

DATE:

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FROM:

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TO:

Ms. Kaye Howerton, Executive Director
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RE:

An emergency request for the following to be given immediate consideration by the Florida Board of Osteopathic Medicine.

HISTORY AND RATIONALE:

The Boards of Medicine are currently in the process of drafting new pain clinic rules, a most recent draft posted on the MQA website being from 01/23/10. However, for nearly a decade now, the Florida Department of Law Enforcement has documented in their annual *Medical Examiner's Report of Drugs Identified in Deceased Persons* the ever escalating number of prescription drug related deaths in our state. Therefore, as the new pain clinic rules being drafted by the Boards of Medicine may take months to finalize, approve, and implement, it is essential and appropriate that the Board of Osteopathic Medicine also take more immediate and constructive action to curb this rising death toll. The action recommend here is a statewide emergency rule (see below) that will reign in Osteopathic Physicians (DO) who are professionally and/or financially associated with pain medication pill mills operating in Florida. The Boards of Medicine have used such statewide emergency rules in the past (i.e. - in 2000, rules 64B8ER00-1, 64B8ER00-3, and 64B8ER00-4) for much lesser problems, so the Board of Osteopathic Medicine has both a legal and ethical obligation to use this power now, in order to fulfill their ongoing mission to “**promote, protect and improve the health of all people in Florida**” - even those who are unnecessarily dependent upon pain

medications.

This emergency rule covers 7 (seven) areas of concern:

1. Registration of Pain Clinics Amnesty.
2. Advertising.
3. Dispensing.
4. Out of State Patients.
5. Patient Volume.
6. Penalties.
7. Duration of Emergency Rule.

While the Board of Osteopathic Medicine might choose to implement or not implement an emergency rule that addresses some but not all of the areas of concern above, it is in the best interest of the citizens of Florida that the Board of Osteopathic Medicine implements all 7 (seven) sections of this emergency rule at the earliest possible date. Depending upon the source - including the DEA and various Boards of Medicine board members - estimates range anywhere from 5 (five) to 13 (thirteen) people die in Florida each and every day from a drug overdose on prescribed pain medications. So, waiting even one more month to implement a statewide emergency rule like the one here-in proposed could cost several hundred more lives.

EMERGENCY RULE:

1. Registration of Pain Clinics Amnesty.

Starting on the 21st business day after the effective date of this emergency rule, all medical practices (solo, group, physician-owned, non-physician-owned, free-standing, facility-based, etc.) which qualify for the “pain clinic” designation as specified in Florida Statutes for Osteopathic Medical Doctors (DO) Section 459.005(3) through (5), *must have completed the registration of their pain clinic with the Boards of Medicine.*

2. Advertising.

Starting on the 21st business day after the effective date of this emergency rule, all medical practices (solo, group, physician-owned, non-physician-owned, free-standing, facility-based, etc.) which qualify for the “pain clinic” designation as specified in Florida Statutes for Osteopathic Medical Doctors (DO) Section 459.005(3) through (5), *must cease and desist from any forms of advertising (newspaper, radio, television, billboards, flyers, or otherwise). The only exceptions to this section of this emergency rule are:*

- a. *Physicians may hand their business card to other individuals on a one-on-one basis. No surrogates or proxy may stand in for a physician in this act.*

Each such suspension under this emergency rule shall remain fully in effective for as long as the Board of Osteopathic Medicine deems necessary to perform a complete and thorough review of each suspension - including the possibility of further board action - on a one-by-one case basis.

7. Duration of Emergency Rule.

This emergency rule and all of its sections and subsections shall remain fully in effect for as long as the Board of Osteopathic Medicine deems necessary to “**promote, protect and improve the health of all people in Florida.**”