



March 19, 2012

FLORIDA LEGISLATION REGARDING PAIN MANAGEMENT CLINICS

As Printed: Florida Health Industry, FHI Weekly, Compliance Update – Vol. 3, Issue 11

The Florida Legislature passed House Bill 7095 in 2011 to address the problem of prescription drug abuse in Florida. Florida is known as a primary source of prescription drugs across the country. According to the Drug Enforcement Administration ("DEA"), 49 of the top 50 practitioners dispensing oxycodone in the United States between certain periods in 2008 and 2009, were located in the State of Florida.

The Florida Legislature responded to this statewide crisis by enacting laws that regulate prescription drugs. The law now regulates all entities in the supply chain for prescription drugs, including wholesale distributors, pain-management clinics, pharmacies, pharmacists and practitioners (physicians, dentists, veterinarians, osteopathic physicians, naturopathic physicians, and podiatrists). These new laws also impose criminal violations. House Bill 7095 became effective July 1, 2011. Below are some of the important amendments from the legislation.

In 2009 and 2010, the Legislature began regulating pain-management clinics and physicians who practice in them. On October 1, 2010, the Florida Statutes began to require "pain-management clinics" to register with the Florida Department of Health ("DOH") as a pain-management clinic. The following year, in 2011, the Legislature amended the definition of a pain-management clinic to require registration for all publicly or privately owned pain-management clinics that (i) advertise in any medium for any type of pain-management services, or (ii) where in any month a majority of patients are prescribed opioids, benzodiazepines, barbiturates, or carisoprodol for the treatment of chronic nonmalignant pain, unless certain exceptions apply.

Since 1986, practitioners who dispense "medicinal drugs for human consumption for fee or remuneration of any kind . . ." have been required to register with his/her professional licensing board (e.g., Board of Medicine) as a dispensing practitioner. But now, as of January 1, 2012, physicians who prescribe any controlled substance for the treatment of chronic nonmalignant pain must also register with their respective boards to designate themselves as "controlled substance prescribing practitioners" on their practitioner profiles. Also, prescriptions for controlled substances must now be written on standardized counterfeit-proof prescription pads produced from a vendor approved by the DOH or electronically prescribed as set forth in the Florida Statutes.

Physicians are also prohibited from dispensing Schedule II and Schedule III controlled substances, unless certain exceptions apply that are set forth in the Florida Statutes. The dispensing of these drugs illegally is a third degree felony and grounds for licensure discipline including, restriction, suspension, revocation, probation, fines, letters of reprimand, remedial education, or corrective action. If Schedule II and III controlled substances were in a physician's possession that were acquired for dispensing when House Bill 7095 became effective, the physician was required to (i) return all Schedule II and III controlled substances under each physician's DEA number to the wholesale distributor from which the controlled substance was purchased, or (ii) give the undispensed controlled substances to law enforcement.

By enactment of these laws, among others, the Florida Legislature is very serious about enforcing the new regulations regarding prescription drug abuse in the state. It is crucial for physicians to ensure they are complying with these laws. For more information about these prescription drug abuse laws, please contact [Troy A. Kishbaugh](#) and [Sarah L. Mancebo](#) with [GrayRobinson's Health Law Team](#).

[Troy A. Kishbaugh](#)
301 East Pine Street
Suite 1400
Orlando, FL 32801
407-843-8880
troy.kishbaugh@gray-robinson.com

[Sarah L. Mancebo](#)
301 East Pine Street
Suite 1400
Orlando, FL 32801
407-843-8880
sarah.mancebo@gray-robinson.com