By Senator Bean

4-00631-18 2018458__

A bill to be entitled

An act relating to controlled substance prescribing; amending s. 456.44, F.S.; limiting an initial prescription for a controlled substance that is an opioid to a 7-day supply; limiting a refill or subsequent prescription for a controlled substance that is an opioid to a 30-day supply; providing exceptions to supply limits for certain patients; requiring a prescriber of certain controlled substances to access a patient's drug history in the prescription drug monitoring program's database before prescribing the drug and at least every 90 days thereafter if the prescriber continues to treat that condition with any such controlled substances; requiring a health care practitioner who is authorized to prescribe controlled substances to complete a continuing education course as a condition of initial licensure and biennial licensure renewal; providing an effective date.

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

Section 1. Subsection (3) of section 456.44, Florida Statutes, is amended, and subsections (4), (5), and (6) are added to that section, to read:

456.44 Controlled substance prescribing.—

(3) STANDARDS OF PRACTICE <u>FOR THE TREATMENT OF CHRONIC NONMALIGNANT PAIN</u>.—The standards of practice in this section do not supersede the level of care, skill, and treatment recognized

in general law related to health care licensure.

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

(b) Each registrant must develop a written individualized treatment plan for each patient. The treatment plan shall state objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function, and shall indicate if any further diagnostic evaluations or other treatments are planned. After treatment begins, the registrant shall adjust drug therapy to the individual medical needs of each patient. Other treatment modalities, including a rehabilitation program, shall be

considered depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment. The interdisciplinary nature of the treatment plan shall be documented.

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

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

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

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

(d) The patient shall be seen by the registrant at regular intervals, not to exceed 3 months, to assess the efficacy of treatment, ensure that controlled substance therapy remains indicated, evaluate the patient's progress toward treatment objectives, consider adverse drug effects, and review the etiology of the pain. Continuation or modification of therapy shall depend on the registrant's evaluation of the patient's progress. If treatment goals are not being achieved, despite

medication adjustments, the registrant shall reevaluate the appropriateness of continued treatment. The registrant shall monitor patient compliance in medication usage, related treatment plans, controlled substance agreements, and indications of substance abuse or diversion at a minimum of 3-month intervals.

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

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

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

2. Diagnostic, therapeutic, and laboratory results.

3. Evaluations and consultations.

4. Treatment objectives.

5. Discussion of risks and benefits.

6. Treatments.

7. Medications, including date, type, dosage, and quantity

prescribed.

8. Instructions and agreements.

9. Periodic reviews.

10. Results of any drug testing.

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

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

13. The registrant's full name presented in a legible manner.

(g) A registrant shall immediately refer patients with signs or symptoms of substance abuse to a board-certified pain management physician, an addiction medicine specialist, or a mental health addiction facility as it pertains to drug abuse or addiction unless the registrant is a physician who is board-certified or board-eligible in pain management. Throughout the period of time before receiving the consultant's report, a prescribing registrant shall clearly and completely document medical justification for continued treatment with controlled substances and those steps taken to ensure medically appropriate use of controlled substances by the patient. Upon receipt of the consultant's written report, the prescribing registrant shall incorporate the consultant's recommendations for continuing, modifying, or discontinuing controlled substance therapy. The resulting changes in treatment shall be specifically documented in the patient's medical record. Evidence or behavioral indications of diversion shall be followed by discontinuation of controlled substance therapy, and the patient shall be discharged, and all results of testing and actions taken by the

registrant shall be documented in the patient's medical record.

This subsection does not apply to a board-eligible or board-certified anesthesiologist, physiatrist, rheumatologist, or neurologist, or to a board-certified physician who has surgical privileges at a hospital or ambulatory surgery center and primarily provides surgical services. This subsection does not apply to a board-eligible or board-certified medical specialist who has also completed a fellowship in pain medicine approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, or who is board eligible or board certified in pain medicine by the American Board of Pain Medicine, the American Board of Interventional Pain Physicians, the American Association of Physician Specialists, or a board approved by the American Board of Medical Specialties or the American Osteopathic Association and performs interventional pain procedures of the type routinely billed using surgical codes. This subsection does not apply to a registrant who prescribes medically necessary controlled substances for a patient during an inpatient stay in a hospital licensed under chapter 395.

(4) LIMITATIONS ON OPIOID PRESCRIPTIONS.—An initial prescription for a controlled substance that is an opioid prescribed to treat acute pain is limited to a 7-day supply. A refill or a subsequent prescription for a controlled substance that is an opioid to treat the same condition is limited to a 30-day supply, unless the patient is in hospice care, is being treated for cancer, or is being treated for chronic nonmalignant pain pursuant to subsection (3).

(5) CONSULTING THE PRESCRIPTION DRUG MONITORING PROGRAM'S DATABASE.—Before prescribing a controlled substance listed in Schedule II, Schedule III, or Schedule IV in s. 893.03, to a patient 16 years or older, a prescriber as defined in s. 893.055 or his or her designee must access the patient's prescription drug history in the prescription drug monitoring program's database. At a minimum, this inquiry is required before an initial prescription for a patient's condition and at least every 90 days thereafter if the prescriber continues to treat that condition with a controlled substance listed in one of these schedules.

(6) CONTINUING MEDICAL EDUCATION.—A health care practitioner who is authorized under federal and state law to prescribe controlled substances must complete a 2-hour continuing education course on the current standards for prescribing controlled substances and the risks associated with prescribing controlled substances for chronic and acute pain. Beginning on January 1, 2019, completion of this course is required as a condition of initial licensure and biennial licensure renewal. The course may be offered in a distance learning format and must be included within the number of continuing education hours required by law for the licensee's profession.

Section 2. This act shall take effect July 1, 2018.