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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2013	.	
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The Committee on Community Affairs (Hukill) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsections (2) and (3) of section 456.44, Florida Statutes, are amended to read:

456.44 Controlled substance prescribing.—

(2) REGISTRATION.—~~Effective January 1, 2012,~~ A physician licensed under chapter 458, chapter 459, chapter 461, or chapter 466 who prescribes more than a 30-day supply of any controlled substance, listed in Schedule II, Schedule III, or Schedule IV as defined in s. 893.03, over a 6-month period to any one



13 patient for the treatment of chronic nonmalignant pain, must:

14 (a) Designate himself or herself as a controlled substance
15 prescribing practitioner on the physician's practitioner
16 profile.

17 (b) Comply with the requirements of this section and
18 applicable board rules.

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

23 (a) A complete medical history and a physical examination
24 must be conducted before beginning any treatment and must be
25 documented in the medical record. The exact components of the
26 physical examination shall be left to the judgment of the
27 clinician who is expected to perform a physical examination
28 proportionate to the diagnosis that justifies a treatment. The
29 medical record must, at a minimum, document the nature and
30 intensity of the pain, current and past treatments for pain,
31 underlying or coexisting diseases or conditions, the effect of
32 the pain on physical and psychological function, a review of
33 previous medical records, previous diagnostic studies, and
34 history of alcohol and substance abuse. The medical record shall
35 also document the presence of one or more recognized medical
36 indications for the use of a controlled substance. Each
37 registrant must develop a written plan for assessing each
38 patient's risk of aberrant drug-related behavior, which may
39 include patient drug testing. Registrants must assess each
40 patient's risk for aberrant drug-related behavior and monitor
41 that risk on an ongoing basis in accordance with the plan.



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42 (b) Before or during a new patient's visit for pain-
43 treatment services at a pain-management clinic registered under
44 s. 458.3265 or s. 459.0137, a physician shall consult the
45 prescription drug monitoring program database provided under s.
46 893.055(2) (a) before prescribing a controlled substance listed
47 in Schedule II or Schedule III in s. 893.03. The physician may
48 designate an agent under his or her supervision to consult the
49 database. The board shall adopt rules to establish a penalty for
50 a physician who does not comply with this subsection.

51 (c)~~(b)~~ Each registrant must develop a written
52 individualized treatment plan for each patient. The treatment
53 plan shall state objectives that will be used to determine
54 treatment success, such as pain relief and improved physical and
55 psychosocial function, and shall indicate if any further
56 diagnostic evaluations or other treatments are planned. After
57 treatment begins, the physician shall adjust drug therapy to the
58 individual medical needs of each patient. Other treatment
59 modalities, including a rehabilitation program, shall be
60 considered depending on the etiology of the pain and the extent
61 to which the pain is associated with physical and psychosocial
62 impairment. The interdisciplinary nature of the treatment plan
63 shall be documented.

64 (d)~~(c)~~ The physician shall discuss the risks and benefits
65 of the use of controlled substances, including the risks of
66 abuse and addiction, as well as physical dependence and its
67 consequences, with the patient, persons designated by the
68 patient, or the patient's surrogate or guardian if the patient
69 is incompetent. The physician shall use a written controlled
70 substance agreement between the physician and the patient



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71 outlining the patient's responsibilities, including, but not
72 limited to:

73 1. Number and frequency of controlled substance
74 prescriptions and refills.

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

77 3. An agreement that controlled substances for the
78 treatment of chronic nonmalignant pain shall be prescribed by a
79 single treating physician unless otherwise authorized by the
80 treating physician and documented in the medical record.

81 (e)~~(d)~~ The patient shall be seen by the physician at
82 regular intervals, not to exceed 3 months, to assess the
83 efficacy of treatment, ensure that controlled substance therapy
84 remains indicated, evaluate the patient's progress toward
85 treatment objectives, consider adverse drug effects, and review
86 the etiology of the pain. Continuation or modification of
87 therapy shall depend on the physician's evaluation of the
88 patient's progress. If treatment goals are not being achieved,
89 despite medication adjustments, the physician shall reevaluate
90 the appropriateness of continued treatment. The physician shall
91 monitor patient compliance in medication usage, related
92 treatment plans, controlled substance agreements, and
93 indications of substance abuse or diversion at a minimum of 3-
94 month intervals.

95 (f)~~(e)~~ The physician shall refer the patient as necessary
96 for additional evaluation and treatment in order to achieve
97 treatment objectives. Special attention shall be given to those
98 patients who are at risk for misusing their medications and
99 those whose living arrangements pose a risk for medication



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100 misuse or diversion. The management of pain in patients with a
101 history of substance abuse or with a comorbid psychiatric
102 disorder requires extra care, monitoring, and documentation and
103 requires consultation with or referral to an addiction medicine
104 specialist or psychiatrist.

105 (g) ~~(f)~~ A physician registered under this section must
106 maintain accurate, current, and complete records that are
107 accessible and readily available for review and comply with the
108 requirements of this section, the applicable practice act, and
109 applicable board rules. The medical records must include, but
110 are not limited to:

- 111 1. The complete medical history and a physical examination,
112 including history of drug abuse or dependence.
- 113 2. Diagnostic, therapeutic, and laboratory results.
- 114 3. Evaluations and consultations.
- 115 4. Treatment objectives.
- 116 5. Discussion of risks and benefits.
- 117 6. Treatments.
- 118 7. Medications, including date, type, dosage, and quantity
119 prescribed.
- 120 8. Instructions and agreements.
- 121 9. Periodic reviews.
- 122 10. Results of any drug testing.
- 123 11. A photocopy of the patient's government-issued photo
124 identification.
- 125 12. If a written prescription for a controlled substance is
126 given to the patient, a duplicate of the prescription.
- 127 13. The physician's full name presented in a legible
128 manner.



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129 (h)~~(g)~~ Patients with signs or symptoms of substance abuse
130 shall be immediately referred to a board-certified pain
131 management physician, an addiction medicine specialist, or a
132 mental health addiction facility as it pertains to drug abuse or
133 addiction unless the physician is board-certified or board-
134 eligible in pain management. Throughout the period of time
135 before receiving the consultant's report, a prescribing
136 physician shall clearly and completely document medical
137 justification for continued treatment with controlled substances
138 and those steps taken to ensure medically appropriate use of
139 controlled substances by the patient. Upon receipt of the
140 consultant's written report, the prescribing physician shall
141 incorporate the consultant's recommendations for continuing,
142 modifying, or discontinuing controlled substance therapy. The
143 resulting changes in treatment shall be specifically documented
144 in the patient's medical record. Evidence or behavioral
145 indications of diversion shall be followed by discontinuation of
146 controlled substance therapy, and the patient shall be
147 discharged, and all results of testing and actions taken by the
148 physician shall be documented in the patient's medical record.

149
150 This subsection does not apply to a board-eligible or board-
151 certified anesthesiologist, physiatrist, rheumatologist, or
152 neurologist, or to a board-certified physician who has surgical
153 privileges at a hospital or ambulatory surgery center and
154 primarily provides surgical services. This subsection does not
155 apply to a board-eligible or board-certified medical specialist
156 who has also completed a fellowship in pain medicine approved by
157 the Accreditation Council for Graduate Medical Education or the



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158 American Osteopathic Association, or who is board eligible or
159 board certified in pain medicine by the American Board of Pain
160 Medicine or a board approved by the American Board of Medical
161 Specialties or the American Osteopathic Association and performs
162 interventional pain procedures of the type routinely billed
163 using surgical codes. This subsection does not apply to a
164 physician who prescribes medically necessary controlled
165 substances for a patient during an inpatient stay in a hospital
166 licensed under chapter 395 or to a resident in a facility
167 licensed under part II of chapter 400. This subsection does not
168 apply to any physician licensed under chapter 458 or chapter 459
169 who writes fewer than 50 prescriptions for a controlled
170 substance for all of his or her patients during a 1-year period.

171 Section 2. Present subsections (1) through (17) of section
172 465.003, Florida Statutes, are renumbered as subsections (2)
173 through (18), respectively, paragraph (a) of present subsection
174 (11) of that section is amended, and a new subsection (1) is
175 added to that section, to read:

176 465.003 Definitions.—As used in this chapter, the term:

177 (1) "Abandoned" means the status of a pharmacy permit of a
178 person or entity that was issued the permit but fails to
179 commence pharmacy operations within 180 days after issuance of
180 the permit without good cause or fails to follow pharmacy
181 closure requirements as set by the board.

182 (12)~~(11)~~(a) "Pharmacy" includes a community pharmacy, an
183 institutional pharmacy, a nuclear pharmacy, a special pharmacy,
184 and an Internet pharmacy.

185 1. The term "community pharmacy" includes every location
186 where medicinal drugs are compounded, dispensed, stored, or sold



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187 or where prescriptions are filled or dispensed on an outpatient
188 basis.

189 2. The term "institutional pharmacy" includes every
190 location in a hospital, clinic, nursing home, dispensary,
191 sanitarium, extended care facility, or other facility,
192 hereinafter referred to as "health care institutions," where
193 medicinal drugs are compounded, dispensed, stored, or sold.

194 3. The term "nuclear pharmacy" includes every location
195 where radioactive drugs and chemicals within the classification
196 of medicinal drugs are compounded, dispensed, stored, or sold.
197 The term "nuclear pharmacy" does not include hospitals licensed
198 under chapter 395 or the nuclear medicine facilities of such
199 hospitals.

200 4. The term "special pharmacy" includes every location
201 where medicinal drugs are compounded, dispensed, stored, or sold
202 if such locations are not otherwise defined in this subsection.

203 5. The term "Internet pharmacy" includes locations not
204 otherwise licensed or issued a permit under this chapter, within
205 or outside this state, which use the Internet to communicate
206 with or obtain information from consumers in this state and use
207 such communication or information to fill or refill
208 prescriptions or to dispense, distribute, or otherwise engage in
209 the practice of pharmacy in this state. Any act described in
210 this definition constitutes the practice of pharmacy as defined
211 in subsection (14) ~~(13)~~.

212 Section 3. Section 465.0065, Florida Statutes, is created
213 to read:

214 465.0065 Notices; form and service.—Each notice served by
215 the department pursuant to this chapter must be in writing and



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216 must be delivered personally by an agent of the department or by
217 certified mail to the pharmacy permittee or licensee. If the
218 pharmacy permittee or licensee refuses to accept service or
219 evades service or if the agent is otherwise unable to carry out
220 service after due diligence, the department may post the notice
221 in a conspicuous place at the pharmacy or at the home or
222 business address for the licensee.

223 Section 4. Paragraphs (e) and (s) of subsection (1) of
224 section 465.016, Florida Statutes, are amended, and paragraph
225 (u) is added to that subsection, to read:

226 465.016 Disciplinary actions.—

227 (1) The following acts constitute grounds for denial of a
228 license or disciplinary action, as specified in s. 456.072(2):

229 (e) Violating chapter 499; 21 U.S.C. ss. 301-392, known as
230 the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et
231 seq., known as the Comprehensive Drug Abuse Prevention and
232 Control Act; or chapter 893 or rules adopted thereunder.

233 (s) Dispensing any medicinal drug based upon a
234 communication that purports to be a prescription as defined by
235 s. 465.003 ~~s. 465.003(14)~~ or s. 893.02 when the pharmacist knows
236 or has reason to believe that the purported prescription is not
237 based upon a valid practitioner-patient relationship.

238 (u) Misappropriating drugs, supplies, or equipment from a
239 pharmacy permittee.

240 Section 5. Paragraph (j) of subsection (5) of section
241 465.022, Florida Statutes, is amended, present subsections (10)
242 through (14) are renumbered as subsections (11) through (15),
243 respectively, present subsection (10) of that section is
244 amended, and a new subsection (10) is added to that section, to



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245 read:

246 465.022 Pharmacies; general requirements; fees.—

247 (5) The department or board shall deny an application for a
248 pharmacy permit if the applicant or an affiliated person,
249 partner, officer, director, or prescription department manager
250 or consultant pharmacist of record of the applicant:

251 (j) Has dispensed any medicinal drug based upon a
252 communication that purports to be a prescription as defined by
253 s. 465.003 ~~s. 465.003(14)~~ or s. 893.02 when the pharmacist knows
254 or has reason to believe that the purported prescription is not
255 based upon a valid practitioner-patient relationship that
256 includes a documented patient evaluation, including history and
257 a physical examination adequate to establish the diagnosis for
258 which any drug is prescribed and any other requirement
259 established by board rule under chapter 458, chapter 459,
260 chapter 461, chapter 463, chapter 464, or chapter 466.

261
262 For felonies in which the defendant entered a plea of guilty or
263 nolo contendere in an agreement with the court to enter a
264 pretrial intervention or drug diversion program, the department
265 shall deny the application if upon final resolution of the case
266 the licensee has failed to successfully complete the program.

267 (10) The permittee shall commence pharmacy operations
268 within 180 days after issuance of the permit, or show good cause
269 to the department why pharmacy operations were not commenced.
270 Commencement of pharmacy operations includes, but is not limited
271 to, acts within the scope of the practice of pharmacy, ordering
272 or receiving drugs, and other similar activities. The board
273 shall establish rules regarding commencement of pharmacy



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274 operations.

275 (11)(10) A pharmacy permittee shall be supervised by a
276 prescription department manager or consultant pharmacist of
277 record at all times. A permittee must notify the department, on
278 a form approved by the board, within 10 days after any change in
279 prescription department manager or consultant pharmacist of
280 record.

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

283 465.023 Pharmacy permittee; disciplinary action.—

284 (1) The department or the board may revoke or suspend the
285 permit of any pharmacy permittee, and may fine, place on
286 probation, or otherwise discipline any pharmacy permittee if the
287 permittee, or any affiliated person, partner, officer, director,
288 or agent of the permittee, including a person fingerprinted
289 under s. 465.022(3), has:

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

292 (b) Attempted to procure, or has procured, a permit for any
293 other person by making, or causing to be made, any false
294 representation;

295 (c) Violated any of the requirements of this chapter or any
296 of the rules of the Board of Pharmacy; of chapter 499, known as
297 the "Florida Drug and Cosmetic Act"; of 21 U.S.C. ss. 301-392,
298 known as the "Federal Food, Drug, and Cosmetic Act"; of 21
299 U.S.C. ss. 821 et seq., known as the Comprehensive Drug Abuse
300 Prevention and Control Act; or of chapter 893 or rules adopted
301 thereunder;

302 (d) Been convicted or found guilty, regardless of



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303 adjudication, of a felony or any other crime involving moral
304 turpitude in any of the courts of this state, of any other
305 state, or of the United States;

306 (e) Been convicted or disciplined by a regulatory agency of
307 the Federal Government or a regulatory agency of another state
308 for any offense that would constitute a violation of this
309 chapter;

310 (f) Been convicted of, or entered a plea of guilty or nolo
311 contendere to, regardless of adjudication, a crime in any
312 jurisdiction which relates to the practice of, or the ability to
313 practice, the profession of pharmacy;

314 (g) Been convicted of, or entered a plea of guilty or nolo
315 contendere to, regardless of adjudication, a crime in any
316 jurisdiction which relates to health care fraud; or

317 (h) Dispensed any medicinal drug based upon a communication
318 that purports to be a prescription as defined by s. 465.003 ~~s.~~
319 ~~465.003(14)~~ or s. 893.02 when the pharmacist knows or has reason
320 to believe that the purported prescription is not based upon a
321 valid practitioner-patient relationship that includes a
322 documented patient evaluation, including history and a physical
323 examination adequate to establish the diagnosis for which any
324 drug is prescribed and any other requirement established by
325 board rule under chapter 458, chapter 459, chapter 461, chapter
326 463, chapter 464, or chapter 466.

327 Section 7. Section 465.1902, Florida Statutes, is created
328 to read:

329 465.1902 Preemption.—This chapter preempts to the state all
330 regulation of the licensure, activity, and operation of
331 pharmacies and pharmacists as defined in this chapter. A local



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332 government or political subdivision of the state may not enact
333 or enforce an ordinance that imposes a levy, charge, or fee
334 upon, or that otherwise regulates, pharmacies and pharmacists as
335 defined in this chapter, except that this preemption does not
336 prohibit a local government or political subdivision from
337 enacting an ordinance regarding the following:

338 (1) Local business taxes adopted pursuant to chapter 205.

339 (2) Land use development regulations adopted pursuant to
340 chapter 163, which include regulation of any aspect of
341 development, including a subdivision, building construction,
342 sign regulation, and any other regulation concerning the
343 development of land, landscaping, or tree protection, and which
344 do not include restrictions on pain-management services, health
345 care services, or the prescribing of controlled substances.

346 Section 8. Paragraph (b) of subsection (2), subsection
347 (10), and paragraph (c) of subsection (11) of section 893.055,
348 Florida Statutes, are amended to read:

349 893.055 Prescription drug monitoring program.—

350 (2)

351 (b) ~~The department, when the direct support organization~~
352 ~~receives at least \$20,000 in nonstate moneys or the state~~
353 ~~receives at least \$20,000 in federal grants for the prescription~~
354 ~~drug monitoring program,~~ shall adopt rules as necessary
355 concerning the reporting, accessing the database, evaluation,
356 management, development, implementation, operation, security,
357 and storage of information within the system, including rules
358 for when patient advisory reports are provided to pharmacies and
359 prescribers. The patient advisory report shall be provided in
360 accordance with s. 893.13(7)(a)8. The department shall work with



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361 the professional health care licensure boards, such as the Board
362 of Medicine, the Board of Osteopathic Medicine, and the Board of
363 Pharmacy; other appropriate organizations, such as the Florida
364 Pharmacy Association, the Florida Medical Association, the
365 Florida Retail Federation, and the Florida Osteopathic Medical
366 Association, including those relating to pain management; and
367 the Attorney General, the Department of Law Enforcement, and the
368 Agency for Health Care Administration to develop rules
369 appropriate for the prescription drug monitoring program.

370 (10) All costs incurred by the department in administering
371 the prescription drug monitoring program shall be funded through
372 state funds, federal grants, or private funding applied for or
373 received by the state. The department may not commit funds for
374 the monitoring program without ensuring funding is available.
375 ~~The prescription drug monitoring program and the implementation~~
376 ~~thereof are contingent upon receipt of the nonstate funding.~~ The
377 department and state government shall cooperate with the direct-
378 support organization established pursuant to subsection (11) in
379 seeking state funds, federal grant funds, other nonstate grant
380 funds, gifts, donations, or other private moneys for the
381 department if so long as the costs of doing so are not
382 considered material. Nonmaterial costs for this purpose include,
383 but are not limited to, the costs of mailing and personnel
384 assigned to research or apply for a grant. Notwithstanding the
385 exemptions to competitive-solicitation requirements under s.
386 287.057(3)(f), the department shall comply with the competitive-
387 solicitation requirements under s. 287.057 for the procurement
388 of any goods or services required by this section. ~~Funds~~
389 ~~provided, directly or indirectly, by prescription drug~~



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390 ~~manufacturers may not be used to implement the program.~~

391 (11) The department may establish a direct-support
392 organization that has a board consisting of at least five
393 members to provide assistance, funding, and promotional support
394 for the activities authorized for the prescription drug
395 monitoring program.

396 (c) The State Surgeon General shall appoint a board of
397 directors for the direct-support organization. Members of the
398 board shall serve at the pleasure of the State Surgeon General.
399 The State Surgeon General shall provide guidance to members of
400 the board to ensure that moneys received by the direct-support
401 organization are not received from inappropriate sources.
402 Inappropriate sources include, but are not limited to, donors,
403 grantors, persons, ~~or~~ organizations, or pharmaceutical
404 companies, that may monetarily or substantively benefit from the
405 purchase of goods or services by the department in furtherance
406 of the prescription drug monitoring program.

407 Section 9. Section 893.0552, Florida Statutes, is created
408 to read:

409 893.0552 Preemption of regulation.—

410 (1) This section preempts to the state all regulation of
411 the licensure, activity, and operation of pain-management
412 clinics as defined in ss. 458.3265 and 459.0137 in the following
413 circumstances:

414 (a) The clinic is wholly owned and operated by a physician
415 who performs interventional pain procedures of the type
416 routinely billed using surgical codes, who has never been
417 suspended or revoked for prescribing a controlled substance in
418 Schedule II or Schedule III of s. 893.03 and drugs containing



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419 Alprazolam in excessive or inappropriate quantities that are not
420 in the best interest of a patient, and who:

421 1. Has completed a fellowship in pain medicine which is
422 approved by the Accreditation Council for Graduate Medical
423 Education or the American Osteopathic Association;

424 2. Is board-certified in pain medicine by the American
425 Board of Pain Medicine, board-certified by the American Board of
426 Interventional Pain Physicians; or

427 3. Has a board certification or subcertification in pain
428 management or pain medicine by a specialty board approved by the
429 American Board of Medical Specialties or the American
430 Osteopathic Association.

431 (b) The clinic is wholly owned and operated by a physician-
432 multispecialty practice if one or more board-eligible or board-
433 certified medical specialists has one of the qualifications
434 specified in subparagraph (a)1., subparagraph (a)2., or
435 subparagraph (a)3., performs interventional pain procedures of
436 the type routinely billed using surgical codes, and has never
437 been suspended or revoked for prescribing a controlled substance
438 in Schedule II or Schedule III of s. 893.03 and drugs containing
439 Alprazolam in excessive or inappropriate quantities that are not
440 in the best interest of a patient.

441 (2) Notwithstanding subsection (1), the preemption does not
442 prohibit a local government or political subdivision from
443 enacting an ordinance regarding local business taxes adopted
444 pursuant to chapter 205 and land use development regulations
445 adopted pursuant to chapter 163. A pain-management clinic in
446 which the regulation of its licensure, activity, and operation
447 is preempted to the state pursuant to subsection (1) is a



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448 permissible use in a land use or zoning category that permits
449 hospitals and other health care facilities or clinics as defined
450 in chapter 395 or s. 408.07. Upon the request of a local
451 government, a pain-management clinic must annually demonstrate
452 that it qualifies for preemption pursuant to subsection (1).

453 Section 10. Subsection (1) of section 409.9201, Florida
454 Statutes, is amended to read:

455 409.9201 Medicaid fraud.—

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

457 (a) "Prescription drug" means any drug, including, but not
458 limited to, finished dosage forms or active ingredients that are
459 subject to, defined by, or described by s. 503(b) of the Federal
460 Food, Drug, and Cosmetic Act or by s. 465.003 ~~s. 465.003(8)~~, s.
461 499.003(46) or (53) or s. 499.007(13).

462 (b) "Value" means the amount billed to the Medicaid program
463 for the property dispensed or the market value of a legend drug
464 or goods or services at the time and place of the offense. If
465 the market value cannot be determined, the term means the
466 replacement cost of the legend drug or goods or services within
467 a reasonable time after the offense.

468
469 The value of individual items of the legend drugs or goods or
470 services involved in distinct transactions committed during a
471 single scheme or course of conduct, whether involving a single
472 person or several persons, may be aggregated when determining
473 the punishment for the offense.

474 Section 11. Paragraph (pp) of subsection (1) of section
475 458.331, Florida Statutes, is amended to read:

476 458.331 Grounds for disciplinary action; action by the



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477 board and department.-

478 (1) The following acts constitute grounds for denial of a
479 license or disciplinary action, as specified in s. 456.072(2):

480 (pp) Applicable to a licensee who serves as the designated
481 physician of a pain-management clinic as defined in s. 458.3265
482 or s. 459.0137:

483 1. Registering a pain-management clinic through
484 misrepresentation or fraud;

485 2. Procuring, or attempting to procure, the registration of
486 a pain-management clinic for any other person by making or
487 causing to be made, any false representation;

488 3. Failing to comply with any requirement of chapter 499,
489 the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the
490 Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq.,
491 the Drug Abuse Prevention and Control Act; or chapter 893, the
492 Florida Comprehensive Drug Abuse Prevention and Control Act;

493 4. Being convicted or found guilty of, regardless of
494 adjudication to, a felony or any other crime involving moral
495 turpitude, fraud, dishonesty, or deceit in any jurisdiction of
496 the courts of this state, of any other state, or of the United
497 States;

498 5. Being convicted of, or disciplined by a regulatory
499 agency of the Federal Government or a regulatory agency of
500 another state for, any offense that would constitute a violation
501 of this chapter;

502 6. Being convicted of, or entering a plea of guilty or nolo
503 contendere to, regardless of adjudication, a crime in any
504 jurisdiction of the courts of this state, of any other state, or
505 of the United States which relates to the practice of, or the



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506 ability to practice, a licensed health care profession;
507 7. Being convicted of, or entering a plea of guilty or nolo
508 contendere to, regardless of adjudication, a crime in any
509 jurisdiction of the courts of this state, of any other state, or
510 of the United States which relates to health care fraud;

511 8. Dispensing any medicinal drug based upon a communication
512 that purports to be a prescription as defined in s. 465.003 ~~s.~~
513 ~~465.003(14)~~ or s. 893.02 if the dispensing practitioner knows or
514 has reason to believe that the purported prescription is not
515 based upon a valid practitioner-patient relationship; or

516 9. Failing to timely notify the board of the date of his or
517 her termination from a pain-management clinic as required by s.
518 458.3265(2).

519 Section 12. Paragraph (rr) of subsection (1) of section
520 459.015, Florida Statutes, is amended to read:

521 459.015 Grounds for disciplinary action; action by the
522 board and department.-

523 (1) The following acts constitute grounds for denial of a
524 license or disciplinary action, as specified in s. 456.072(2):

525 (rr) Applicable to a licensee who serves as the designated
526 physician of a pain-management clinic as defined in s. 458.3265
527 or s. 459.0137:

528 1. Registering a pain-management clinic through
529 misrepresentation or fraud;

530 2. Procuring, or attempting to procure, the registration of
531 a pain-management clinic for any other person by making or
532 causing to be made, any false representation;

533 3. Failing to comply with any requirement of chapter 499,
534 the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the



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535 Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq.,
536 the Drug Abuse Prevention and Control Act; or chapter 893, the
537 Florida Comprehensive Drug Abuse Prevention and Control Act;

538 4. Being convicted or found guilty of, regardless of
539 adjudication to, a felony or any other crime involving moral
540 turpitude, fraud, dishonesty, or deceit in any jurisdiction of
541 the courts of this state, of any other state, or of the United
542 States;

543 5. Being convicted of, or disciplined by a regulatory
544 agency of the Federal Government or a regulatory agency of
545 another state for, any offense that would constitute a violation
546 of this chapter;

547 6. Being convicted of, or entering a plea of guilty or nolo
548 contendere to, regardless of adjudication, a crime in any
549 jurisdiction of the courts of this state, of any other state, or
550 of the United States which relates to the practice of, or the
551 ability to practice, a licensed health care profession;

552 7. Being convicted of, or entering a plea of guilty or nolo
553 contendere to, regardless of adjudication, a crime in any
554 jurisdiction of the courts of this state, of any other state, or
555 of the United States which relates to health care fraud;

556 8. Dispensing any medicinal drug based upon a communication
557 that purports to be a prescription as defined in s. 465.003 ~~s.~~
558 ~~465.003(14)~~ or s. 893.02 if the dispensing practitioner knows or
559 has reason to believe that the purported prescription is not
560 based upon a valid practitioner-patient relationship; or

561 9. Failing to timely notify the board of the date of his or
562 her termination from a pain-management clinic as required by s.
563 459.0137(2).



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564 Section 13. Subsection (1) of section 465.014, Florida
565 Statutes, is amended to read:

566 465.014 Pharmacy technician.—

567 (1) A person other than a licensed pharmacist or pharmacy
568 intern may not engage in the practice of the profession of
569 pharmacy, except that a licensed pharmacist may delegate to
570 pharmacy technicians who are registered pursuant to this section
571 those duties, tasks, and functions that do not fall within the
572 purview of s. 465.003 ~~s. 465.003(13)~~. All such delegated acts
573 shall be performed under the direct supervision of a licensed
574 pharmacist who shall be responsible for all such acts performed
575 by persons under his or her supervision. A pharmacy registered
576 technician, under the supervision of a pharmacist, may initiate
577 or receive communications with a practitioner or his or her
578 agent, on behalf of a patient, regarding refill authorization
579 requests. A licensed pharmacist may not supervise more than one
580 registered pharmacy technician unless otherwise permitted by the
581 guidelines adopted by the board. The board shall establish
582 guidelines to be followed by licensees or permittees in
583 determining the circumstances under which a licensed pharmacist
584 may supervise more than one but not more than three pharmacy
585 technicians.

586 Section 14. Paragraph (c) of subsection (2) of section
587 465.015, Florida Statutes, is amended to read:

588 465.015 Violations and penalties.—

589 (2) It is unlawful for any person:

590 (c) To sell or dispense drugs as defined in s. 465.003 ~~s.~~
591 ~~465.003(8)~~ without first being furnished with a prescription.

592 Section 15. Subsection (8) of section 465.0156, Florida



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593 Statutes, is amended to read:

594 465.0156 Registration of nonresident pharmacies.—

595 (8) Notwithstanding s. 465.003 ~~s. 465.003(10)~~, for purposes
596 of this section, the registered pharmacy and the pharmacist
597 designated by the registered pharmacy as the prescription
598 department manager or the equivalent must be licensed in the
599 state of location in order to dispense into this state.

600 Section 16. Subsection (4) of section 465.0197, Florida
601 Statutes, is amended to read:

602 465.0197 Internet pharmacy permits.—

603 (4) Notwithstanding s. 465.003 ~~s. 465.003(10)~~, for purposes
604 of this section, the Internet pharmacy and the pharmacist
605 designated by the Internet pharmacy as the prescription
606 department manager or the equivalent must be licensed in the
607 state of location in order to dispense into this state.

608 Section 17. Section 465.1901, Florida Statutes, is amended
609 to read:

610 465.1901 Practice of orthotics and pedorthics.—The
611 provisions of chapter 468 relating to orthotics or pedorthics do
612 not apply to any licensed pharmacist or to any person acting
613 under the supervision of a licensed pharmacist. The practice of
614 orthotics or pedorthics by a pharmacist or any of the
615 pharmacist's employees acting under the supervision of a
616 pharmacist shall be construed to be within the meaning of the
617 term "practice of the profession of pharmacy" as set forth in s.
618 465.003 ~~s. 465.003(13)~~, and shall be subject to regulation in
619 the same manner as any other pharmacy practice. The Board of
620 Pharmacy shall develop rules regarding the practice of orthotics
621 and pedorthics by a pharmacist. Any pharmacist or person under



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622 the supervision of a pharmacist engaged in the practice of
623 orthotics or pedorthics is not precluded from continuing that
624 practice pending adoption of these rules.

625 Section 18. Subsection (43) of section 499.003, Florida
626 Statutes, is amended to read:

627 499.003 Definitions of terms used in this part.—As used in
628 this part, the term:

629 (43) "Prescription drug" means a prescription, medicinal,
630 or legend drug, including, but not limited to, finished dosage
631 forms or active pharmaceutical ingredients subject to, defined
632 by, or described by s. 503(b) of the Federal Food, Drug, and
633 Cosmetic Act or s. 465.003 ~~s. 465.003(8)~~, s. 499.007(13), or
634 subsection (11), subsection (46), or subsection (53), except
635 that an active pharmaceutical ingredient is a prescription drug
636 only if substantially all finished dosage forms in which it may
637 be lawfully dispensed or administered in this state are also
638 prescription drugs.

639 Section 19. Subsection (22) of section 893.02, Florida
640 Statutes, is amended to read:

641 893.02 Definitions.—The following words and phrases as used
642 in this chapter shall have the following meanings, unless the
643 context otherwise requires:

644 (22) "Prescription" means and includes an order for drugs
645 or medicinal supplies written, signed, or transmitted by word of
646 mouth, telephone, telegram, or other means of communication by a
647 duly licensed practitioner licensed by the laws of the state to
648 prescribe such drugs or medicinal supplies, issued in good faith
649 and in the course of professional practice, intended to be
650 filled, compounded, or dispensed by another person licensed by



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651 the laws of the state to do so, and meeting the requirements of
652 s. 893.04. The term also includes an order for drugs or
653 medicinal supplies so transmitted or written by a physician,
654 dentist, veterinarian, or other practitioner licensed to
655 practice in a state other than Florida, but only if the
656 pharmacist called upon to fill such an order determines, in the
657 exercise of his or her professional judgment, that the order was
658 issued pursuant to a valid patient-physician relationship, that
659 it is authentic, and that the drugs or medicinal supplies so
660 ordered are considered necessary for the continuation of
661 treatment of a chronic or recurrent illness. However, if the
662 physician writing the prescription is not known to the
663 pharmacist, the pharmacist shall obtain proof to a reasonable
664 certainty of the validity of said prescription. A prescription
665 order for a controlled substance shall not be issued on the same
666 prescription blank with another prescription order for a
667 controlled substance which is named or described in a different
668 schedule, nor shall any prescription order for a controlled
669 substance be issued on the same prescription blank as a
670 prescription order for a medicinal drug, as defined in s.
671 465.003 ~~s. 465.003(8)~~, which does not fall within the definition
672 of a controlled substance as defined in this act.

673 Section 20. This act shall take effect July 1, 2013.

674
675 ===== T I T L E A M E N D M E N T =====

676 And the title is amended as follows:

677 Delete everything before the enacting clause
678 and insert:

679 A bill to be entitled



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680 An act relating to the provision of health care with
681 controlled substances; amending s. 456.44, F.S.;
682 limiting the application of requirements for
683 prescribing controlled substances; requiring a
684 physician to consult the prescription drug monitoring
685 program database before prescribing certain controlled
686 substances; authorizing the appropriate board to adopt
687 a penalty for failure to consult the database;
688 exempting nursing home residents and certain
689 physicians from requirements regarding prescriptions
690 of controlled substances; amending s. 465.003, F.S.;
691 defining a term; conforming a cross-reference;
692 creating s. 465.0065, F.S.; providing notice
693 requirements for inspection of a pharmacy; amending s.
694 465.016, F.S.; providing additional grounds for
695 disciplinary action; conforming a cross-reference;
696 amending s. 465.022, F.S.; conforming a cross-
697 reference; requiring a pharmacy permittee to commence
698 operations within 180 days after permit issuance or
699 show good cause why operations were not commenced;
700 requiring the Board of Pharmacy to establish rules;
701 requiring a pharmacy permittee to be supervised by a
702 prescription department manager or consultant
703 pharmacist of record; amending s. 465.023, F.S.;
704 providing additional grounds for disciplinary action;
705 conforming a cross-reference; creating s. 465.1902,
706 F.S.; providing that regulation of the licensure,
707 activity, and operation of pharmacies and pharmacists
708 is preempted to the state; prohibiting a local



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709 government or political subdivision of the state from
710 enacting or enforcing an ordinance that imposes a
711 levy, charge, or fee upon, or that otherwise
712 regulates, pharmacies and pharmacists, except for
713 ordinances regarding local business taxes and land
714 development; amending s. 893.055, F.S.; deleting an
715 obsolete provision; deleting a provision that
716 prohibits funds from prescription drug manufacturers
717 to be used to implement the prescription drug
718 monitoring program; revising the sources of money
719 which are inappropriate for the direct-support
720 organization of the prescription drug monitoring
721 program to receive; authorizing the prescription drug
722 monitoring program to be funded by state funds and
723 pharmaceutical company donations; creating s.
724 893.0552, F.S.; providing that regulation of the
725 licensure, activity, and operation of pain-management
726 clinics is preempted to the state; authorizing a local
727 government or political subdivision of the state to
728 enact certain ordinances regarding local business
729 taxes and land development; amending ss. 409.9201,
730 458.331, 459.015, 465.014, 465.015, 465.0156,
731 465.0197, 465.1901, 499.003, and 893.02, F.S. ;
732 conforming cross-references; providing an effective
733 date.