

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0063/1dn  
CTS:bjk:md

March 13, 2009

Representative Sherman:

Please review this draft carefully to ensure it is consistent with your intent and note the following:

1. I have altered the statutory material in the draft so that the Pharmacy Examining Board is tasked with creating the prescription drug monitoring program. I have not modified the nonstatutory provision that requires the Department of Regulation and Licensing to apply for federal grants to fund the establishment and operation of the program. Is this correct?
2. I have added physicians, advanced practice nurses, optometrists, and dentists to the professionals who must generate electronic records when dispensing covered prescription drugs, except when a covered drug is administered directly to a patient.
3. I have not added the violation of rules establishing the prescription drug monitoring program to the definition of "unprofessional conduct," which was included in an earlier version. For most dispensers, it seems reasonably clear that they would be bound by rules promulgated by the Pharmacy Examining Board. Under current s. 450.10 (1) (a) 2., "unprofessional conduct" includes "[v]iolating ... any federal or state statute or rule which substantially relates to the practice of the [pharmacist]." Similarly: under current s. 448.015 (4), "unprofessional conduct" by a physician includes any act in violation of ch. 450; under current s. 441.07 (1) (e), an advance practice nurse may be disciplined for violating "any state or federal law that regulates prescribing or dispensing drugs or devices"; and under current s. 447.07 (3) (L), a dentist may be disciplined for violating ch. 450. An optometrist's obligation to comply with ch. 450, however, is less clear. Should the draft be modified to create explicit statutory obligations to comply with the rules establishing the prescription drug monitoring program? If so, for which professionals?

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