

By Senator Garcia

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1                   A bill to be entitled  
2       An act relating to medical practice; amending s.  
3       456.44, F.S.; exempting certain physicians prescribing  
4       controlled substances for the treatment of pain  
5       associated with sickle cell disease from the standards  
6       of practice for prescribing controlled substances;  
7       amending ss. 458.347 and 459.022, F.S., relating to  
8       physician assistants; removing the cap on the number  
9       of physician assistants a physician may supervise;  
10      providing that a physician assistant may perform  
11      practice-related activities unless expressly  
12      prohibited; requiring a physician assistant to certify  
13      that he or she has completed continuing medical  
14      education hours in a specialty practice in which he or  
15      she has prescriptive privileges; specifying the drugs  
16      to be included on the formulary a physician assistant  
17      may not prescribe; deleting the requirement that a  
18      person applying for licensure as a physician assistant  
19      provide two letters of recommendation; providing an  
20      effective date.

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24       Section 1. Subsection (3) of section 456.44, Florida  
25 Statutes, is amended to read:

26       456.44 Controlled substance prescribing.—

27       (3) STANDARDS OF PRACTICE.—The standards of practice  
28 established under ~~in~~ this section do not supersede the level of  
29 care, skill, and treatment recognized in general law related to

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30 health care licensure.

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

51 (b) Each registrant shall ~~must~~ develop a written  
52 individualized treatment plan for each patient. The treatment  
53 plan must include ~~shall state~~ objectives for determining that  
54 ~~will be used to determine~~ treatment success, such as pain relief  
55 and improved physical and psychosocial function, and ~~shall~~  
56 indicate if any further diagnostic evaluations or other  
57 treatments are planned. After treatment begins, the physician  
58 shall adjust drug therapy to the individual medical needs of the

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59 ~~each~~ patient. Other treatment modalities, including a  
60 rehabilitation program, shall be considered depending on the  
61 etiology of the pain and the extent to which the pain is  
62 associated with physical and psychosocial impairment. The  
63 interdisciplinary nature of the treatment plan shall be  
64 documented.

65 (c) The physician shall discuss the risks and benefits of  
66 the use of controlled substances, including the risks of abuse  
67 and addiction, as well as physical dependence and its  
68 consequences, with the patient, persons designated by the  
69 patient, or the patient's surrogate or guardian if the patient  
70 is incompetent. The physician shall use a written controlled  
71 substance agreement between the physician and the patient  
72 specifying ~~outlining~~ the patient's responsibilities which  
73 includes, ~~including,~~ but is not limited to:

74 1. The number and frequency of controlled substance  
75 prescriptions and refills.

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

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

82 (d) The patient shall be seen by the physician at regular  
83 intervals, not to exceed 3 months, to assess the efficacy of  
84 treatment, ensure that controlled substance therapy remains  
85 indicated, evaluate the patient's progress toward treatment  
86 objectives, consider adverse drug effects, and review the  
87 etiology of the pain. Continuation or modification of therapy

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88 depends ~~shall depend~~ on the physician's evaluation of the  
89 patient's progress. If treatment goals are not being achieved,  
90 despite medication adjustments, the physician shall reevaluate  
91 the appropriateness of continued treatment. The physician shall  
92 monitor patient compliance in medication usage, related  
93 treatment plans, controlled substance agreements, and  
94 indications of substance abuse or diversion at a minimum of 3-  
95 month intervals.

96 (e) The physician shall refer the patient as necessary for  
97 additional evaluation and treatment in order to achieve  
98 treatment objectives. Special attention shall be given to those  
99 patients who are at risk for misusing their medications and  
100 those whose living arrangements pose a risk for medication  
101 misuse or diversion. The management of pain in patients who have  
102 ~~with~~ a history of substance abuse or ~~with~~ a comorbid psychiatric  
103 disorder requires extra care, monitoring, and documentation and  
104 ~~requires~~ consultation with or referral to an addiction medicine  
105 specialist or psychiatrist.

106 (f) A physician registered under this section must maintain  
107 accurate, current, and complete records that are accessible and  
108 readily available for review and comply with the requirements of  
109 this section, the applicable practice act, and applicable board  
110 rules. The medical records must include, but 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.

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- 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.
- 129           (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 must ~~shall~~ be specifically  
144 documented in the patient's medical record. Evidence or  
145 behavioral indications of diversion shall be followed by

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146 discontinuation of controlled substance therapy, and the patient  
147 ~~shall be~~ discharged, and all results of testing and actions  
148 taken by the physician shall be documented in the patient's  
149 medical record.

150

151 This subsection does not apply to a board-eligible or board-  
152 certified anesthesiologist, physiatrist, rheumatologist, or  
153 neurologist; ~~or~~ to a board-certified physician who has surgical  
154 privileges at a hospital or ambulatory surgery center and  
155 primarily provides surgical services; ~~This subsection does not~~  
156 ~~apply~~ to a board-eligible or board-certified medical specialist  
157 who has also completed a fellowship in pain medicine approved by  
158 the Accreditation Council for Graduate Medical Education or the  
159 American Osteopathic Association, or who is board eligible or  
160 board certified in pain medicine by the American Board of Pain  
161 Medicine or a board approved by the American Board of Medical  
162 Specialties or the American Osteopathic Association and performs  
163 interventional pain procedures of the type routinely billed  
164 using surgical codes; to an oncologist or hematologist  
165 prescribing medically necessary controlled substances to a  
166 patient for treatment of pain associated with progressive sickle  
167 cell disease; or. ~~This subsection does not apply~~ to a physician  
168 who prescribes medically necessary controlled substances for a  
169 patient during an inpatient stay in a hospital licensed under  
170 chapter 395.

171 Section 2. Subsection (3), subsection (4), and paragraphs  
172 (a) and (c) of subsection (7) of section 458.347, Florida  
173 Statutes, are amended to read:

174 458.347 Physician assistants.—

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175 (3) PERFORMANCE OF SUPERVISING PHYSICIAN.—Each physician or  
176 group of physicians supervising a licensed physician assistant  
177 must be qualified in the medical areas in which the physician  
178 assistant is to perform and is ~~shall be~~ individually or  
179 collectively responsible and liable for the performance and the  
180 acts and omissions of the physician assistant. ~~A physician may~~  
181 ~~not supervise more than four currently licensed physician~~  
182 ~~assistants at any one time.~~ A physician supervising a physician  
183 assistant pursuant to this section is ~~may not be~~ required to  
184 review and cosign charts or medical records prepared by the ~~such~~  
185 physician assistant.

186 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—A physician  
187 assistant may perform practice-related activities in accordance  
188 with his or her education, training, and experience as delegated  
189 by a supervisory physician unless expressly prohibited under  
190 this chapter, chapter 459, or rules adopted to administer these  
191 chapters.

192 (a) The boards shall adopt, by rule, the general principles  
193 that supervising physicians must use in developing the scope of  
194 practice of a physician assistant under direct ~~supervision~~ and  
195 ~~under~~ indirect supervision. These principles must ~~shall~~  
196 recognize the diversity of ~~both~~ specialty and practice settings  
197 in which physician assistants are used.

198 (b) This chapter does not prevent third-party payors from  
199 reimbursing employers of physician assistants for covered  
200 services rendered by ~~licensed~~ physician assistants.

201 (c) ~~Licensed~~ Physician assistants may not be denied  
202 clinical hospital privileges, except for cause, so long as the  
203 supervising physician is a staff member in good standing.

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204 (d) A supervisory physician may delegate to a ~~licensed~~  
205 physician assistant, pursuant to a written protocol, the  
206 authority to act according to s. 154.04(1)(c). Such delegated  
207 authority is limited to the supervising physician's practice in  
208 connection with a county health department as ~~defined and~~  
209 established under ~~pursuant to~~ chapter 154. The boards shall  
210 adopt rules governing the supervision of physician assistants by  
211 physicians in county health departments.

212 (e) A supervisory physician may delegate to a fully  
213 licensed physician assistant the authority to prescribe or  
214 dispense any medication used in the supervisory physician's  
215 practice unless such medication is listed on the formulary  
216 created pursuant to paragraph (f). A fully licensed physician  
217 assistant may only prescribe or dispense such medication under  
218 the following circumstances:

219 1. The ~~A~~ physician assistant must clearly identify to the  
220 patient that he or she is a physician assistant. ~~Furthermore,~~  
221 The physician assistant must also inform the patient that the  
222 patient has the right to see the physician before a ~~prior to any~~  
223 prescription is being prescribed or dispensed by the physician  
224 assistant.

225 2. The supervisory physician must notify the department of  
226 his or her intent to delegate, on a department-approved form,  
227 before delegating such authority and notify the department of  
228 any change in the prescriptive privileges of the physician  
229 assistant. Authority to dispense may be delegated only by a  
230 supervising physician who is registered as a dispensing  
231 practitioner under ~~in compliance with~~ s. 465.0276.

232 3. At the time of license renewal, the physician assistant



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233 must certify to ~~file with~~ the department a ~~signed affidavit~~ that  
234 he or she has completed a minimum of 10 continuing medical  
235 education hours in the specialty practice in which the physician  
236 assistant has prescriptive privileges ~~with each licensure~~  
237 ~~renewal application~~.

238 4. The department may issue a prescriber number to the  
239 physician assistant granting authority for the prescribing of  
240 medicinal drugs authorized within this paragraph upon completion  
241 of the foregoing requirements. The physician assistant is ~~shall~~  
242 not ~~be~~ required to independently register pursuant to s.  
243 465.0276.

244 5. The prescription must be written in a form that complies  
245 with chapter 499 and ~~must contain~~, in addition to the  
246 supervisory physician's name, address, and telephone number,  
247 must contain the physician assistant's prescriber number. Unless  
248 it is a drug or drug sample dispensed by the physician  
249 assistant, the prescription must be filled in a pharmacy  
250 permitted under chapter 465 and must be dispensed in that  
251 pharmacy by a pharmacist licensed under chapter 465. The  
252 appearance of the prescriber number creates a presumption that  
253 the physician assistant is authorized to prescribe the medicinal  
254 drug and the prescription is valid.

255 6. The physician assistant must note the prescription or  
256 dispensing of medication in the appropriate medical record.

257 (f)~~1~~. The council shall establish a formulary of medicinal  
258 drugs that a fully licensed physician assistant having  
259 prescribing authority under this section or s. 459.022 may not  
260 prescribe. The formulary must include controlled substances  
261 listed under schedules I and II ~~as defined~~ in chapter 893,

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262 general anesthetics, and radiographic contrast materials.

263 ~~1.2.~~ In establishing the formulary, the council shall  
264 consult with a pharmacist licensed under chapter 465, but not  
265 licensed under this chapter or chapter 459, who shall be  
266 selected by the State Surgeon General.

267 ~~2.3.~~ Only the council shall add to, delete from, or modify  
268 the formulary. Any person who requests an addition, deletion, or  
269 modification of a medicinal drug listed on the ~~such~~ formulary  
270 has the burden of proof to show cause why such addition,  
271 deletion, or modification should be made.

272 ~~3.4.~~ The boards shall adopt the formulary ~~required by this~~  
273 ~~paragraph,~~ and each addition, deletion, or modification to the  
274 formulary, by rule. Notwithstanding ~~any provision of~~ chapter 120  
275 ~~to the contrary,~~ the formulary rule is ~~shall be~~ effective 60  
276 days after the date it is filed with the Secretary of State.  
277 Upon adoption ~~of the formulary,~~ the department shall mail a copy  
278 of the ~~such~~ formulary to each fully licensed physician assistant  
279 having prescribing authority under this section or s. 459.022,  
280 and to each pharmacy licensed by the state. The boards shall  
281 establish, by rule, a fee not to exceed \$200 to fund the  
282 provisions of this paragraph and paragraph (e).

283 (g) A supervisory physician may delegate to a licensed  
284 physician assistant the authority to order medications for the  
285 supervisory physician's patient during his or her care in a  
286 facility licensed under chapter 395, notwithstanding any  
287 provisions in chapter 465 or chapter 893 which may prohibit such  
288 ~~this~~ delegation. For the purpose of this paragraph, an order is  
289 not considered a prescription. A licensed physician assistant  
290 working in a facility ~~that is~~ licensed under chapter 395 may

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291 order any medication under the direction of the supervisory  
292 physician.

293 (7) PHYSICIAN ASSISTANT LICENSURE.—

294 (a) A ~~Any~~ person desiring to be licensed as a physician  
295 assistant must apply to the department. The department shall  
296 issue a license to any person certified by the council as having  
297 met the following requirements:

298 1. Is at least 18 years of age.

299 2. Has satisfactorily passed a proficiency examination by  
300 an acceptable score established by the National Commission on  
301 Certification of Physician Assistants. If an applicant does not  
302 hold a current certificate issued by the National Commission on  
303 Certification of Physician Assistants and has not actively  
304 practiced as a physician assistant within the ~~immediately~~  
305 preceding 4 years, the applicant must retake and successfully  
306 complete the entry-level examination of the National Commission  
307 on Certification of Physician Assistants ~~to be eligible for~~  
308 ~~licensure~~.

309 3. Has completed the application form and remitted an  
310 application fee of up to ~~not to exceed~~ \$300 as set by the  
311 boards. An application for licensure made by a physician  
312 assistant must include:

313 a. A certificate of completion of a physician assistant  
314 training program specified in subsection (6).

315 b. A sworn statement of any prior felony convictions.

316 c. A sworn statement of any previous revocation or denial  
317 of licensure or certification in any state.

318 ~~d. Two letters of recommendation.~~

319 ~~d.e.~~ d.e. A copy of course transcripts and a copy of the course

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320 description from a physician assistant training program  
321 describing course content in pharmacotherapy, if the applicant  
322 wishes to apply for prescribing authority. These documents must  
323 meet the evidence requirements for prescribing authority.

324 (c) The license must be renewed biennially. Each renewal  
325 must include:

- 326 1. A renewal fee not to exceed \$500 as set by the boards.
- 327 2. A ~~sworn~~ statement of no felony convictions in the  
328 previous 2 years.

329 Section 3. Subsections (3) and (4) and paragraphs (a) and  
330 (b) of subsection (7) of section 459.022, Florida Statutes, are  
331 amended to read:

332 459.022 Physician assistants.—

333 (3) PERFORMANCE OF SUPERVISING PHYSICIAN.—Each physician or  
334 group of physicians supervising a licensed physician assistant  
335 must be qualified in the medical areas in which the physician  
336 assistant is to perform and is ~~shall be~~ individually or  
337 collectively responsible and liable for the performance and the  
338 acts and omissions of the physician assistant. ~~A physician may~~  
339 ~~not supervise more than four currently licensed physician~~  
340 ~~assistants at any one time.~~ A physician supervising a physician  
341 assistant pursuant to this section is ~~may~~ not ~~be~~ required to  
342 review and cosign charts or medical records prepared by such  
343 physician assistant.

344 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—A physician  
345 assistant may perform practice-related activities in accordance  
346 with his or her education, training, and experience as delegated  
347 by a supervisory physician unless expressly prohibited under  
348 this chapter, chapter 458, or rules adopted to administer these

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349 chapters.

350 (a) The boards shall adopt, by rule, the general principles  
351 that supervising physicians must use in developing the scope of  
352 practice of a physician assistant under direct ~~supervision~~ and  
353 ~~under~~ indirect supervision. These principles shall recognize the  
354 diversity of ~~both~~ specialty and practice settings in which  
355 physician assistants are used.

356 (b) This chapter does not prevent third-party payors from  
357 reimbursing employers of physician assistants for covered  
358 services rendered by ~~licensed~~ physician assistants.

359 (c) ~~Licensed~~ Physician assistants may not be denied  
360 clinical hospital privileges, except for cause, so long as the  
361 supervising physician is a staff member in good standing.

362 (d) A supervisory physician may delegate to a ~~licensed~~  
363 physician assistant, pursuant to a written protocol, the  
364 authority to act according to s. 154.04(1)(c). Such delegated  
365 authority is limited to the supervising physician's practice in  
366 connection with a county health department as ~~defined and~~  
367 established under ~~pursuant to~~ chapter 154. The boards shall  
368 adopt rules governing the supervision of physician assistants by  
369 physicians in county health departments.

370 (e) A supervisory physician may delegate to a fully  
371 licensed physician assistant the authority to prescribe or  
372 dispense any medication used in the supervisory physician's  
373 practice unless such medication is listed on the formulary  
374 created pursuant to s. 458.347. A fully licensed physician  
375 assistant may only prescribe or dispense such medication under  
376 the following circumstances:

377 1. The ~~A~~ physician assistant must clearly identify to the

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378 patient that she or he is a physician assistant. ~~Furthermore,~~  
379 The physician assistant must also inform the patient that the  
380 patient has the right to see the physician before a ~~prior to any~~  
381 prescription is ~~being~~ prescribed or dispensed by the physician  
382 assistant.

383 2. The supervisory physician must notify the department of  
384 her or his intent to delegate, on a department-approved form,  
385 before delegating such authority and notify the department of  
386 any change in the prescriptive privileges of the physician  
387 assistant. Authority to dispense may be delegated only by a  
388 supervisory physician who is registered as a dispensing  
389 practitioner under ~~in compliance with~~ s. 465.0276.

390 3. At the time of license renewal, the physician assistant  
391 must certify to ~~file with~~ the department ~~a signed affidavit~~ that  
392 she or he has completed a minimum of 10 continuing medical  
393 education hours in the specialty practice in which the physician  
394 assistant has prescriptive privileges ~~with each licensure~~  
395 ~~renewal application.~~

396 4. The department may issue a prescriber number to the  
397 physician assistant granting authority for the prescribing of  
398 medicinal drugs authorized within this paragraph upon completion  
399 of the foregoing requirements. The physician assistant is ~~shall~~  
400 not ~~be~~ required to independently register pursuant to s.  
401 465.0276.

402 5. The prescription must be written in a form that complies  
403 with chapter 499 and must ~~contain~~, in addition to the  
404 supervisory physician's name, address, and telephone number,  
405 contain the physician assistant's prescriber number. Unless it  
406 is a drug or drug sample dispensed by the physician assistant,

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407 the prescription must be filled in a pharmacy permitted under  
408 chapter 465, and must be dispensed in that pharmacy by a  
409 pharmacist licensed under chapter 465. The appearance of the  
410 prescriber number creates a presumption that the physician  
411 assistant is authorized to prescribe the medicinal drug and the  
412 prescription is valid.

413 6. The physician assistant must note the prescription or  
414 dispensing of medication in the appropriate medical record.

415 (f) A supervisory physician may delegate to a licensed  
416 physician assistant the authority to order medications for the  
417 supervisory physician's patient during his or her care in a  
418 facility licensed under chapter 395, notwithstanding any  
419 provisions in chapter 465 or chapter 893 which may prohibit such  
420 ~~this~~ delegation. For the purpose of this paragraph, an order is  
421 not considered a prescription. A licensed physician assistant  
422 working in a facility ~~that is~~ licensed under chapter 395 may  
423 order any medication under the direction of the supervisory  
424 physician.

425 (7) PHYSICIAN ASSISTANT LICENSURE.—

426 (a) A ~~Any~~ person desiring to be licensed as a physician  
427 assistant must apply to the department. The department shall  
428 issue a license to any person certified by the council as having  
429 met the following requirements:

430 1. Is at least 18 years of age.

431 2. Has satisfactorily passed a proficiency examination by  
432 an acceptable score established by the National Commission on  
433 Certification of Physician Assistants. If an applicant does not  
434 hold a current certificate issued by the National Commission on  
435 Certification of Physician Assistants and has not actively

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436 practiced as a physician assistant within the ~~immediately~~  
437 preceding 4 years, the applicant must retake and successfully  
438 complete the entry-level examination of the National Commission  
439 on Certification of Physician Assistants to be eligible for  
440 licensure.

441 3. Has completed the application form and remitted an  
442 application fee of up to ~~not to exceed~~ \$300 as set by the  
443 boards. An application for licensure made by a physician  
444 assistant must include:

445 a. A certificate of completion of a physician assistant  
446 training program specified in subsection (6).

447 b. A sworn statement of any prior felony convictions.

448 c. A sworn statement of any previous revocation or denial  
449 of licensure or certification in any state.

450 ~~d. Two letters of recommendation.~~

451 d.e. A copy of course transcripts and a copy of the course  
452 description from a physician assistant training program  
453 describing course content in pharmacotherapy, if the applicant  
454 wishes to apply for prescribing authority. These documents must  
455 meet the evidence requirements for prescribing authority.

456 (b) The licensure must be renewed biennially. Each renewal  
457 must include:

458 1. A renewal fee not to exceed \$500 as set by the boards.

459 2. A ~~sworn~~ statement of no felony convictions in the  
460 previous 2 years.

461 Section 4. This act shall take effect July 1, 2014.