

Prescription Drug Abuse Florida's Health Crisis



Office of the Attorney General

Dave Aronberg

Special Prosecutor, Prescription Drug Trafficking

The seal of the State of Florida is visible in the top left corner, featuring a palm tree, a sun, and the text 'SEAL OF THE STATE OF FLORIDA'.

Overview

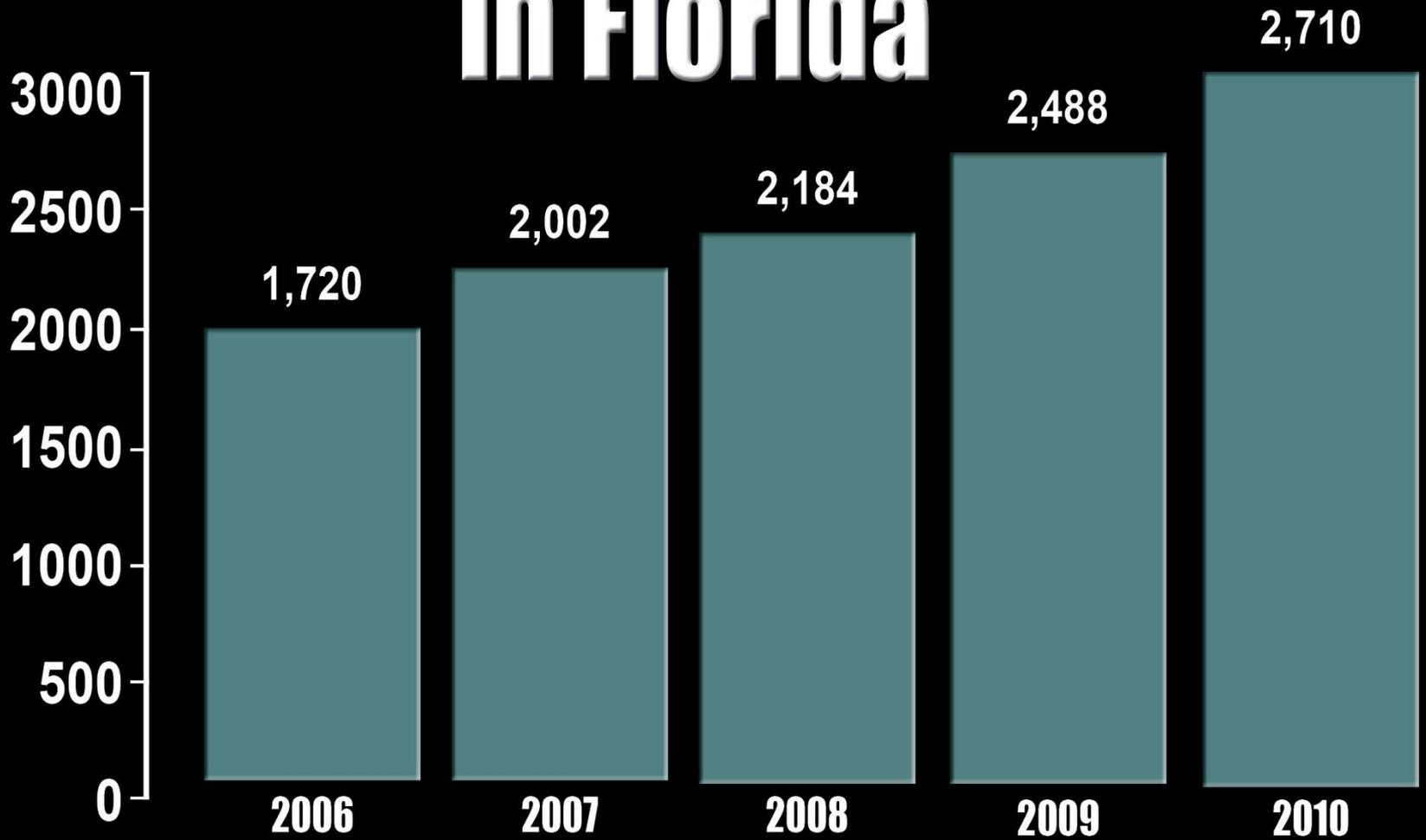
- Prescription drug diversion is the #1 public safety threat confronting Floridians today.
- Florida has become the epicenter for the availability and abuse of controlled prescription drugs.
- Prescription drugs are now responsible for killing more than 7 Floridians per day, and has been on an *upward* trend for the past 7 years.



Scope of the Problem

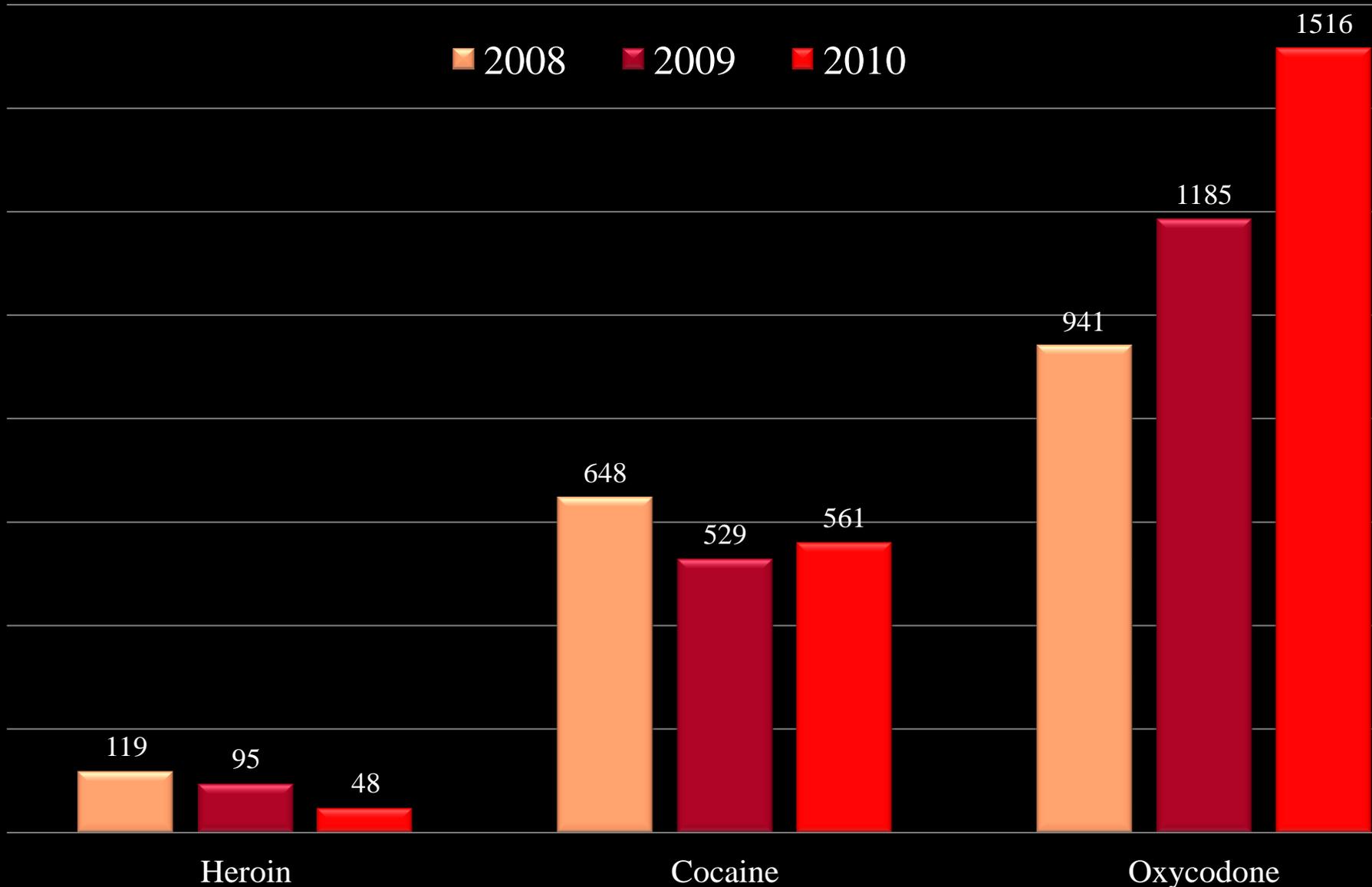
- Between 2003 and 2010, the number of deaths caused by at least one prescription drug more than doubled.
- Among young people ages 12-17, diverted prescription drugs have become the second most abused illegal drug, behind marijuana.
- *Morbidity + capacity for future growth*
 - Prescription drugs are ubiquitous in our society

Prescription Drug Deaths in Florida



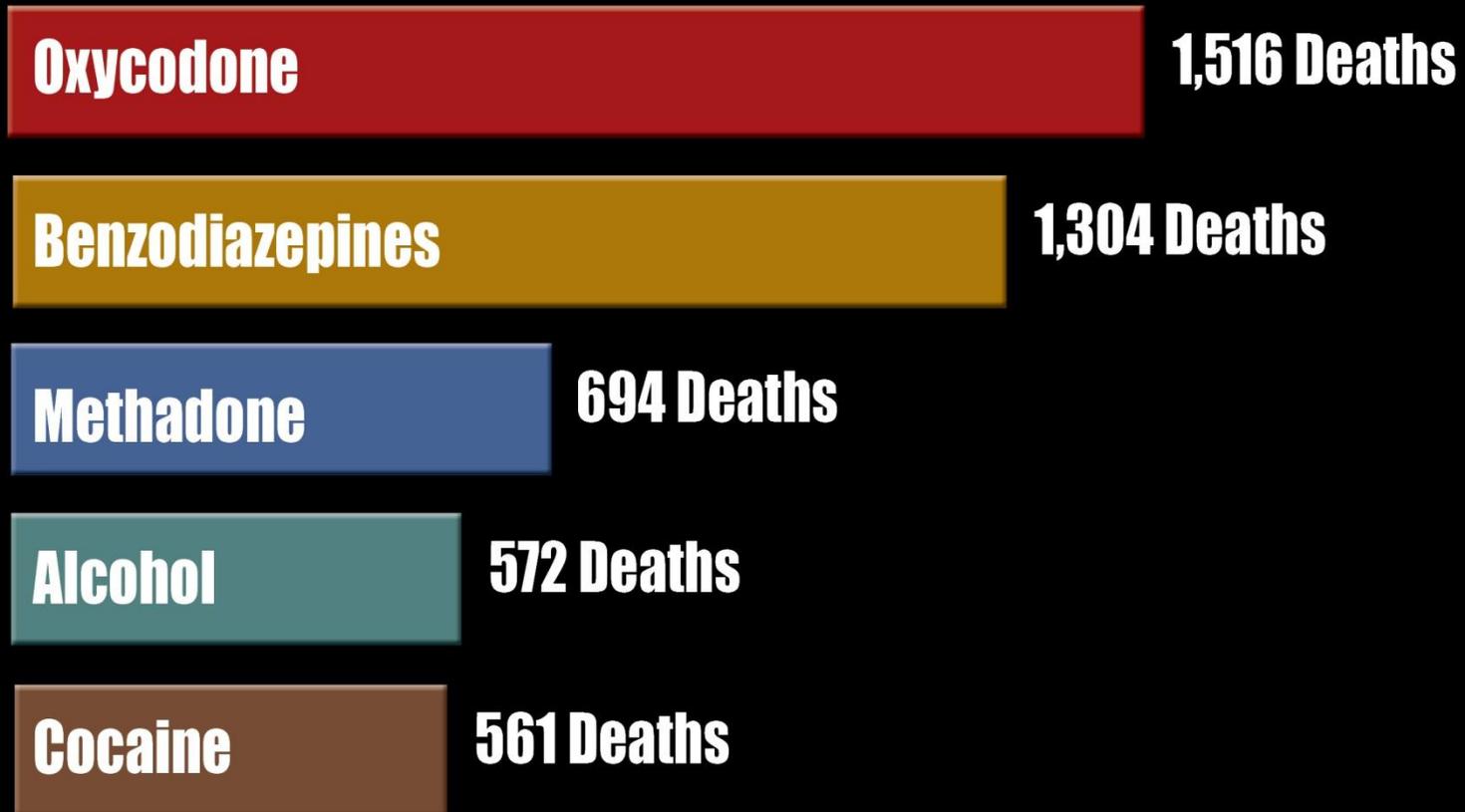
Source: Florida Medical Examiners Commission Annual Report of Drugs in Deceased Persons

Florida Lethal Occurrences by Drugs

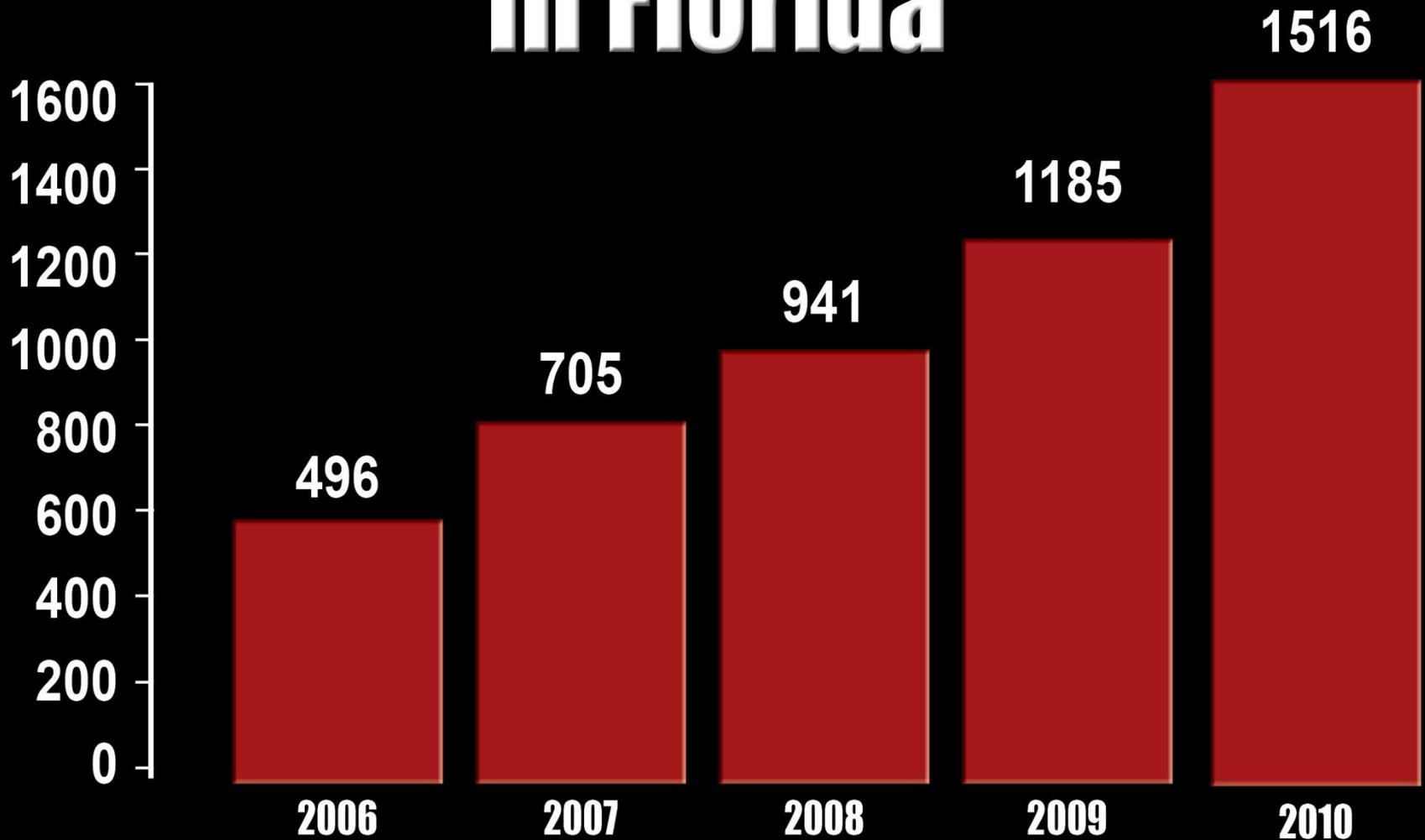


All data provided by the Florida Department of Law Enforcement: Florida Medical Examiner's Reports

Florida's Top Five Drug Killers in 2010

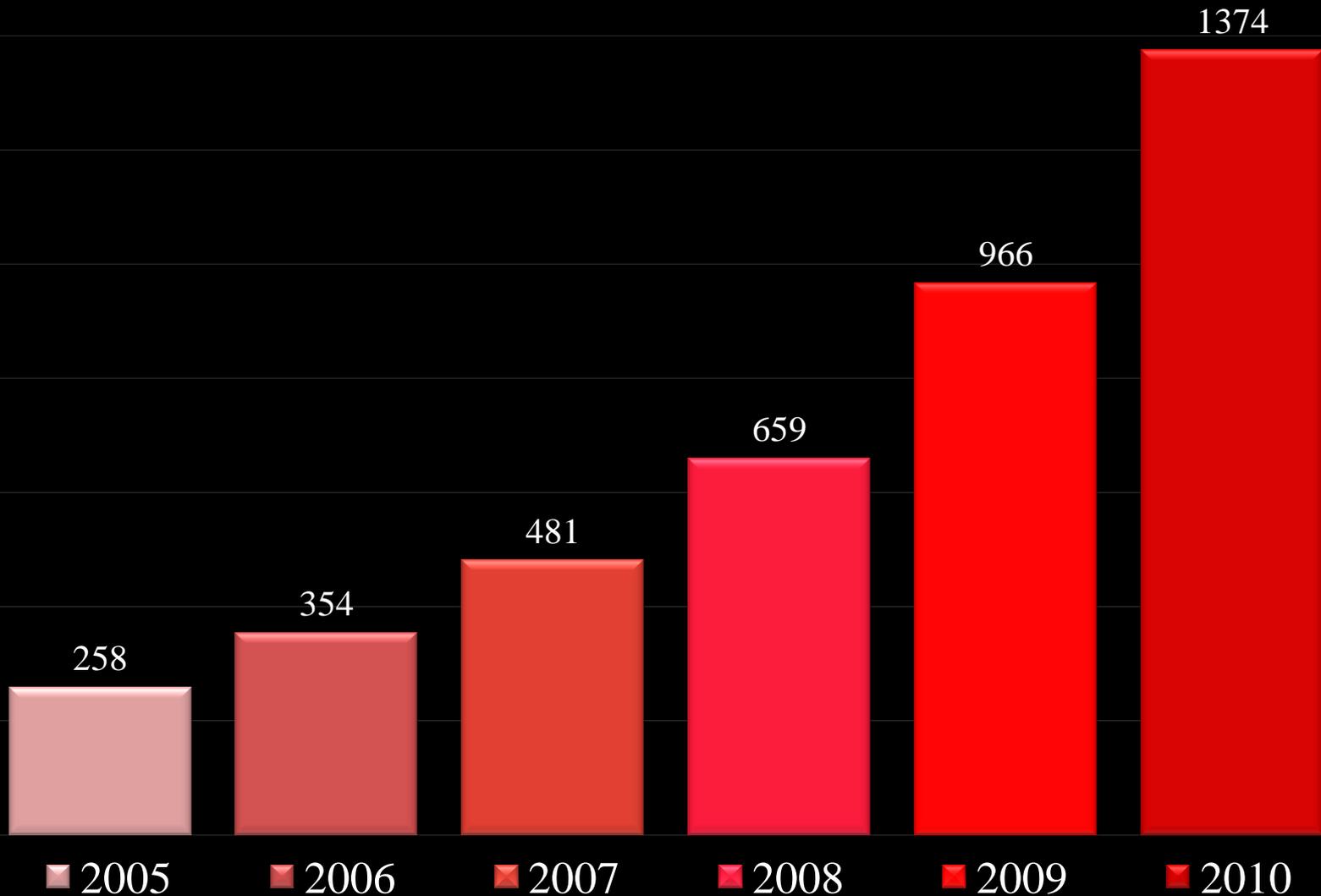


Oxycodone Deaths in Florida



Source: Florida Medical Examiners Commission Annual Report of Drugs in Deceased Persons

Florida Newborn Drug Withdrawals



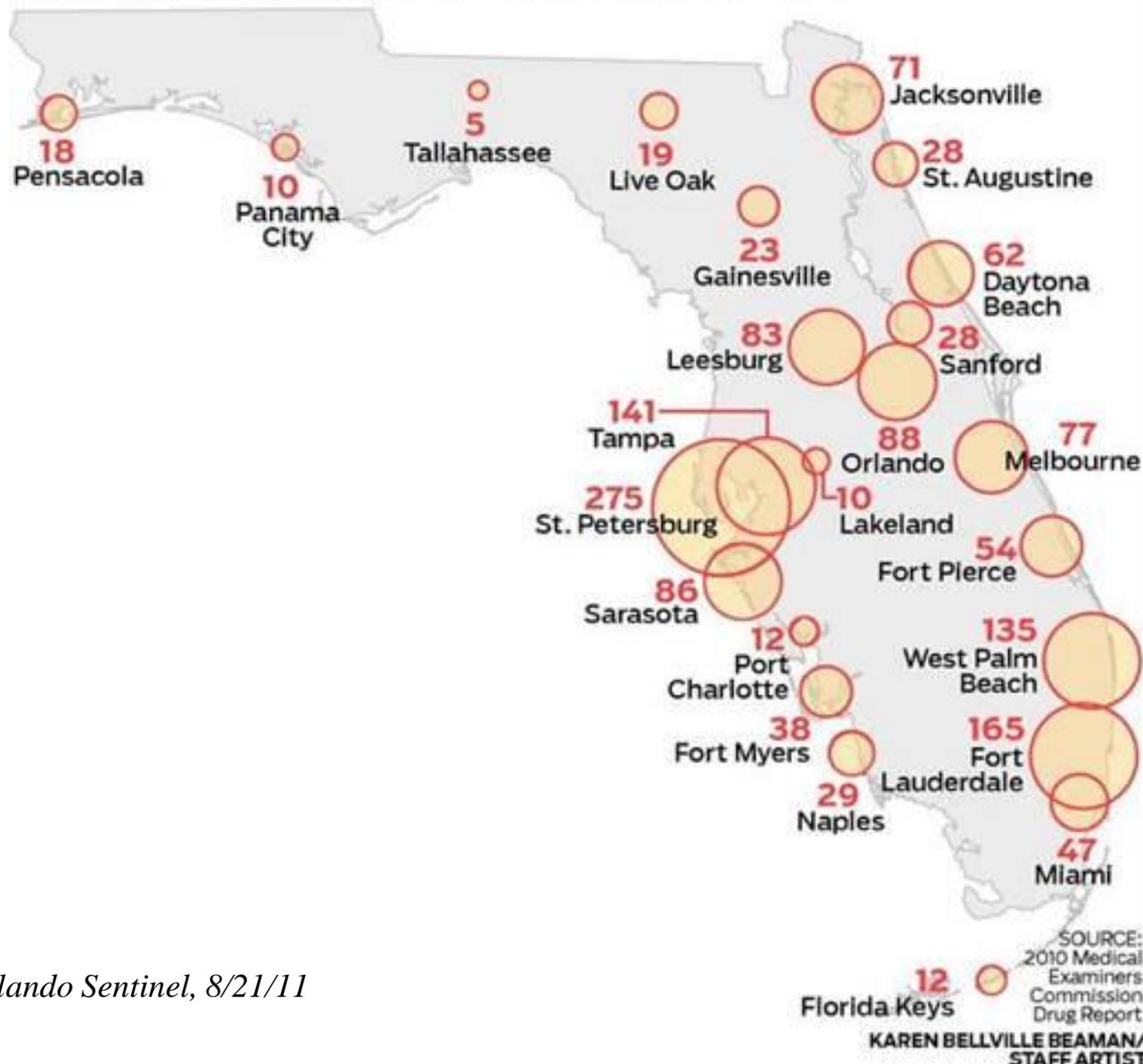


Newly Born, and Withdrawing from Painkillers

- States plagued by prescription drug abuse have reported drastic increases in the number of newborns being treated for neonatal abstinence syndrome, or opiate withdrawal.
- In 2010, 1,374 babies were born in Florida with withdrawal symptoms from drug abuse, a fourfold increase from 2003.
- All Children's Hospital in Tampa estimates that at any given time there are at least 10 newborns being treated for prescription drug withdrawal.
- These numbers may, in fact, be much higher than reported because many pregnant women are neither tested for drug use, nor admit to using drugs during pregnancy.

Oxycodone deaths by district

The number of deaths caused by oxycodone in Florida increased from 1,185 in 2009 to 1,516 in 2010 — a jump of almost 28%. Orange and Osceola counties experienced a drastic increase in such deaths: 76%. Circles' areas represent deaths caused by oxycodone in each medical-examiner district.



- Source: Orlando Sentinel, 8/21/11

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What are Pill Mills?

- A “pill mill” is a doctor’s office, clinic, or health care facility that routinely conspires in the prescribing and dispensing of controlled substances outside the scope of the prevailing standards of medical practice in the community or violates the laws of the state of Florida regarding the prescribing or dispensing of controlled prescription drugs.

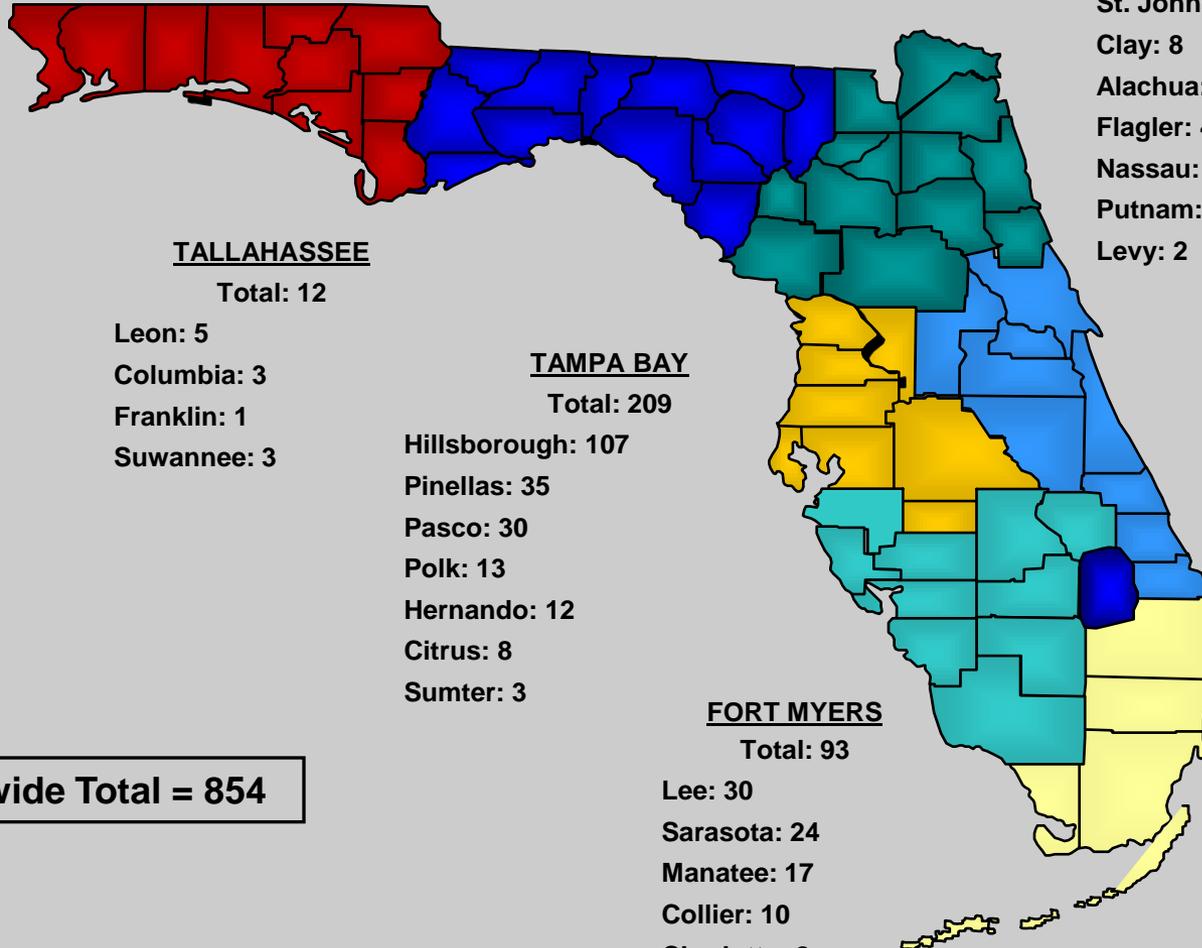
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Pill Mill Tip-Offs

- **Non-traditional medical office locations**
- **No insurance accepted**
- **Security guard at front door**
- **Out of state license plates in parking lot**
- **Parking lot loitering**
- **Long lines inside and outside**
- **Lack of medical equipment**
- **Treatment options limited to pills only**
- **Affiliations with specific pharmacies**
- **Recent business name changes**
- **Angry dog behind counter**

ACTIVE & REGISTERED FLORIDA PAIN CLINICS

March 31, 2011



PENSACOLA

Total: 26

- Escambia: 8
- Santa Rosa: 8
- Bay: 4
- Okaloosa: 4
- Jackson: 1
- Walton: 1

TALLAHASSEE

Total: 12

- Leon: 5
- Columbia: 3
- Franklin: 1
- Suwannee: 3

TAMPA BAY

Total: 209

- Hillsborough: 107
- Pinellas: 35
- Pasco: 30
- Polk: 13
- Hernando: 12
- Citrus: 8
- Sumter: 3

FORT MYERS

Total: 93

- Lee: 30
- Sarasota: 24
- Manatee: 17
- Collier: 10
- Charlotte: 8
- Highlands: 2
- Okeechobee: 2

JACKSONVILLE

Total: 96

- Duval: 51
- Marion: 10
- St. Johns: 9
- Clay: 8
- Alachua: 4
- Flagler: 4
- Nassau: 4
- Putnam: 4
- Levy: 2

ORLANDO

Total: 151

- Orange: 49
- Volusia: 27
- Brevard: 15
- Seminole: 13
- Lake: 12
- Osceola: 12
- St. Lucie: 12
- Martin: 6
- Indian River: 5

MIAMI

Total: 269

- Broward: 99
- Palm Beach: 89
- Dade: 80
- Monroe: 1

Statewide Total = 854

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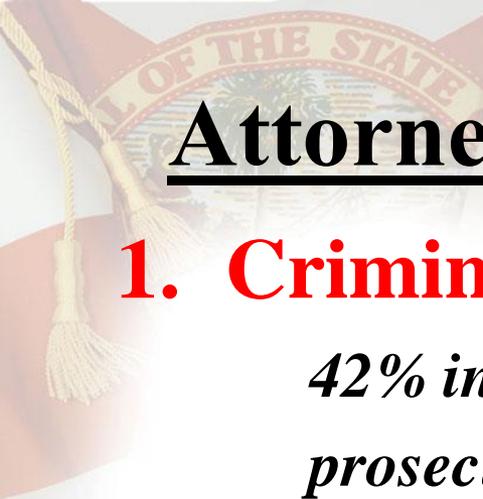
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Attorney General's Statewide Strategy

1. Criminal

42% increase in the number of prescription drug prosecutions and investigations this year.

2. Civil / Administrative

The AG and DOH have new written agreements to assist each other's investigations (e.g., Condemnation actions in Broward to destroy 138,000 pills).

3. Legislative

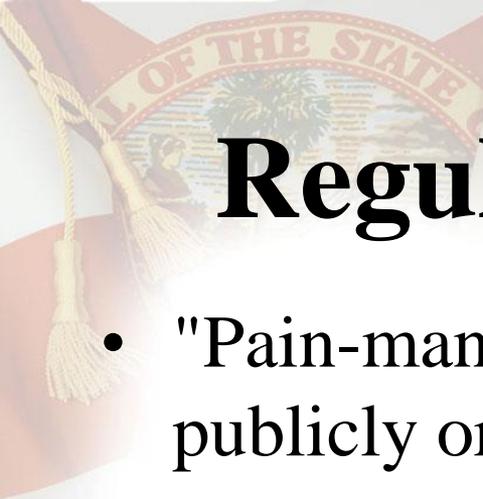
HB 7095 and many local ordinances.

4. Prevention

"Drug Take Back" days.

Regulating Pain Management

- As of October 1, 2010, pain clinics must register with the Department of Health (DOH) and, in some cases, the Agency for Healthcare Administration.
- DOH regulates pain clinics that are owned by a medical and osteopathic physician.
- AHCA regulates pain clinics that are not fully owned by medical and osteopathic physicians.
- Pill Mills are attempting to evade our new laws and regulations:
 - “Wellness Centers”
 - “Urgent Care Centers”
 - “Rejuvenation Clinics”
 - “Detox Centers”
 - “Massage”

The Florida State Seal is visible in the top left corner, featuring a palm tree and the text "FLORIDA STATE".

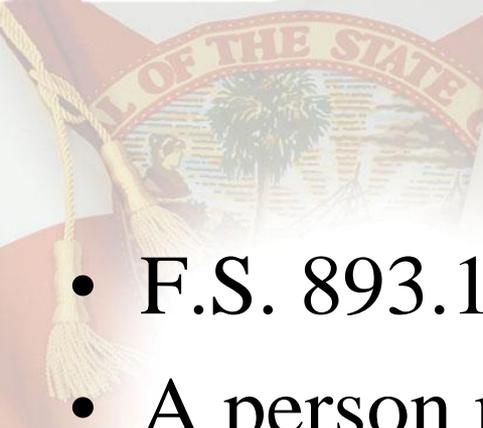
Regulating Pain Management

- "Pain-management clinic" or "clinic" means any publicly or privately owned facility:
 - (i) That advertises in any medium for any type of pain management services; or
 - (ii) Where in any month a majority of patients are prescribed opioids, benzodiazepines, barbiturates, or carisoprodol for the treatment of chronic nonmalignant pain.

The seal of the Florida State Board of Medicine is visible in the top left corner. It features a circular emblem with a central figure, surrounded by the text "FLORIDA STATE BOARD OF MEDICINE".

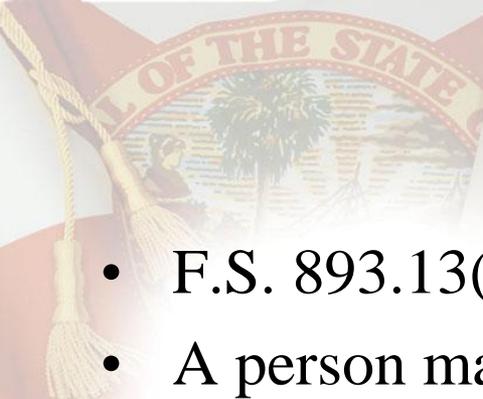
Regulating Pain Management: HB 7095

- A doctor who violates the standard of care “shall be suspended for [up to] 6 months and pay a fine of [up to] \$10,000 per count.”
- Prescriptions for controlled substances must be written electronically or on approved tamper-proof pads.
- Bans most physician dispensing of Schedule II & III drugs.
- Requires “community” pharmacies to be re-permitted by July 2012 to dispense Schedule II & III drugs.
- Strengthens the Prescription Drug Monitoring Program (PDMP) by requiring data to be submitted within 7 days, instead of 15 days.

The seal of the State Board of Pharmacy is visible in the top left corner. It features a circular emblem with a palm tree and a figure, surrounded by the text "STATE BOARD OF PHARMACY" and "FLORIDA".

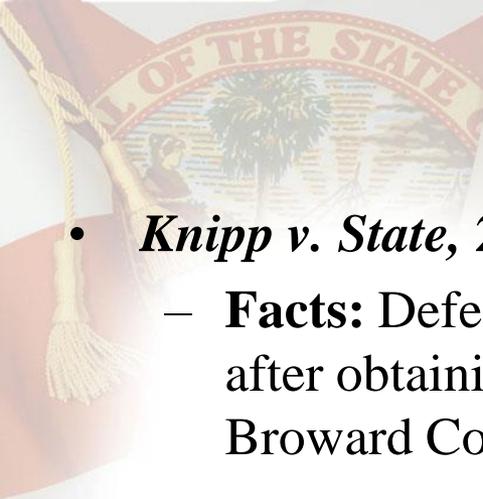
Forgery

- F.S. 893.13(7)(a)-- Prohibited acts; penalties.
- A person may not:
 - Acquire or obtain, or attempt to acquire or obtain, possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.
 - Affix any false or forged label to a package or receptacle containing a controlled substance.
 - Possess a prescription form that has not been completed and signed by the practitioner.
- Any person who violates these provisions commits a felony of the third degree.

The seal of the State Board of Medicine is visible in the top left corner. It features a central figure, possibly a doctor or a person in a white coat, standing under a palm tree. The words "STATE BOARD OF MEDICINE" are written around the perimeter of the seal.

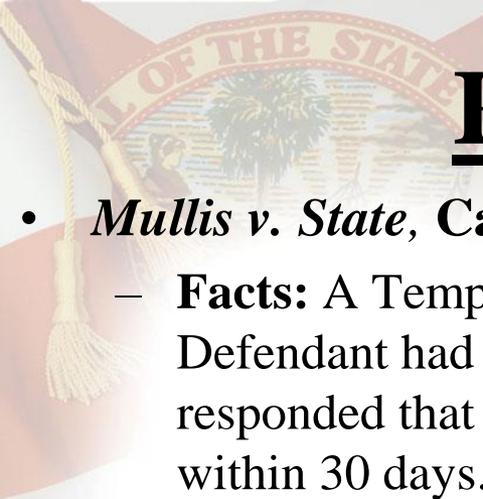
Doctor Shopping

- F.S. 893.13(1)(a)8 -- Prohibited acts; penalties.
- A person may not:
 - *“Withhold information from a practitioner from whom the person seeks to obtain a controlled substance or a prescription for a controlled substance that the person making the request has received a controlled substance or a prescription for a controlled substance of like therapeutic use from another practitioner within the previous 30 days.”*
 - **In plain English: If you don’t tell the doctor or pharmacist that you already got the same stuff within the last 30 days, you’re busted!**
- Any person who violates this provision commits a felony of the third degree.



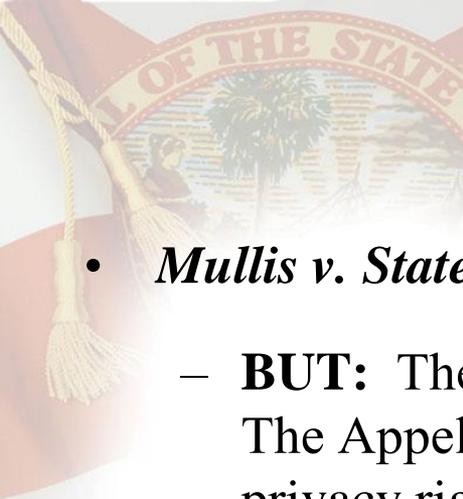
Recent Court Ruling

- ***Knipp v. State*, 2011 WL 3300186 (Fla. 4th DCA Aug. 3, 2011)**
 - **Facts:** Defendants were convicted of doctor shopping and drug trafficking after obtaining Oxycodone prescriptions from 2 different doctors in Broward County within a 30 day period.
 - Defendants appealed, saying that they never misled anyone, and were never asked if they had another prescription within the last 30 days.
 - **Holding:** Doctor shopping conviction upheld. The Appellate Court said that “the statute unambiguously makes it a crime for a person seeking a prescription for a controlled substance not to inform the physician that the person has already obtained a prescription for the same or similar substance within the last 30 days. The statute does not . . . requir[e] an affirmative request for such information.”
 - **BUT:** Drug trafficking charges dismissed because the Defendants possessed a prescription issued by a licensed practitioner in the normal course of business. The doctor shopping statute does not negate the “valid prescription” defense.



Recent Court Rulings

- ***Mullis v. State*, Case No. 2D10-965 (Fla. 2d DCA Sept. 9, 2011)**
 - **Facts:** A Temple Terrace detective blast-faxed 80 pharmacies to ask whether the Defendant had filled prescriptions for controlled substances. Ten pharmacies responded that the Defendant had filled oxycodone prescriptions from 6 doctors within 30 days.
 - The detective then contacted the offices of the 6 doctors to see if the Defendant had withheld the doctor shopping information from them. The Defendant was later arrested for doctor shopping.
 - The Defendant moved to suppress from evidence his pharmacy records and the statements obtained from the doctors and their employees.
 - **Holding:** The detective lawfully obtained the pharmacy records. Citing Section 893.07(4)*, the Appellate Court said that law enforcement is allowed to “obtain an individual’s pharmacy records related to controlled substances without a warrant, a subpoena, or prior notice to the patient without violating that individual’s constitutional privacy rights.”
 - *Section 893.07(4) requires pharmacy records to be kept and made available for a period of at least 2 years for inspection and copying by law enforcement officers.*



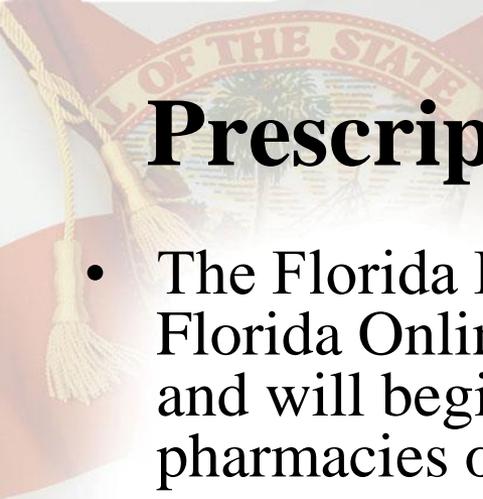
Recent Court Rulings

- *Mullis v. State*, Case No. 2D10-965 (Fla. 2d DCA Sept. 9, 2011)
 - **BUT:** The information obtained from the doctors’ offices was suppressed. The Appellate Court held that the detective violated the Defendant’s privacy rights by acquiring “*reports and records relating to [his] examination or treatment*” from his doctors without first obtaining a subpoena or the Defendant’s authorization.
 - The Court said that this includes asking whether the doctors wrote prescriptions to the Defendant for a controlled substance, since a “doctor’s prescription of a medication is a form of treatment.”
 - The Court said this also includes asking whether the Defendant withheld information from his doctors about his doctor shopping. “[S]tatements about what [the Defendant] told his doctors concerning his prior prescriptions constitute reports relating to his examination or treatment.”

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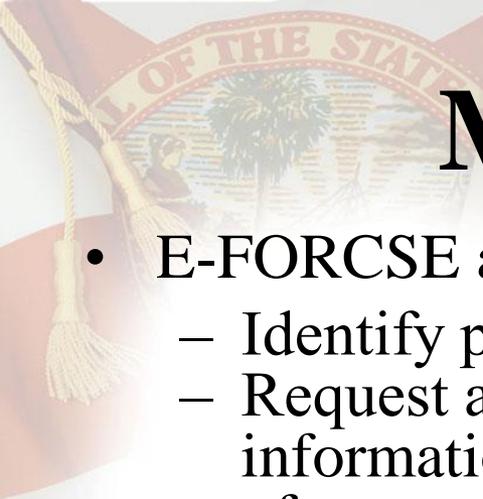
Local Moratoria

- Temporary moratoria and permanent zoning restrictions have helped communities limit the growth of pill mills that fuel continued prescription drug abuse.
- As of July 2011, there are more than 45 cities and counties that have passed local ordinances prohibiting/regulating pain clinics.
- These successes belong to those in the community – local officials, concerned citizens, anti-drug coalitions, law enforcement agencies and others who are taking a proactive approach.



Prescription Drug Monitoring Program

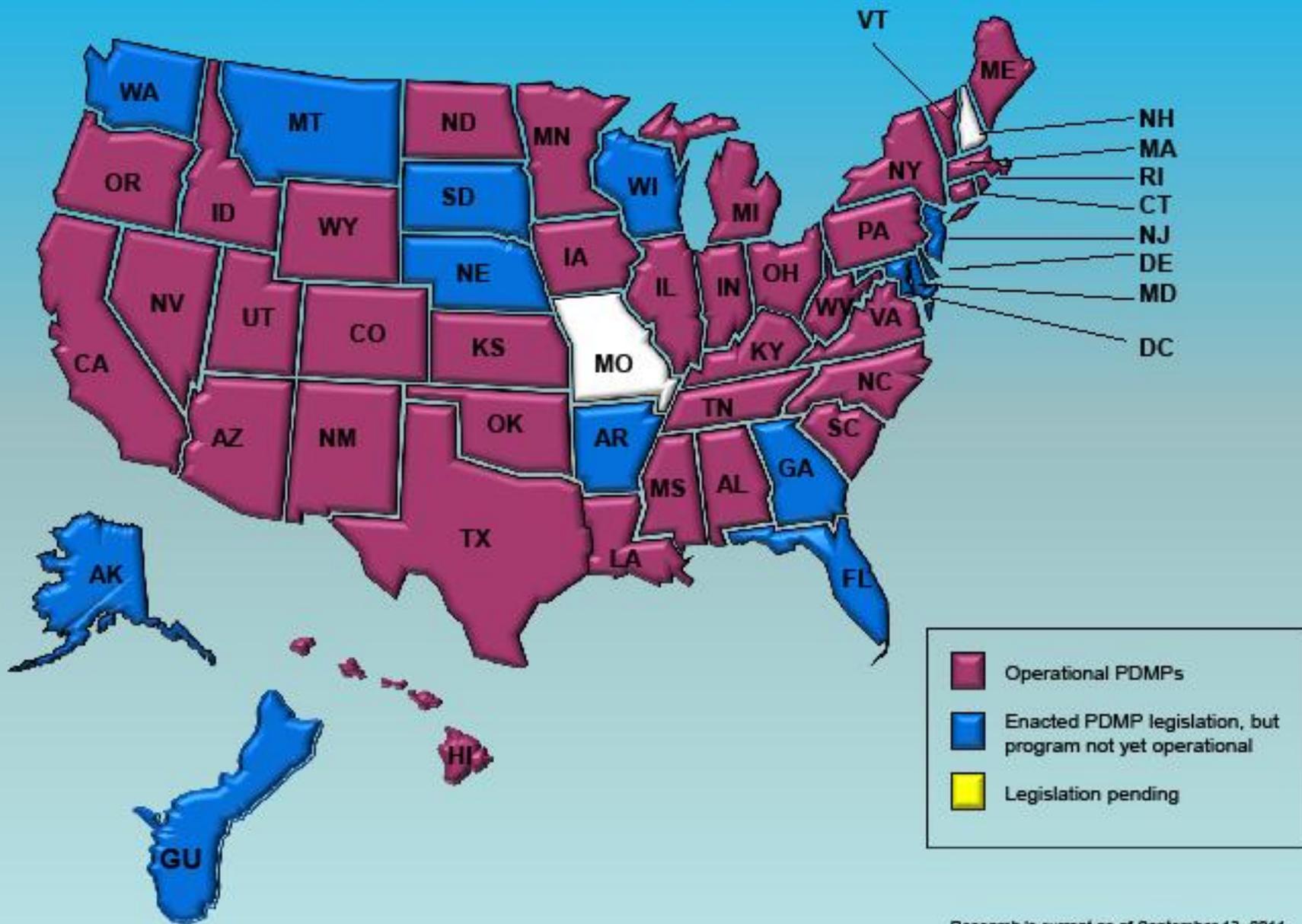
- The Florida PDMP is known as “E-FORCSE” (Electronic-Florida Online Reporting of Controlled Substances Evaluation) and will begin receiving data from dispensing practitioners and pharmacies on September 1, 2011.
- Law enforcement may request reports based on active investigations began on October 17, 2011.
- Requires dispensing practitioners and pharmacies to report certain dispensed II – IV controlled drugs to the database no later than 7 days from the date of dispensing.
 - Mail order and internet pharmacies are included.
- Dispensing practitioners and pharmacies are **not** required to access E-FORCSE prior to prescribing a controlled substance.
- First-degree misdemeanor to willfully and knowingly fail to report the dispensing of controlled substances.



More on E-FORCSE

- E-FORCSE allows practitioners and pharmacists to:
 - Identify possible “doctor shoppers”
 - Request access to the patient’s prescription history information during office visit to ensure better patient standard of care
 - Avoid prescribing medications that may be dangerous when taken in combination with other medications
- No state funds are allowed to implement E-FORCSE, but Florida law authorizes fundraising by a non-profit direct support organization (DSO), as well as through federal grants.
- E-FORCSE is HIPAA compliant.
 - In addition, anyone who improperly discloses confidential information commits a third-degree felony.
- E-FORCSE will also dramatically cut down on law enforcement investigation time and serve as an effective deterrent against drug diversion, especially against “drug tourism.”

Status of Prescription Drug Monitoring Programs (PDMPs)



The seal of the Florida Board of State Examiners is visible in the top left corner. It features a circular emblem with a palm tree in the center, a figure on the left, and a figure on the right. The words "BOARD OF STATE EXAMINERS" are written around the top edge of the circle. The seal is set against a background of a graduation cap and tassel.

Conclusion

- The proliferation of pain clinics that dispense and prescribe legal opiates such as Oxycodone, has helped fuel the problem of prescription drug diversion and has made Florida the “pill mill” for the entire country.
- Prescription drug diversion costs lives, increases crime, and accelerates costs connected to treatment, medical expenses and Medicaid fraud.

Office of the Attorney General



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