

## Do I Need to Designate Myself as a Controlled Substance Prescribing Physician by January 1, 2012?

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Much concern has been generated about the "**New Controlled Substances Prescribing Law.**" Many of our colleagues have wondered whether or not they should register as a "designated controlled substance prescribing practitioner." Jason D. Winn, Esq., General Counsel for the Florida Osteopathic Medical Association and I collaborated on the attached to make sure our physicians understand their **requirements under the new law that take effect January 1, 2012.**

Under 456.44, (2) F.S. If you prescribe ANY controlled substance, as defined in s. 893.03, F.S., for the treatment of chronic nonmalignant pain, YOU MUST:

1. Designate himself or herself as a controlled substance prescribing practitioner on the physician's practitioner profile. AND
2. Comply with the requirements of this section and applicable board rules. (limited exceptions to those physicians that are Bd. certified Anesthesiologist, Psychiatrist, or Neurologist; board-certified anesthesiologist, psychiatrist, or neurologist; a board-certified physician who has surgical privileges at a hospital or ambulatory surgery center and primarily provides surgical services. Also, this section does not apply to a Bd. 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 certified in pain medicine by 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.)(456.44(3)F.S.( 2011)).

If you DO NOT prescribe controlled substance(s) (Schedule II, III, IV, or V) for patients with CHRONIC NON-MALIGNANT PAIN there is no need to register (you do not have to designate as such on your practitioner profile.) "Chronic non-malignant pain" means pain unrelated to cancer or rheumatoid arthritis which persists beyond the usual course of disease or the injury that is the cause of the pain or more than 90 days after surgery. (456.44(1)(d) F.S. (2011)). NOTE: You can find the entire list of Scheduled Drugs in Ch. 893.03, FS; Go to [www.leg.state.fl.us/Welcome/index.cfm](http://www.leg.state.fl.us/Welcome/index.cfm) and under the Senate Seal, click on "Florida Statutes"; Scroll down the left side and click on "TITLE XLVI"; Scroll down and click on "Chapter 893"; Then click on "893.03" and you will get the listing of Scheduled Drugs I – V.

Short courses of schedule drugs are appropriate for the treatment of acute pain and this DOES NOT fall under the "new" prescribing statute (F.S. 456.44) and if this is your typical practice pattern you DO NOT need to designate yourself as a controlled substance prescribing practitioner, even though you may have written for a controlled substance because the law only addresses CHRONIC NON-MALIGNANT PAIN. The same is true for others prescribing controlled substances for ADD, ADHD, and other behavioral issues. Even though they are controlled substances if you are not doing this for the management or treatment of Chronic Non-Malignant Pain then you DO NOT have to register.

One caveat by example: A patient who comes into your office (or the NSU Clinic) who had a fall six months ago and seeks pain medication. If you determine that six months is "persist[ent] beyond the usual course of disease or the injury that is the cause of the pain or more than 90 days after surgery" and you elect to write a schedule II, III, IV, or V prescription, you then are prescribing for chronic non-malignant pain and should be registered on your practitioner profile. Further, you MUST comply with the standards of practice found at 456.44(3)F.S., including but not limited to: patient drug testing, patient visits every 3 months, referral to pain medicine specialist when necessary, individualized treatment plan, and maintain complete and accurate records.

The exceptions to this new law are pain unrelated to cancer or rheumatoid arthritis. You may treat the pain of cancer and/or rheumatoid arthritis with controlled substances and NOT designate yourself as a "Controlled substance prescribing practitioner."