

HB 915

2012

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

HB 915

2012

29 | nolo contendere to, regardless of adjudication,
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

HB 915

2012

57 same prescription blank with another prescription
58 order for a controlled substance that is named or
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.—

HB 915

2012

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

HB 915

2012

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.

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~~.

HB 915

2012

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
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

HB 915

2012

169 requires consultation with or referral to an addictionologist or
 170 psychiatrist ~~physiatrist~~.

171 (f) A physician registered under this section must
 172 maintain accurate, current, and complete records that are
 173 accessible and readily available for review and comply with the
 174 requirements of this section, the applicable practice act, and
 175 applicable board rules. The medical records must include, but
 176 are not limited to:

- 177 1. The complete medical history and a physical
 178 examination, including history of drug abuse or dependence.
- 179 2. Diagnostic, therapeutic, and laboratory results.
- 180 3. Evaluations and consultations.
- 181 4. Treatment objectives.
- 182 5. Discussion of risks and benefits.
- 183 6. Treatments.
- 184 7. Medications, including date, type, dosage, and quantity
 185 prescribed.
- 186 8. Instructions and agreements.
- 187 9. Periodic reviews.
- 188 10. Results of any drug testing.
- 189 11. A photocopy of the patient's government-issued photo
 190 identification.
- 191 12. If a written prescription for a controlled substance
 192 is given to the patient, a duplicate of the prescription.
- 193 13. The physician's full name presented in a legible
 194 manner.
- 195 (g) Patients with signs or symptoms of substance abuse
 196 shall be immediately referred to a board-certified pain

HB 915

2012

197 management physician, an addiction medicine specialist, or a
 198 mental health addiction facility as it pertains to drug abuse or
 199 addiction unless the physician is board-certified or board-
 200 eligible in pain management. Throughout the period ~~of time~~
 201 before receiving the consultant's report, a prescribing
 202 physician shall clearly and completely document medical
 203 justification for continued treatment with controlled substances
 204 and those steps taken to ensure medically appropriate use of
 205 controlled substances by the patient. Upon receipt of the
 206 consultant's written report, the prescribing physician shall
 207 incorporate the consultant's recommendations for continuing,
 208 modifying, or discontinuing the controlled-substance ~~controlled~~
 209 ~~substance~~ therapy. The resulting changes in treatment shall be
 210 specifically documented in the patient's medical record.
 211 Evidence or behavioral indications of diversion shall be
 212 followed by discontinuation of the controlled-substance
 213 ~~controlled-substance~~ therapy, and the patient shall be
 214 discharged, and all results of testing and actions taken by the
 215 physician shall be documented in the patient's medical record.

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

220
 221 This subsection does not apply to a board-certified
 222 anesthesiologist, physiatrist, psychiatrist, rheumatologist, or
 223 neurologist, or to a board-certified physician who has surgical
 224 privileges at a hospital or ambulatory surgery center and

HB 915

2012

225 primarily provides surgical services. This subsection does not
 226 apply to a board-certified medical specialist who has also
 227 completed a fellowship in pain medicine approved by the
 228 Accreditation Council for Graduate Medical Education or the
 229 American Osteopathic Association, or who is board certified in
 230 pain medicine by a board approved by the American Board of
 231 Medical Specialties or the American Osteopathic Association and
 232 performs interventional pain procedures of the type routinely
 233 billed using surgical codes.

234 Section 2. Paragraph (a) of subsection (1) of section
 235 458.3265, Florida Statutes, is amended to read:

236 458.3265 Pain-management clinics.—

237 (1) REGISTRATION.—

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

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

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

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

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

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

252 a. The ~~That~~ clinic is licensed as a facility pursuant to

253 chapter 395;

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

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

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

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

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

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

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

277 Section 3. Paragraph (a) of subsection (1) of section
 278 459.0137, Florida Statutes, is amended to read:

279 459.0137 Pain-management clinics.—

280 (1) REGISTRATION.—

HB 915

2012

- 281 (a)1. As used in this section, the term:
- 282 a. "Chronic nonmalignant pain" means pain unrelated to
- 283 cancer or rheumatoid arthritis which persists beyond the usual
- 284 course of disease or beyond the injury that is the cause of the
- 285 pain or which persists more than 90 days after surgery.
- 286 b. "Pain-management clinic" or "clinic" means any publicly
- 287 or privately owned facility:
- 288 (I) That advertises in any medium for any type of pain-
- 289 management services; or
- 290 (II) Where in any month a majority of patients are
- 291 prescribed opioids, benzodiazepines, barbiturates, or
- 292 carisoprodol for the treatment of chronic nonmalignant pain.
- 293 2. Each pain-management clinic must register with the
- 294 department unless:
- 295 a. The ~~That~~ clinic is licensed as a facility pursuant to
- 296 chapter 395;
- 297 b. The majority of the physicians who provide services in
- 298 the clinic ~~primarily~~ provide primarily surgical services;
- 299 c. The clinic is owned by a publicly held corporation
- 300 whose shares are traded on a national exchange or on the over-
- 301 the-counter market and whose total assets at the end of the
- 302 corporation's most recent fiscal quarter exceeded \$50 million;
- 303 d. The clinic is affiliated with an accredited medical
- 304 school at which training is provided for medical students,
- 305 residents, or fellows;
- 306 e. The clinic does not prescribe controlled substances for
- 307 the treatment of pain;
- 308 f. The clinic is owned by a corporate entity exempt from

HB 915

2012

309 federal taxation under 26 U.S.C. s. 501(c) (3);

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

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

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

324 465.015 Violations and penalties.—

325 (3) (a) It is unlawful for any pharmacist to knowingly fail
 326 to report any instance in which the pharmacist knows or believes
 327 that a person obtained or attempted to obtain, through a
 328 fraudulent method or representation, a controlled substance as
 329 defined in s. 893.02 from the pharmacy at which the pharmacist
 330 practices pharmacy. The pharmacist shall report to the sheriff
 331 or other chief law enforcement agency of the county where the
 332 pharmacy is located within 24 hours after learning of the fraud
 333 or attempted fraud ~~any instance in which a person obtained or~~
 334 ~~attempted to obtain a controlled substance, as defined in s.~~
 335 ~~893.02,~~ or at the close of business on the next business day,
 336 whichever occurs ~~is later,~~ ~~that the pharmacist knew or believed~~

HB 915

2012

337 ~~was obtained or attempted to be obtained through fraudulent~~
338 ~~methods or representations from the pharmacy at which the~~
339 ~~pharmacist practiced pharmacy.~~ Any pharmacist who knowingly
340 fails to make such a report within 24 hours after learning of
341 the fraud or attempted fraud or at the close of business on the
342 next business day, whichever occurs ~~is~~ later, commits a
343 misdemeanor of the first degree, punishable as provided in s.
344 775.082 or s. 775.083.

345 (b) A sufficient report of the fraudulent obtaining of a
346 controlled substance ~~substances~~ under this subsection must
347 contain, at a minimum, ~~a copy of the prescription used or~~
348 ~~presented and~~ a narrative, including all information available
349 to the pharmacist concerning the transaction, such as the name
350 and telephone number of the prescribing physician; the name,
351 description, and any personal identification information
352 pertaining to the person who presented the prescription; and all
353 other material information, such as photographic or video
354 surveillance of the transaction. Any sheriff or chief law
355 enforcement officer of a jurisdiction, or the agent of any such
356 person, who receives a report from a pharmacist under this
357 subsection must receive and document such report. If the sheriff
358 or chief law enforcement officer of a jurisdiction, or the agent
359 of any such person, refuses to take the pharmacist's report, the
360 pharmacist shall be deemed to have complied with this subsection
361 if the pharmacist documents such refusal.

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

364 465.022 Pharmacies; general requirements; fees.—

HB 915

2012

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

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

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

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

378 (d) Has been convicted of, or entered a plea of guilty or
 379 nolo contendere to, regardless of adjudication, a crime in any
 380 jurisdiction which relates to health care fraud.

381 (e) Has been convicted of, or entered a plea of guilty or
 382 nolo contendere to, regardless of adjudication, a felony under
 383 chapter 409, chapter 817, or chapter 893, or a similar felony
 384 offense committed in another state or jurisdiction, since July
 385 1, 2009.

386 (f) Has been convicted of, or entered a plea of guilty or
 387 nolo contendere to, regardless of adjudication, a felony under
 388 21 U.S.C. ss. 801-970 or 42 U.S.C. ss. 1395-1396 since July 1,
 389 2009.

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

393 the most recent 5-year period.

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

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

404 (j) Has dispensed any medicinal drug based upon a
 405 communication that purports to be a prescription as defined by
 406 s. 465.003(14) or s. 893.02 when the pharmacist knows or has
 407 reason to believe that the purported prescription is not based
 408 upon a valid practitioner-patient relationship that includes a
 409 documented patient evaluation, including history and a physical
 410 examination adequate to establish the diagnosis for which any
 411 drug is prescribed and any other requirement established by
 412 board rule under chapter 458, chapter 459, chapter 461, chapter
 413 463, chapter 464, or chapter 466.

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

417
 418 For felonies in which the defendant entered a plea of guilty or
 419 nolo contendere in an agreement with the court to enter a
 420 pretrial intervention or drug diversion program, the department

HB 915

2012

421 shall deny the application if, upon final resolution of the
 422 case, the licensee has failed to successfully complete the
 423 program.

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

426 465.023 Pharmacy permittee; disciplinary action.—

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

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

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

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

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

448 (e) Been convicted or disciplined by a regulatory agency

HB 915

2012

449 of the Federal Government or a regulatory agency of another
 450 state for any offense that would constitute a violation of this
 451 chapter;

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

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

459 (h) Dispensed any medicinal drug based upon a
 460 communication that purports to be a prescription as defined by
 461 s. 465.003(14) or s. 893.02 when the pharmacist knows or has
 462 reason to believe that the purported prescription is not based
 463 upon a valid practitioner-patient relationship that includes a
 464 documented patient evaluation, including history and a physical
 465 examination adequate to establish the diagnosis for which any
 466 drug is prescribed and any other requirement established by
 467 board rule under chapter 458, chapter 459, chapter 461, chapter
 468 463, chapter 464, or chapter 466; or.

469 (i) Been convicted of, or entered a plea of guilty or nolo
 470 contendere to, regardless of adjudication, a felony under s.
 471 893.13(7)(b).

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

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

476 (56) "Prescription" means an order for drugs or medicinal

HB 915

2012

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

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

489 499.0032 Prescriptions.—A pharmacist licensed in this
490 state may fill a prescription for drugs or medicinal supplies
491 which is transmitted or written by a physician, dentist,
492 veterinarian, or other practitioner licensed to practice in
493 another state if the pharmacist determines, in the exercise of
494 his or her professional judgment, that the order was issued
495 pursuant to a valid patient-physician relationship, that it is
496 authentic, and that the drugs or medicinal supplies so ordered
497 are considered necessary for the continuation of treatment of a
498 chronic or recurrent illness. However, if the physician writing
499 the prescription is not known to the pharmacist, the pharmacist
500 shall obtain proof to a reasonable certainty of the validity of
501 the prescription. A prescription order for a controlled
502 substance may not be issued on the same prescription blank with
503 another prescription order for a controlled substance that is
504 named or described in a different schedule. A prescription order

HB 915

2012

505 for a controlled substance may not be issued on the same
 506 prescription blank as a prescription order for a medicinal drug,
 507 as defined in s. 465.003(8), which does not fall within the
 508 definition of a controlled substance as defined in s. 893.02. A
 509 prescription obtained in violation of state law, or obtained
 510 through misrepresentation, fraud, forgery, deception, or
 511 subterfuge is not a valid prescription.

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

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

517 (22) "Prescription" means and includes an order for drugs
 518 or medicinal supplies written, signed, or transmitted by word of
 519 mouth, telephone, telegram, or other means of communication by a
 520 duly licensed practitioner licensed by the laws of the state to
 521 prescribe such drugs or medicinal supplies, issued in good faith
 522 and in the course of professional practice, intended to be
 523 filled, compounded, or dispensed by another person licensed by
 524 the laws of the state to do so, and meeting the requirements of
 525 s. 893.04. The term also includes an order for drugs or
 526 medicinal supplies so transmitted or written by a physician,
 527 dentist, veterinarian, or other practitioner licensed to
 528 practice in a state other than Florida, but only if the
 529 pharmacist called upon to fill such an order determines, in the
 530 exercise of his or her professional judgment, that the order was
 531 issued pursuant to a valid patient-physician relationship, that
 532 it is authentic, and that the drugs or medicinal supplies so

HB 915

2012

533 | ordered are considered necessary for the continuation of
 534 | treatment of a chronic or recurrent illness. However, if the
 535 | physician writing the prescription is not known to the
 536 | pharmacist, the pharmacist shall obtain proof to a reasonable
 537 | certainty of the validity of said prescription. A prescription
 538 | order for a controlled substance shall not be issued on the same
 539 | prescription blank with another prescription order for a
 540 | controlled substance which is named or described in a different
 541 | schedule, nor shall any prescription order for a controlled
 542 | substance be issued on the same prescription blank as a
 543 | prescription order for a medicinal drug, as defined in s.
 544 | 465.003(8), which does not fall within the definition of a
 545 | controlled substance as defined in this act. A prescription
 546 | obtained in violation of state law or through misrepresentation,
 547 | fraud, forgery, deception, or subterfuge is not a valid
 548 | prescription.

549 | Section 10. Paragraph (b) of subsection (7) of section
 550 | 893.055, Florida Statutes, is amended to read:

551 | 893.055 Prescription drug monitoring program.—

552 | (7)

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

HB 915

2012

561 in the prescription drug monitoring database for the purpose of
562 reviewing the patient's controlled substance prescription
563 history and must indicate on the face of the prescription that
564 such review was completed.

565 2. A dispensing pharmacist who:

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

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

575
576 must access information in the prescription drug monitoring
577 database for the purpose of reviewing the patient's controlled
578 substance prescription history and may not dispense the
579 controlled substance prescription if there is any clear pattern
580 of doctor-shopping or fraudulent activity by the patient
581 presenting the prescription. Notwithstanding any other provision
582 of law, the dispensing pharmacist is not obligated to review the
583 prescription drug monitoring database before dispensing any
584 prescription for any hospice patient or established patient of
585 the pharmacy. A pharmacist may orally confirm a prescriber's
586 compliance with this paragraph and document such confirmation on
587 the prescription.

588 3. Other access to the program's database shall be limited

HB 915

2012

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

609 Section 11. Paragraph (a) of subsection (7) of section
610 893.13, Florida Statutes, is amended to read:

611 893.13 Prohibited acts; penalties.—

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

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

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

617 required under this chapter.

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

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

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

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

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

639 8. Fail to affirmatively disclose to ~~Withhold information~~
640 ~~from~~ a practitioner or pharmacist from whom the person acquires
641 or obtains, or attempts to acquire or seeks to obtain, a
642 controlled substance or a prescription for a controlled
643 substance that the person acquired or obtained ~~making the~~
644 ~~request has received~~ a controlled substance or a prescription

HB 915

2012

645 for a controlled substance of like therapeutic use from another
646 practitioner within the previous 30 days, the name of the
647 prescribing practitioner from whom such previous prescription
648 was sought, the quantity, and the dosage.

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

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

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

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

662 13. With the intent to obtain a controlled substance or
663 combination of controlled substances that are not medically
664 necessary for the person or an amount of a controlled substance
665 or substances that is not medically necessary for the person,
666 obtain or attempt to obtain from a practitioner a controlled
667 substance or a prescription for a controlled substance by
668 misrepresentation, fraud, forgery, deception, subterfuge, or
669 concealment of a material fact. For purposes of this
670 subparagraph, a material fact includes whether the person has an
671 existing prescription for a controlled substance issued for the
672 same period of time by another practitioner or as described in

HB 915

2012

673 | subparagraph 8.

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