

## Florida Opioid Prescribing Legislation Overview (HB 21)

Signed by Governor Scott on March 19, 2018, the legislation requires applicable health care regulatory boards to adopt rules establishing guidelines for prescribing controlled substances for the treatment of acute pain. The rules, still under consideration by the boards, will include evaluation of the patient, creation, and maintenance of a treatment plan, obtaining informed consent and agreement for treatment, periodic review of the treatment plan, consultation, medical record review, and compliance with controlled substances laws and regulations. Failure to follow the boards' guidelines will result in disciplinary action.

### HB 21 Prescription Parameters:

1. **Limits a prescription for an opioid listed in Schedule II to no more than three days (3)** if prescribed to treat "acute pain," which is defined as the normal, predicted, physiological, and time-limited response to an adverse chemical, thermal, or mechanical stimulus associated with surgery, trauma, or acute illness. Exceptions to the definition (and the related limits on prescription length) include: cancer; a terminal condition; palliative care to provide relief of symptoms related to an incurable, progressive illness or injury; or a serious traumatic injury with an Injury Severity Score of 9 or greater.
2. **Allows an increase from a 3 to 7 day prescription** for acute pain if the prescriber:
  - Believes it is medically necessary to treat the patient's pain.
  - Indicates "Acute Pain Exemption" on the prescription.
  - Adequately documents in the patient's medical records the acute medical condition and lack of alternative treatment options that justify the deviation from the 3 day supply limit.
3. Requires a prescriber to co-prescribe an **opioid antagonist** when prescribing Schedule II controlled substances for the treatment of pain related to a traumatic injury with an injury severity score of 9 or greater.
4. Requires for treatment of pain other than acute pain, the prescriber must indicate "**NONACUTE PAIN**" on a prescription for an opioid drug listed as a schedule II.
5. Explicitly **authorizes electronic prescriptions** for controlled substances.

### Mandatory CME

The appropriate boards will **require each "person" (e.g., physician) registered with the U.S. Drug Enforcement Administration (DEA) to prescribe controlled substances to complete a board-approved 2-hour CME course** with required elements defined by statute. The course must be **completed by January 31, 2019**, and then upon each subsequent renewal. The FAFP has been approved to provide the course and will be making it available via live presentations at CME weekends and distance learning (e.g., webinar) formats.

**Prescription Drug Monitoring Program (PDMP) - eFORCSE**

1. **Requires prescribers to consult the PDMP** before prescribing MOST controlled substances for patients who are 16 years of age or older. Exceptions include non-opioid controlled substances listed in Schedule V of s. 893.03 or 21 U.S.C. 812.
2. Includes Schedule V controlled substances in the list of drugs that must be reported to the PDMP.
3. Allows prescribers and dispensers with the US Department of Veterans Affairs, the US Department of Defense and the Indian Health Services to access the PDMP.
4. Allows the Department of Health to coordinate and share Florida's PDMP data with other states' PDMPs.
5. Allows for integration into health care practitioner's electronic health records (EHR).

**The duty to consult the PDMP does not apply when the system:**

1. Is determined by the Department of Health (DOH) to be nonoperational or cannot be accessed by the prescriber or dispenser or a designee because of temporary technological or electrical failure.
2. If the PDMP is not consulted the prescriber or dispenser must document in the medical record or prescription record and shall not prescribe or dispense more than a 3 day supply.
3. Requires DOH to issue a nondisciplinary citation to any prescriber or dispenser who fails to consult the system for an initial offense. Each subsequent offense is subject to a disciplinary action pursuant to s. 456.073, and the Board of Medicine is currently proposing rules to create the disciplinary guidelines for repeat offenders.

**New Dispensing Requirements:**

1. Requires dispensing practitioners to verify a patient's identity prior to dispensing controlled substances.
2. Conforms an exemption allowing health care practitioners to dispense controlled substances in connection with a surgical procedure to the 3/7 day limitations established for Schedule II opioid medications.
3. Creates an exemption to allow a physician to dispense Schedule II and III controlled substances for the purpose of treating opioid addictions including but not limited to buprenorphine or buprenorphine combination products to his/her own patients.