 school at which training is provided for medical students,
261 residents, or fellows;

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262 e. The clinic does not prescribe controlled substances for
263 the treatment of pain;

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

266 g. The clinic is wholly owned and operated by one or more
267 board-certified anesthesiologists, physiatrists, psychiatrists,
268 rheumatologists, or neurologists; or

269 h. The clinic is wholly owned and operated by one or more
270 board-certified medical specialists who have also completed
271 fellowships in pain medicine approved by the Accreditation
272 Council for Graduate Medical Education, or who are also board-
273 certified in pain medicine by a board approved by the American
274 Board of Medical Specialties and perform interventional pain
275 procedures of the type routinely billed using surgical codes.

276 Section 3. Paragraph (a) of subsection (1) of section
277 459.0137, Florida Statutes, is amended to read:

278 459.0137 Pain-management clinics.—

279 (1) REGISTRATION.—

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

281 a. "Chronic nonmalignant pain" means pain unrelated to
282 cancer or rheumatoid arthritis which persists beyond the usual
283 course of disease or beyond the injury that is the cause of the
284 pain or which persists more than 90 days after surgery.

285 b. "Pain-management clinic" or "clinic" means any publicly
286 or privately owned facility:

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

289 (II) Where in any month a majority of patients are
290 prescribed opioids, benzodiazepines, barbiturates, or

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291 carisoprodol for the treatment of chronic nonmalignant pain.

292 2. Each pain-management clinic must register with the
293 department unless:

294 a. The ~~That~~ clinic is licensed as a facility pursuant to
295 chapter 395;

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

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

302 d. The clinic is affiliated with an accredited medical
303 school at which training is provided for medical students,
304 residents, or fellows;

305 e. The clinic does not prescribe controlled substances for
306 the treatment of pain;

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

309 g. The clinic is wholly owned and operated by one or more
310 board-certified anesthesiologists, physiatrists, psychiatrists,
311 rheumatologists, or neurologists; or

312 h. The clinic is wholly owned and operated by one or more
313 board-certified medical specialists who have also completed
314 fellowships in pain medicine approved by the Accreditation
315 Council for Graduate Medical Education or the American
316 Osteopathic Association, or who are also board-certified in pain
317 medicine by a board approved by the American Board of Medical
318 Specialties or the American Osteopathic Association and perform
319 interventional pain procedures of the type routinely billed

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320 using surgical codes.

321 Section 4. Subsection (3) of section 465.015, Florida
322 Statutes, is amended to read:

323 465.015 Violations and penalties.—

324 (3) (a) It is unlawful for any pharmacist to knowingly fail
325 to report any instance in which the pharmacist knows or believes
326 that a person obtained or attempted to obtain, through a
327 fraudulent method or representation, a controlled substance as
328 defined in s. 893.02 from the pharmacy at which the pharmacist
329 practices pharmacy. The pharmacist shall report to the sheriff
330 or other chief law enforcement agency of the county where the
331 pharmacy is located within 24 hours after learning of the fraud
332 or attempted fraud ~~any instance in which a person obtained or~~
333 ~~attempted to obtain a controlled substance, as defined in s.~~
334 ~~893.02, or at the close of business on the next business day,~~
335 whichever occurs ~~is later, that the pharmacist knew or believed~~
336 ~~was obtained or attempted to be obtained through fraudulent~~
337 ~~methods or representations from the pharmacy at which the~~
338 ~~pharmacist practiced pharmacy.~~ Any pharmacist who knowingly
339 fails to make such a report within 24 hours after learning of
340 the fraud or attempted fraud or at the close of business on the
341 next business day, whichever occurs ~~is~~ later, commits a
342 misdemeanor of the first degree, punishable as provided in s.
343 775.082 or s. 775.083.

344 (b) A sufficient report of the fraudulent obtaining of a
345 controlled substance ~~substances~~ under this subsection must
346 contain, at a minimum, ~~a copy of the prescription used or~~
347 ~~presented and~~ a narrative, including all information available
348 to the pharmacist concerning the transaction, such as the name

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349 and telephone number of the prescribing physician; the name,
350 description, and any personal identification information
351 pertaining to the person who presented the prescription; and all
352 other material information, such as photographic or video
353 surveillance of the transaction. Any sheriff or chief law
354 enforcement officer of a jurisdiction, or the agent of any such
355 person, who receives a report from a pharmacist under this
356 subsection must receive and document such report. If the sheriff
357 or chief law enforcement officer of a jurisdiction, or the agent
358 of any such person, refuses to take the pharmacist's report, the
359 pharmacist shall be deemed to have complied with this subsection
360 if the pharmacist documents such refusal.

361 Section 5. Subsection (5) of section 465.022, Florida
362 Statutes, is amended to read:

363 465.022 Pharmacies; general requirements; fees.-

364 (5) The department or board shall deny an application for a
365 pharmacy permit if the applicant or an affiliated person,
366 partner, officer, director, ~~or~~ prescription department manager,
367 health care practitioner, or consultant pharmacist of record of
368 the applicant:

369 (a) Has obtained a permit by misrepresentation or fraud.

370 (b) Has attempted to procure, or has procured, a permit for
371 any other person by making, or causing to be made, any false
372 representation.

373 (c) Has been convicted of, or entered a plea of guilty or
374 nolo contendere to, regardless of adjudication, a crime in any
375 jurisdiction which relates to the practice of, or the ability to
376 practice, the profession of pharmacy.

377 (d) Has been convicted of, or entered a plea of guilty or

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378 nolo contendere to, regardless of adjudication, a crime in any
379 jurisdiction which relates to health care fraud.

380 (e) Has been convicted of, or entered a plea of guilty or
381 nolo contendere to, regardless of adjudication, a felony under
382 chapter 409, chapter 817, or chapter 893, or a similar felony
383 offense committed in another state or jurisdiction, since July
384 1, 2009.

385 (f) Has been convicted of, or entered a plea of guilty or
386 nolo contendere to, regardless of adjudication, a felony under
387 21 U.S.C. ss. 801-970 or 42 U.S.C. ss. 1395-1396 since July 1,
388 2009.

389 (g) Has been terminated for cause from the Florida Medicaid
390 program pursuant to s. 409.913, unless the applicant has been in
391 good standing with the Florida Medicaid program for the most
392 recent 5-year period.

393 (h) Has been terminated for cause, pursuant to the appeals
394 procedures established by the state, from any other state
395 Medicaid program, unless the applicant has been in good standing
396 with a state Medicaid program for the most recent 5-year period
397 and the termination occurred at least 20 years before the date
398 of the application.

399 (i) Is currently ~~listed~~ on the List of Excluded Individuals
400 and Entities that is maintained by the United States Department
401 of Health and Human Services Office of Inspector General
402 ~~General's List of Excluded Individuals and Entities.~~

403 (j) Has dispensed any medicinal drug based upon a
404 communication that purports to be a prescription as defined by
405 s. 465.003(14) or s. 893.02 when the pharmacist knows or has
406 reason to believe that the purported prescription is not based

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407 upon a valid practitioner-patient relationship that includes a
408 documented patient evaluation, including history and a physical
409 examination adequate to establish the diagnosis for which any
410 drug is prescribed and any other requirement established by
411 board rule under chapter 458, chapter 459, chapter 461, chapter
412 463, chapter 464, or chapter 466.

413 (k) Has been convicted of, or entered a plea of guilty or
414 nolo contendere to, regardless of adjudication, a felony under
415 s. 893.13(7)(b).

416

417 For felonies in which the defendant entered a plea of guilty or
418 nolo contendere in an agreement with the court to enter a
419 pretrial intervention or drug diversion program, the department
420 shall deny the application if, upon final resolution of the
421 case, the licensee has failed to successfully complete the
422 program.

423 Section 6. Subsection (1) of section 465.023, Florida
424 Statutes, is amended to read:

425 465.023 Pharmacy permittee; disciplinary action.—

426 (1) The department or the board may revoke or suspend the
427 permit of any pharmacy permittee, and may fine, place on
428 probation, or otherwise discipline any pharmacy permittee if the
429 permittee, or any affiliated person, partner, officer, health
430 care practitioner, director, or agent of the permittee,
431 including a person fingerprinted under s. 465.022(3), has:

432 (a) Obtained a permit by misrepresentation or fraud or
433 through an error of the department or the board;

434 (b) Attempted to procure, or has procured, a permit for any
435 other person by making, or causing to be made, any false

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436 representation;

437 (c) Violated any of the requirements of this chapter or any
438 of the rules of the Board of Pharmacy; of chapter 499, known as
439 the "Florida Drug and Cosmetic Act"; of 21 U.S.C. ss. 301-392,
440 known as the "Federal Food, Drug, and Cosmetic Act"; of 21
441 U.S.C. ss. 821 et seq., known as the Comprehensive Drug Abuse
442 Prevention and Control Act; or of chapter 893;

443 (d) Been convicted or found guilty, regardless of
444 adjudication, of a felony or any other crime involving moral
445 turpitude in any of the courts of this state, of any other
446 state, or of the United States;

447 (e) Been convicted or disciplined by a regulatory agency of
448 the Federal Government or a regulatory agency of another state
449 for any offense that would constitute a violation of this
450 chapter;

451 (f) Been convicted of, or entered a plea of guilty or nolo
452 contendere to, regardless of adjudication, a crime in any
453 jurisdiction which relates to the practice of, or the ability to
454 practice, the profession of pharmacy;

455 (g) Been convicted of, or entered a plea of guilty or nolo
456 contendere to, regardless of adjudication, a crime in any
457 jurisdiction which relates to health care fraud; ~~or~~

458 (h) Dispensed any medicinal drug based upon a communication
459 that purports to be a prescription as defined by s. 465.003(14)
460 or s. 893.02 when the pharmacist knows or has reason to believe
461 that the purported prescription is not based upon a valid
462 practitioner-patient relationship that includes a documented
463 patient evaluation, including history and a physical examination
464 adequate to establish the diagnosis for which any drug is

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465 prescribed and any other requirement established by board rule
466 under chapter 458, chapter 459, chapter 461, chapter 463,
467 chapter 464, or chapter 466; ~~or-~~

468 (i) Been convicted of, or entered a plea of guilty or nolo
469 contendere to, regardless of adjudication, a felony under s.
470 893.13(7)(b).

471 Section 7. Subsection (56) is added to section 499.003,
472 Florida Statutes, to read:

473 499.003 Definitions of terms used in this part.—As used in
474 this part, the term:

475 (56) "Prescription" means an order for drugs or medicinal
476 supplies written, signed, or transmitted by word of mouth,
477 telephone, telegram, or other means of communication by a duly
478 licensed practitioner licensed in this state to prescribe such
479 drugs or medicinal supplies, issued in good faith and in the
480 course of professional practice, intended to be filled,
481 compounded, or dispensed by another person licensed in this
482 state to do so, and meeting the requirements of s. 893.04. The
483 term also includes an order for drugs or medicinal supplies so
484 transmitted or written by a physician, dentist, veterinarian, or
485 other practitioner licensed to practice in another state.

486 Section 8. Section 499.0032, Florida Statutes, is created
487 to read:

488 499.0032 Prescriptions.—A pharmacist licensed in this state
489 may fill a prescription for drugs or medicinal supplies which is
490 transmitted or written by a physician, dentist, veterinarian, or
491 other practitioner licensed to practice in another state if the
492 pharmacist determines, in the exercise of his or her
493 professional judgment, that the order was issued pursuant to a

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494 valid patient-physician relationship, that it is authentic, and
495 that the drugs or medicinal supplies so ordered are considered
496 necessary for the continuation of treatment of a chronic or
497 recurrent illness. However, if the physician writing the
498 prescription is not known to the pharmacist, the pharmacist
499 shall obtain proof to a reasonable certainty of the validity of
500 the prescription. A prescription order for a controlled
501 substance may not be issued on the same prescription blank with
502 another prescription order for a controlled substance that is
503 named or described in a different schedule. A prescription order
504 for a controlled substance may not be issued on the same
505 prescription blank as a prescription order for a medicinal drug,
506 as defined in s. 465.003(8), which does not fall within the
507 definition of a controlled substance as defined in s. 893.02. A
508 prescription obtained in violation of state law, or obtained
509 through misrepresentation, fraud, forgery, deception, or
510 subterfuge is not a valid prescription.

511 Section 9. Subsection (22) of section 893.02, Florida
512 Statutes, is amended to read:

513 893.02 Definitions.—The following words and phrases as used
514 in this chapter shall have the following meanings, unless the
515 context otherwise requires:

516 (22) "Prescription" means and includes an order for drugs
517 or medicinal supplies written, signed, or transmitted by word of
518 mouth, telephone, telegram, or other means of communication by a
519 duly licensed practitioner licensed by the laws of the state to
520 prescribe such drugs or medicinal supplies, issued in good faith
521 and in the course of professional practice, intended to be
522 filled, compounded, or dispensed by another person licensed by

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523 the laws of the state to do so, and meeting the requirements of
524 s. 893.04. The term also includes an order for drugs or
525 medicinal supplies so transmitted or written by a physician,
526 dentist, veterinarian, or other practitioner licensed to
527 practice in a state other than Florida, but only if the
528 pharmacist called upon to fill such an order determines, in the
529 exercise of his or her professional judgment, that the order was
530 issued pursuant to a valid patient-physician relationship, that
531 it is authentic, and that the drugs or medicinal supplies so
532 ordered are considered necessary for the continuation of
533 treatment of a chronic or recurrent illness. However, if the
534 physician writing the prescription is not known to the
535 pharmacist, the pharmacist shall obtain proof to a reasonable
536 certainty of the validity of said prescription. A prescription
537 order for a controlled substance shall not be issued on the same
538 prescription blank with another prescription order for a
539 controlled substance which is named or described in a different
540 schedule, nor shall any prescription order for a controlled
541 substance be issued on the same prescription blank as a
542 prescription order for a medicinal drug, as defined in s.
543 465.003(8), which does not fall within the definition of a
544 controlled substance as defined in this act. A prescription
545 obtained in violation of state law or through misrepresentation,
546 fraud, forgery, deception, or subterfuge is not a valid
547 prescription.

548 Section 10. Paragraph (b) of subsection (7) of section
549 893.055, Florida Statutes, is amended to read:

550 893.055 Prescription drug monitoring program.—

551 (7)

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552 (b)1. A pharmacy, prescriber, or dispenser shall have
553 access to information in the prescription drug monitoring
554 program's database which relates to a patient of that pharmacy,
555 prescriber, or dispenser in a manner established by the
556 department as needed for the purpose of reviewing the patient's
557 controlled substance prescription history. Before prescribing a
558 controlled substance listed in Schedule II, Schedule III, or
559 Schedule IV in s. 893.03, a prescriber must access information
560 in the prescription drug monitoring database for the purpose of
561 reviewing the patient's controlled substance prescription
562 history and must indicate on the face of the prescription that
563 such review was completed.

564 2. A dispensing pharmacist who:

565 a. Believes, or reasonably should believe, that a patient
566 has been prescribed a controlled substance listed in Schedule
567 II, Schedule III, or Schedule IV in s. 893.03 by a prescriber
568 who has not reviewed the prescription drug monitoring database
569 for the purpose of reviewing the patient's controlled substance
570 prescription history; or

571 b. Does not have any prior dispensing history or
572 relationship with the patient for whom the controlled substance
573 prescription was written,

574
575 must access information in the prescription drug monitoring
576 database for the purpose of reviewing the patient's controlled
577 substance prescription history and may not dispense the
578 controlled substance prescription if there is any clear pattern
579 of doctor-shopping or fraudulent activity by the patient
580 presenting the prescription. Notwithstanding any other provision

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581 of law, the dispensing pharmacist is not obligated to review the
582 prescription drug monitoring database before dispensing any
583 prescription for any hospice patient or established patient of
584 the pharmacy. A pharmacist may orally confirm a prescriber's
585 compliance with this paragraph and document such confirmation on
586 the prescription.

587 3. Other access to the program's database shall be limited
588 to the program ~~program's~~ manager and to the designated program
589 and support staff, who may act only at the direction of the
590 program manager or, in the absence of the program manager, as
591 authorized. Access by the program manager or such designated
592 staff is for prescription drug program management only or for
593 management of the program's database and its system in support
594 of the requirements of this section and in furtherance of the
595 prescription drug monitoring program. Confidential and exempt
596 information in the database shall be released only as provided
597 in paragraph (c) and s. 893.0551. The program manager, the
598 designated program and support staff who act at the direction of
599 or in the absence of the program manager, and any individual who
600 has similar access regarding the management of the database from
601 the prescription drug monitoring program shall submit
602 fingerprints to the department for background screening. The
603 department shall follow the procedure established by the
604 Department of Law Enforcement to request a statewide criminal
605 history record check and to request that the Department of Law
606 Enforcement forward the fingerprints to the Federal Bureau of
607 Investigation for a national criminal history record check.

608 Section 11. Paragraph (a) of subsection (7) of section
609 893.13, Florida Statutes, is amended to read:

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610 893.13 Prohibited acts; penalties.—

611 (7) (a) A person may not:

612 1. Distribute or dispense a controlled substance in
613 violation of this chapter.

614 2. Refuse or fail to make, keep, or furnish any record,
615 notification, order form, statement, invoice, or information
616 required under this chapter.

617 3. Refuse entry into any premises for any inspection or
618 refuse to allow any inspection authorized by this chapter.

619 4. Distribute a controlled substance named or described in
620 s. 893.03(1) or (2) except pursuant to an order form as required
621 by s. 893.06.

622 5. Keep or maintain any store, shop, warehouse, dwelling,
623 building, vehicle, boat, aircraft, or other structure or place
624 which is resorted to by persons using controlled substances in
625 violation of this chapter for the purpose of using these
626 substances, or which is used for keeping or selling them in
627 violation of this chapter.

628 6. Use to his or her own personal advantage, or reveal, any
629 information obtained in enforcement of this chapter except in a
630 prosecution or administrative hearing for a violation of this
631 chapter.

632 7. Possess a prescription form which has not been completed
633 and signed by the practitioner whose name appears printed
634 thereon, unless the person is that practitioner, is an agent or
635 employee of that practitioner, is a pharmacist, or is a supplier
636 of prescription forms who is authorized by that practitioner to
637 possess those forms.

638 8. Fail to affirmatively disclose to ~~Withhold information~~

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639 ~~from~~ a practitioner or pharmacist from whom the person acquires
640 or obtains, or attempts to acquire or seeks to obtain, a
641 controlled substance or a prescription for a controlled
642 substance that the person acquired or obtained ~~making the~~
643 ~~request has received~~ a controlled substance or a prescription
644 for a controlled substance of like therapeutic use from another
645 practitioner within the previous 30 days, the name of the
646 prescribing practitioner from whom such previous prescription
647 was sought, the quantity, and the dosage.

648 9. Acquire or obtain, or attempt to acquire or obtain,
649 possession of a controlled substance by misrepresentation,
650 fraud, forgery, deception, or subterfuge.

651 10. Affix any false or forged label to a package or
652 receptacle containing a controlled substance.

653 11. Furnish false or fraudulent material information in, or
654 omit any material information from, any report or other document
655 required to be kept or filed under this chapter or any record
656 required to be kept by this chapter.

657 12. Store anhydrous ammonia in a container that is not
658 approved by the United States Department of Transportation to
659 hold anhydrous ammonia or is not constructed in accordance with
660 sound engineering, agricultural, or commercial practices.

661 13. With the intent to obtain a controlled substance or
662 combination of controlled substances that are not medically
663 necessary for the person or an amount of a controlled substance
664 or substances that is not medically necessary for the person,
665 obtain or attempt to obtain from a practitioner a controlled
666 substance or a prescription for a controlled substance by
667 misrepresentation, fraud, forgery, deception, subterfuge, or

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668 concealment of a material fact. For purposes of this
669 subparagraph, a material fact includes whether the person has an
670 existing prescription for a controlled substance issued for the
671 same period of time by another practitioner or as described in
672 subparagraph 8.

673 Section 12. This act shall take effect October 1, 2012.