

1 A bill to be entitled
2 An act relating to controlled substances; amending ss.
3 456.037 and 456.057, F.S.; conforming provisions to
4 changes made by the act; amending s. 456.42, F.S.;
5 requiring prescriptions for controlled substances to be
6 written on a counterfeit-resistant pad produced by an
7 approved vendor or electronically prescribed; repealing s.
8 458.3265, F.S., relating to regulation of pain-management
9 clinics and medical doctors; amending s. 458.327, F.S.;
10 providing that dispensing certain controlled substances in
11 violation of specified provisions is a third-degree
12 felony; deleting references to felonies for certain
13 activities related to pain-management clinics and medical
14 doctors; amending s. 458.331, F.S.; deleting grounds for
15 disciplinary actions against physicians relating to pain-
16 management clinics and advertising controlled substances;
17 repealing s. 459.0137, F.S., relating to pain-management
18 clinics and osteopathic physicians; amending s. 459.013,
19 F.S., relating to penalties for violations; providing that
20 dispensing certain controlled substances in violation of
21 specified provisions is a third-degree felony; deleting
22 provisions relating to felonies for certain activities
23 related to pain-management clinics and osteopathic
24 physicians; amending s. 459.015, F.S.; deleting grounds
25 for disciplinary actions against osteopathic physicians
26 relating to pain-management clinics and advertising
27 controlled substances; amending s. 465.015, F.S.;
28 requiring a pharmacist, pharmacy intern, or other person

29 | employed by or at a pharmacy to report to the sheriff
30 | within a specified period any instance in which a person
31 | fraudulently obtained or attempted to fraudulently obtain
32 | a controlled substance; providing criminal penalties;
33 | providing requirements for reports; amending s. 465.018,
34 | F.S.; limiting the community pharmacies that may dispense
35 | controlled substances; providing an exemption; amending s.
36 | 465.0276, F.S.; prohibiting registered dispensing
37 | practitioners from dispensing certain controlled
38 | substances; providing an exception; repealing a 72-hour
39 | supply limit on dispensing certain controlled substances
40 | to certain patients in registered pain-management clinics;
41 | providing an exception for dispensing controlled
42 | substances in the health care system of the Department of
43 | Corrections; amending s. 499.012, F.S.; requiring
44 | wholesale distributor permit applicants to submit
45 | documentation of credentialing policies; amending s.
46 | 499.0121, F.S.; providing reporting requirements for
47 | wholesale distributors of certain controlled substances;
48 | requiring the Department of Health to share the reported
49 | data with law enforcement agencies; requiring the
50 | Department of Law Enforcement to make investigations based
51 | on the reported data; providing credentialing requirements
52 | for distribution of controlled substances to certain
53 | entities by wholesale distributors; limiting monthly
54 | distribution amounts of controlled substances to retail
55 | pharmacies; prohibiting distribution to entities with
56 | certain criminal backgrounds; amending s. 499.05, F.S.;

57 | authorizing rulemaking concerning specified controlled
58 | substance wholesale distributor reporting requirements and
59 | credentialing requirements; amending s. 499.067, F.S.;
60 | requiring the Department of Health to take disciplinary
61 | action against wholesale distributors failing to comply
62 | with specified credentialing requirements; amending s.
63 | 810.02, F.S.; authorizing separate judgments and sentences
64 | for burglary with the intent to commit theft of a
65 | controlled substance under specified provisions and for
66 | any applicable possession of controlled substance offense
67 | under specified provisions in certain circumstances;
68 | amending s. 812.014, F.S.; authorizing separate judgments
69 | and sentences for theft of a controlled substance under
70 | specified provisions and for any applicable possession of
71 | controlled substance offense under specified provisions in
72 | certain circumstances; amending s. 893.07, F.S.; providing
73 | that law enforcement officers are not required to obtain a
74 | subpoena, court order, or search warrant in order to
75 | obtain access to or copies of specified controlled
76 | substance inventory records; requiring reporting discovery
77 | of the theft or loss of controlled substances to the
78 | sheriff within a specified period; providing criminal
79 | penalties; repealing s. 2 of chapter 2009-198, Laws of
80 | Florida, relating to Program Implementation and Oversight
81 | Task Force in the Executive Office of the Governor
82 | concerning the electronic system established for the
83 | prescription drug monitoring program; providing a buyback
84 | program for undispensed controlled substance inventory

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85 | held by specified licensed physicians; requiring reports
86 | of program; providing for a declaration of a public health
87 | emergency; requiring certain actions relating to
88 | dispensing practitioners identified as posing the greatest
89 | threat to public health; providing an appropriation;
90 | providing for future repeal of program provisions;
91 | providing an effective date.

92

93 | Be It Enacted by the Legislature of the State of Florida:

94

95 | Section 1. Subsection (5) of section 456.037, Florida
96 | Statutes, is amended to read:

97 | 456.037 Business establishments; requirements for active
98 | status licenses; delinquency; discipline; applicability.—

99 | (5) This section applies to any business establishment
100 | registered, permitted, or licensed by the department to do
101 | business. Business establishments include, but are not limited
102 | to, dental laboratories, electrology facilities, massage
103 | establishments, and pharmacies, ~~and pain management clinics~~
104 | ~~required to be registered under s. 458.3265 or s. 459.0137.~~

105 | Section 2. Subsection (9) of section 456.057, Florida
106 | Statutes, is amended to read:

107 | 456.057 Ownership and control of patient records; report
108 | or copies of records to be furnished.—

109 | (9) (a) 1. The department may obtain patient records
110 | pursuant to a subpoena without written authorization from the
111 | patient if the department and the probable cause panel of the
112 | appropriate board, if any, find reasonable cause to believe that

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113 a health care practitioner has excessively or inappropriately
114 prescribed any controlled substance specified in chapter 893 in
115 violation of this chapter or any professional practice act or
116 that a health care practitioner has practiced his or her
117 profession below that level of care, skill, and treatment
118 required as defined by this chapter or any professional practice
119 act and also find that appropriate, reasonable attempts were
120 made to obtain a patient release. ~~Notwithstanding the foregoing,~~
121 ~~the department need not attempt to obtain a patient release when~~
122 ~~investigating an offense involving the inappropriate~~
123 ~~prescribing, overprescribing, or diversion of controlled~~
124 ~~substances and the offense involves a pain-management clinic.~~
125 ~~The department may obtain patient records without patient~~
126 ~~authorization or subpoena from any pain-management clinic~~
127 ~~required to be licensed if the department has probable cause to~~
128 ~~believe that a violation of any provision of s. 458.3265 or s.~~
129 ~~459.0137 is occurring or has occurred and reasonably believes~~
130 ~~that obtaining such authorization is not feasible due to the~~
131 ~~volume of the dispensing and prescribing activity involving~~
132 ~~controlled substances and that obtaining patient authorization~~
133 ~~or the issuance of a subpoena would jeopardize the~~
134 ~~investigation.~~

135 2. The department may obtain patient records and insurance
136 information pursuant to a subpoena without written authorization
137 from the patient if the department and the probable cause panel
138 of the appropriate board, if any, find reasonable cause to
139 believe that a health care practitioner has provided inadequate
140 medical care based on termination of insurance and also find

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141 that appropriate, reasonable attempts were made to obtain a
142 patient release.

143 3. The department may obtain patient records, billing
144 records, insurance information, provider contracts, and all
145 attachments thereto pursuant to a subpoena without written
146 authorization from the patient if the department and probable
147 cause panel of the appropriate board, if any, find reasonable
148 cause to believe that a health care practitioner has submitted a
149 claim, statement, or bill using a billing code that would result
150 in payment greater in amount than would be paid using a billing
151 code that accurately describes the services performed, requested
152 payment for services that were not performed by that health care
153 practitioner, used information derived from a written report of
154 an automobile accident generated pursuant to chapter 316 to
155 solicit or obtain patients personally or through an agent
156 regardless of whether the information is derived directly from
157 the report or a summary of that report or from another person,
158 solicited patients fraudulently, received a kickback as defined
159 in s. 456.054, violated the patient brokering provisions of s.
160 817.505, or presented or caused to be presented a false or
161 fraudulent insurance claim within the meaning of s.
162 817.234(1)(a), and also find that, within the meaning of s.
163 817.234(1)(a), patient authorization cannot be obtained because
164 the patient cannot be located or is deceased, incapacitated, or
165 suspected of being a participant in the fraud or scheme, and if
166 the subpoena is issued for specific and relevant records.

167 4. Notwithstanding subparagraphs 1.-3., when the
168 department investigates a professional liability claim or

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169 undertakes action pursuant to s. 456.049 or s. 627.912, the
170 department may obtain patient records pursuant to a subpoena
171 without written authorization from the patient if the patient
172 refuses to cooperate or if the department attempts to obtain a
173 patient release and the failure to obtain the patient records
174 would be detrimental to the investigation.

175 Section 3. Section 456.42, Florida Statutes, is amended to
176 read:

177 456.42 Written prescriptions for medicinal drugs.—

178 (1) A written prescription for a medicinal drug issued by
179 a health care practitioner licensed by law to prescribe such
180 drug must be legibly printed or typed so as to be capable of
181 being understood by the pharmacist filling the prescription;
182 must contain the name of the prescribing practitioner, the name
183 and strength of the drug prescribed, the quantity of the drug
184 prescribed, and the directions for use of the drug; must be
185 dated; and must be signed by the prescribing practitioner on the
186 day when issued. ~~A written prescription for a controlled~~
187 ~~substance listed in chapter 893 must have the quantity of the~~
188 ~~drug prescribed in both textual and numerical formats and must~~
189 ~~be dated with the abbreviated month written out on the face of~~
190 ~~the prescription.~~ However, a prescription that is electronically
191 generated and transmitted must contain the name of the
192 prescribing practitioner, the name and strength of the drug
193 prescribed, the quantity of the drug prescribed in numerical
194 format, and the directions for use of the drug and must be dated
195 and signed by the prescribing practitioner only on the day

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196 issued, which signature may be in an electronic format as
 197 defined in s. 668.003(4).

198 (2) A written prescription for a controlled substance
 199 listed in chapter 893 must have the quantity of the drug
 200 prescribed in both textual and numerical formats and must be
 201 dated with the abbreviated month written out on the face of the
 202 prescription. A prescription for a controlled substance listed
 203 in chapter 893 must be written on a counterfeit-proof
 204 prescription pad produced by a vendor approved by the
 205 department, or must be electronically prescribed, as that term
 206 is used in s. 408.0611.

207 Section 4. Section 458.3265, Florida Statutes, is
 208 repealed.

209 Section 5. Section 458.327, Florida Statutes, is amended
 210 to read:

211 458.327 Penalty for violations.—

212 (1) Each of the following acts constitutes a felony of the
 213 third degree, punishable as provided in s. 775.082, s. 775.083,
 214 or s. 775.084:

215 (a) The practice of medicine or an attempt to practice
 216 medicine without a license to practice in Florida.

217 (b) The use or attempted use of a license which is
 218 suspended or revoked to practice medicine.

219 (c) Attempting to obtain or obtaining a license to
 220 practice medicine by knowing misrepresentation.

221 (d) Attempting to obtain or obtaining a position as a
 222 medical practitioner or medical resident in a clinic or hospital

223 through knowing misrepresentation of education, training, or
 224 experience.

225 (e) Dispensing a controlled substance listed in Schedule
 226 II or Schedule III in violation of s. 465.0276. Knowingly
 227 ~~operating, owning, or managing a nonregistered pain-management~~
 228 ~~elinic that is required to be registered with the Department of~~
 229 ~~Health pursuant to s. 458.3265(1).~~

230 (2) Each of the following acts constitutes a misdemeanor
 231 of the first degree, punishable as provided in s. 775.082 or s.
 232 775.083:

233 (a) Knowingly concealing information relating to
 234 violations of this chapter.

235 (b) Making any willfully false oath or affirmation
 236 whenever an oath or affirmation is required by this chapter.

237 (c) Referring any patient, for health care goods or
 238 services, to a partnership, firm, corporation, or other business
 239 entity in which the physician or the physician's employer has an
 240 equity interest of 10 percent or more unless, prior to such
 241 referral, the physician notifies the patient of his or her
 242 financial interest and of the patient's right to obtain such
 243 goods or services at the location of the patient's choice. This
 244 section does not apply to the following types of equity
 245 interest:

246 1. The ownership of registered securities issued by a
 247 publicly held corporation or the ownership of securities issued
 248 by a publicly held corporation, the shares of which are traded
 249 on a national exchange or the over-the-counter market;

250 2. A physician's own practice, whether he or she is a sole
 251 practitioner or part of a group, when the health care good or
 252 service is prescribed or provided solely for the physician's own
 253 patients and is provided or performed by the physician or under
 254 the physician's supervision; or

255 3. An interest in real property resulting in a landlord-
 256 tenant relationship between the physician and the entity in
 257 which the equity interest is held, unless the rent is
 258 determined, in whole or in part, by the business volume or
 259 profitability of the tenant or is otherwise unrelated to fair
 260 market value.

261 (d) Leading the public to believe that one is licensed as
 262 a medical doctor, or is engaged in the licensed practice of
 263 medicine, without holding a valid, active license.

264 (e) Practicing medicine or attempting to practice medicine
 265 with an inactive or delinquent license.

266 ~~(f) Knowingly prescribing or dispensing, or causing to be~~
 267 ~~prescribed or dispensed, controlled substances in a~~
 268 ~~nonregistered pain management clinic that is required to be~~
 269 ~~registered with the Department of Health pursuant to s.~~
 270 ~~458.3265(1).~~

271 Section 6. Paragraphs (oo), (pp), and (qq) of subsection
 272 (1) of section 458.331, Florida Statutes, are amended to read:

273 458.331 Grounds for disciplinary action; action by the
 274 board and department.—

275 (1) The following acts constitute grounds for denial of a
 276 license or disciplinary action, as specified in s. 456.072(2):

277 (oo) Dispensing a controlled substance listed in Schedule
 278 II or Schedule III in violation of s. 465.0276. Applicable to a
 279 licensee who serves as the designated physician of a pain-
 280 management clinic as defined in s. 458.3265 or s. 459.0137:

281 1. ~~Registering a pain-management clinic through~~
 282 ~~misrepresentation or fraud;~~

283 2. ~~Procuring, or attempting to procure, the registration~~
 284 ~~of a pain-management clinic for any other person by making or~~
 285 ~~causing to be made, any false representation;~~

286 3. ~~Failing to comply with any requirement of chapter 499,~~
 287 ~~the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the~~
 288 ~~Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq.,~~
 289 ~~the Drug Abuse Prevention and Control Act; or chapter 893, the~~
 290 ~~Florida Comprehensive Drug Abuse Prevention and Control Act;~~

291 4. ~~Being convicted or found guilty of, regardless of~~
 292 ~~adjudication to, a felony or any other crime involving moral~~
 293 ~~turpitude, fraud, dishonesty, or deceit in any jurisdiction of~~
 294 ~~the courts of this state, of any other state, or of the United~~
 295 ~~States;~~

296 5. ~~Being convicted of, or disciplined by a regulatory~~
 297 ~~agency of the Federal Government or a regulatory agency of~~
 298 ~~another state for, any offense that would constitute a violation~~
 299 ~~of this chapter;~~

300 6. ~~Being convicted of, or entering a plea of guilty or~~
 301 ~~nolo contendere to, regardless of adjudication, a crime in any~~
 302 ~~jurisdiction of the courts of this state, of any other state, or~~
 303 ~~of the United States which relates to the practice of, or the~~
 304 ~~ability to practice, a licensed health care profession;~~

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305 ~~7. Being convicted of, or entering a plea of guilty or~~
 306 ~~nolo contendere to, regardless of adjudication, a crime in any~~
 307 ~~jurisdiction of the courts of this state, of any other state, or~~
 308 ~~of the United States which relates to health care fraud;~~

309 ~~8. Dispensing any medicinal drug based upon a~~
 310 ~~communication that purports to be a prescription as defined in~~
 311 ~~s. 465.003(14) or s. 893.02 if the dispensing practitioner knows~~
 312 ~~or has reason to believe that the purported prescription is not~~
 313 ~~based upon a valid practitioner-patient relationship; or~~

314 ~~9. Failing to timely notify the board of the date of his~~
 315 ~~or her termination from a pain-management clinic as required by~~
 316 ~~s. 458.3265(2).~~

317 ~~(pp) Failing to timely notify the department of the theft~~
 318 ~~of prescription blanks from a pain-management clinic or a breach~~
 319 ~~of other methods for prescribing within 24 hours as required by~~
 320 ~~s. 458.3265(2).~~

321 ~~(qq) Promoting or advertising through any communication~~
 322 ~~media the use, sale, or dispensing of any controlled substance~~
 323 ~~appearing on any schedule in chapter 893.~~

324 Section 7. Section 459.0137, Florida Statutes, is
 325 repealed.

326 Section 8. Paragraph (e) of subsection (1) and paragraph
 327 (d) of subsection (2) of section 459.013, Florida Statutes, are
 328 amended to read:

329 459.013 Penalty for violations.—

330 (1) Each of the following acts constitutes a felony of the
 331 third degree, punishable as provided in s. 775.082, s. 775.083,
 332 or s. 775.084:

333 (e) Dispensing a controlled substance listed in Schedule
 334 II or Schedule III in violation of s. 465.0276. Knowingly
 335 ~~operating, owning, or managing a nonregistered pain-management~~
 336 ~~clinic that is required to be registered with the Department of~~
 337 ~~Health pursuant to s. 459.0137(1).~~

338 (2) Each of the following acts constitutes a misdemeanor
 339 of the first degree, punishable as provided in s. 775.082 or s.
 340 775.083:

341 ~~(d) Knowingly prescribing or dispensing, or causing to be~~
 342 ~~prescribed or dispensed, controlled substances in a~~
 343 ~~nonregistered pain-management clinic that is required to be~~
 344 ~~registered with the Department of Health pursuant to s.~~
 345 ~~459.0137(1).~~

346 Section 9. Paragraphs (qq), (rr), and (ss) of subsection
 347 (1) of section 459.015, Florida Statutes, are amended to read:
 348 459.015 Grounds for disciplinary action; action by the
 349 board and department.—

350 (1) The following acts constitute grounds for denial of a
 351 license or disciplinary action, as specified in s. 456.072(2):

352 (qq) Dispensing a controlled substance listed in Schedule
 353 II or Schedule III in violation of s. 465.0276. Applicable to a
 354 ~~licensee who serves as the designated physician of a pain-~~
 355 ~~management clinic as defined in s. 458.3265 or s. 459.0137:~~

356 1. ~~Registering a pain-management clinic through~~
 357 ~~misrepresentation or fraud;~~

358 2. ~~Procuring, or attempting to procure, the registration~~
 359 ~~of a pain-management clinic for any other person by making or~~
 360 ~~causing to be made, any false representation;~~

361 ~~3. Failing to comply with any requirement of chapter 499,~~
 362 ~~the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the~~
 363 ~~Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq.,~~
 364 ~~the Drug Abuse Prevention and Control Act; or chapter 893, the~~
 365 ~~Florida Comprehensive Drug Abuse Prevention and Control Act;~~

366 ~~4. Being convicted or found guilty of, regardless of~~
 367 ~~adjudication to, a felony or any other crime involving moral~~
 368 ~~turpitude, fraud, dishonesty, or deceit in any jurisdiction of~~
 369 ~~the courts of this state, of any other state, or of the United~~
 370 ~~States;~~

371 ~~5. Being convicted of, or disciplined by a regulatory~~
 372 ~~agency of the Federal Government or a regulatory agency of~~
 373 ~~another state for, any offense that would constitute a violation~~
 374 ~~of this chapter;~~

375 ~~6. Being convicted of, or entering a plea of guilty or~~
 376 ~~nolo contendere to, regardless of adjudication, a crime in any~~
 377 ~~jurisdiction of the courts of this state, of any other state, or~~
 378 ~~of the United States which relates to the practice of, or the~~
 379 ~~ability to practice, a licensed health care profession;~~

380 ~~7. Being convicted of, or entering a plea of guilty or~~
 381 ~~nolo contendere to, regardless of adjudication, a crime in any~~
 382 ~~jurisdiction of the courts of this state, of any other state, or~~
 383 ~~of the United States which relates to health care fraud;~~

384 ~~8. Dispensing any medicinal drug based upon a~~
 385 ~~communication that purports to be a prescription as defined in~~
 386 ~~s. 465.003(14) or s. 893.02 if the dispensing practitioner knows~~
 387 ~~or has reason to believe that the purported prescription is not~~
 388 ~~based upon a valid practitioner-patient relationship; or~~

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389 ~~9. Failing to timely notify the board of the date of his~~
 390 ~~or her termination from a pain-management clinic as required by~~
 391 ~~s. 459.0137(2).~~

392 ~~(rr) Failing to timely notify the department of the theft~~
 393 ~~of prescription blanks from a pain-management clinic or a breach~~
 394 ~~of other methods for prescribing within 24 hours as required by~~
 395 ~~s. 459.0137(2).~~

396 ~~(ss) Promoting or advertising through any communication~~
 397 ~~media the use, sale, or dispensing of any controlled substance~~
 398 ~~appearing on any schedule in chapter 893.~~

399 Section 10. Subsections (3) and (4) of section 465.015,
 400 Florida Statutes, are renumbered as subsections (4) and (5),
 401 respectively, a new subsection (3) is added to that section, and
 402 present subsection (4) of that section is amended, to read:

403 465.015 Violations and penalties.—

404 (3) It is unlawful for any pharmacist, pharmacy intern, or
 405 other person employed by or at a pharmacy to fail to report to
 406 the sheriff of the county where the pharmacy is located within
 407 24 hours after learning of any instance in which a person
 408 obtained or attempted to obtain a controlled substance, as
 409 defined in s. 893.02, that the pharmacist, pharmacy intern, or
 410 other person employed by or at the pharmacy knew or reasonably
 411 should have known was obtained or attempted to be obtained from
 412 the pharmacy through fraudulent methods or representations. Any
 413 pharmacist, pharmacy intern, or other person employed by or at a
 414 pharmacy who fails to make such a report within 24 hours after
 415 learning of the fraud or attempted fraud commits a misdemeanor
 416 of the first degree, punishable as provided in s. 775.082 or s.

417 775.083. A sufficient report of the fraudulent obtaining of
 418 controlled substances under this subsection shall contain, at a
 419 minimum, a copy of the prescription used or presented and a
 420 narrative, including all information available to the pharmacy
 421 concerning the transaction, such as the name and telephone
 422 number of the prescribing physician; the name, description, and
 423 any personal identification information pertaining to the person
 424 who presented the prescription; and all other material
 425 information, such as photographic or video surveillance of the
 426 transaction.

427 (5)~~(4)~~ Any person who violates any provision of subsection
 428 (1) or subsection (4) ~~(3)~~ commits a misdemeanor of the first
 429 degree, punishable as provided in s. 775.082 or s. 775.083. Any
 430 person who violates any provision of subsection (2) commits a
 431 felony of the third degree, punishable as provided in s.
 432 775.082, s. 775.083, or s. 775.084. In any warrant, information,
 433 or indictment, it shall not be necessary to negative any
 434 exceptions, and the burden of any exception shall be upon the
 435 defendant.

436 Section 11. Section 465.018, Florida Statutes, is amended
 437 to read:

438 465.018 Community pharmacies; permits.—

439 (1) Any person desiring a permit to operate a community
 440 pharmacy shall apply to the department. If the board office
 441 certifies that the application complies with the laws of the
 442 state and the rules of the board governing pharmacies, the
 443 department shall issue the permit. No permit shall be issued
 444 unless a licensed pharmacist is designated as the prescription

445 department manager responsible for maintaining all drug records,
 446 providing for the security of the prescription department, and
 447 following such other rules as relate to the practice of the
 448 profession of pharmacy. The permittee and the newly designated
 449 prescription department manager shall notify the department
 450 within 10 days of any change in prescription department manager.

451 (2) (a) A pharmacy permitted under this section may not
 452 dispense a controlled substance listed in Schedule II or
 453 Schedule III as provided in s. 893.03 unless the pharmacy is:

454 1. Wholly owned by a corporation whose shares are publicly
 455 traded on a recognized stock exchange; or

456 2. Wholly owned by a corporation having more than \$100
 457 million of business taxable assets in this state.

458 (b) Community pharmacies that have been continuously
 459 permitted for at least 10 years are exempt from this subsection.

460 Section 12. Paragraph (b) of subsection (1) of section
 461 465.0276, Florida Statutes, is amended to read:

462 465.0276 Dispensing practitioner.—

463 (1)

464 (b) A practitioner registered under this section may not
 465 dispense a controlled substance listed in Schedule II or
 466 Schedule III as provided in s. 893.03. ~~A practitioner registered~~
 467 ~~under this section may not dispense more than a 72-hour supply~~
 468 ~~of a controlled substance listed in Schedule II, Schedule III,~~
 469 ~~Schedule IV, or Schedule V of s. 893.03 for any patient who pays~~
 470 ~~for the medication by cash, check, or credit card in a clinic~~
 471 ~~registered under s. 458.3265 or s. 459.0137. A practitioner who~~
 472 ~~violates this paragraph commits a felony of the third degree,~~

473 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

474 This paragraph does not apply to:

475 ~~1. A practitioner who dispenses medication to a workers'~~
 476 ~~compensation patient pursuant to chapter 440.~~

477 ~~2. A practitioner who dispenses medication to an insured~~
 478 ~~patient who pays by cash, check, or credit card to cover any~~
 479 ~~applicable copayment or deductible.~~

480 ~~1.3.~~ The dispensing of complimentary packages of medicinal
 481 drugs to the practitioner's own patients in the regular course
 482 of her or his practice without the payment of a fee or
 483 remuneration of any kind, whether direct or indirect, as
 484 provided in subsection (5).

485 2. The dispensing of controlled substances in the health
 486 care system of the Department of Corrections.

487 Section 13. Paragraph (o) is added to subsection (8) of
 488 section 499.012, Florida Statutes, to read:

489 499.012 Permit application requirements.—

490 (8) An application for a permit or to renew a permit for a
 491 prescription drug wholesale distributor or an out-of-state
 492 prescription drug wholesale distributor submitted to the
 493 department must include:

494 (o) Documentation of the credentialing policies and
 495 procedures required by s. 499.0121(14).

496 Section 14. Subsections (14) and (15) are added to section
 497 499.0121, Florida Statutes, to read:

498 499.0121 Storage and handling of prescription drugs;
 499 recordkeeping.—The department shall adopt rules to implement
 500 this section as necessary to protect the public health, safety,

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501 and welfare. Such rules shall include, but not be limited to,
502 requirements for the storage and handling of prescription drugs
503 and for the establishment and maintenance of prescription drug
504 distribution records.

505 (14) DISTRIBUTION REPORTING.—Each wholesale distributor
506 shall submit a report to the department of its receipts and
507 distributions of controlled substances listed in Schedule II,
508 Schedule III, Schedule IV, or Schedule V as provided in s.
509 893.03. Wholesale distributor facilities located within this
510 state shall report all transactions involving controlled
511 substances and wholesale distributor facilities located outside
512 this state shall report all distributions to entities located in
513 this state. If the wholesale distributor did not have any
514 controlled substance distributions for the month, a report shall
515 be sent indicating no distributions occurred in the period. The
516 report shall be submitted monthly by the 20th of the next month,
517 in the electronic format used for controlled substance reporting
518 to the Automation of Reports and Consolidated Orders System
519 division of the federal Drug Enforcement Administration.
520 Submission of electronic data must be made in a secured web
521 environment that allows for manual or automated transmission.
522 Upon successful transmission, an acknowledgement page must be
523 displayed to confirm receipt. The report must contain the
524 following information:

525 (a) The federal Drug Enforcement Administration
526 registration number of the wholesale distributing location.

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527 (b) The federal Drug Enforcement Administration
528 registration number of the entity to which the drugs are
529 distributed or from which the drugs are received.

530 (c) The transaction code that indicates the type of
531 transaction.

532 (d) The National Drug Code identifier of the product and
533 the quantity distributed or received.

534 (e) The Drug Enforcement Administration Form 222 number or
535 Controlled Substance Ordering System Identifier on all schedule
536 II transactions.

537 (f) The date of the transaction.

538
539 The department must share the reported data with the Department
540 of Law Enforcement and local law enforcement agencies upon
541 request, and must monitor purchasing to identify purchasing
542 levels that are inconsistent with the purchasing entity's
543 clinical needs. The Department of Law Enforcement shall
544 investigate purchases at levels that are inconsistent with the
545 purchasing entity's clinical needs to determine whether
546 violations of chapter 893 have occurred.

547 (15) DUE DILIGENCE.—Each wholesale distributor must
548 establish and maintain policies and procedures to credential
549 physicians licensed under chapter 459, chapter 459, chapter 461,
550 or chapter 466 and pharmacies that would purchase or otherwise
551 receive from the wholesale distributor controlled substances
552 listed in Schedule II or Schedule III as provided in s. 893.03.
553 The wholesale distributor shall maintain records of such

554 credentialing and make the records available to the department
555 upon request. Such credentialing must, at a minimum, include:

556 (a) A determination of the clinical nature of the
557 receiving entity, including any specialty practice area.

558 (b) A review of the receiving entity's history of Schedule
559 II and Schedule III controlled substance purchasing from the
560 wholesale distributor.

561 (c) A determination that the receiving entity's Schedule
562 II and Schedule III controlled substance purchasing history, if
563 any, is consistent with and reasonable for that entity's
564 clinical business needs.

565 (d) Documentation of a level 2 background screening
566 pursuant to chapter 435 through the department on any person who
567 owns a controlling interest in or, directly or indirectly,
568 manages, oversees, or controls the operation of the entity,
569 including officers and members of the board of directors of an
570 entity that is a corporation.

571
572 Wholesale distributors may not distribute more than 5,000 unit
573 doses of any one controlled substance to a retail pharmacy in
574 any given month. Wholesale distributors may not distribute
575 controlled substances to an entity if any criminal history
576 record check for any person associated with that entity shows
577 the person has been convicted of, or entered a plea of guilty or
578 nolo contendere to, regardless of adjudication, a crime in any
579 jurisdiction related to controlled substances, the practice of
580 pharmacy, or the dispensing of medicinal drugs.

581 Section 15. Paragraphs (o) and (p) are added to subsection
 582 (1) of section 499.05, Florida Statutes, to read:

583 499.05 Rules.—

584 (1) The department shall adopt rules to implement and
 585 enforce this part with respect to:

586 (o) Wholesale distributor reporting requirements of s.
 587 499.0121(14).

588 (p) Wholesale distributor credentialing requirements of s.
 589 499.0121(15).

590 Section 16. Subsection (8) is added to section 499.067,
 591 Florida Statutes, to read:

592 499.067 Denial, suspension, or revocation of permit,
 593 certification, or registration.—

594 (8) The department shall deny, suspend, or revoke a permit
 595 if it finds the permittee has not complied with the
 596 credentialing requirements of s. 499.0121(15).

597 Section 17. Paragraph (f) is added to subsection (3) of
 598 section 810.02, Florida Statutes, to read:

599 810.02 Burglary.—

600 (3) Burglary is a felony of the second degree, punishable
 601 as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the
 602 course of committing the offense, the offender does not make an
 603 assault or battery and is not and does not become armed with a
 604 dangerous weapon or explosive, and the offender enters or
 605 remains in a:

606 (f) Structure or conveyance when the offense intended to
 607 be committed therein is theft of a controlled substance as
 608 defined in s. 893.02. Notwithstanding any other law, separate

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609 judgments and sentences for burglary with the intent to commit
610 theft of a controlled substance under this paragraph and for any
611 applicable possession of controlled substance offense under s.
612 893.13 or trafficking in controlled substance offense under s.
613 893.135 may be imposed when all such offenses involve the same
614 amount or amounts of a controlled substance.

615
616 However, if the burglary is committed within a county that is
617 subject to a state of emergency declared by the Governor under
618 chapter 252 after the declaration of emergency is made and the
619 perpetration of the burglary is facilitated by conditions
620 arising from the emergency, the burglary is a felony of the
621 first degree, punishable as provided in s. 775.082, s. 775.083,
622 or s. 775.084. As used in this subsection, the term "conditions
623 arising from the emergency" means civil unrest, power outages,
624 curfews, voluntary or mandatory evacuations, or a reduction in
625 the presence of or response time for first responders or
626 homeland security personnel. A person arrested for committing a
627 burglary within a county that is subject to such a state of
628 emergency may not be released until the person appears before a
629 committing magistrate at a first appearance hearing. For
630 purposes of sentencing under chapter 921, a felony offense that
631 is reclassified under this subsection is ranked one level above
632 the ranking under s. 921.0022 or s. 921.0023 of the offense
633 committed.

634 Section 18. Paragraph (c) of subsection (2) of section
635 812.014, Florida Statutes, is amended to read:

636 812.014 Theft.—

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637 (2)

638 (c) It is grand theft of the third degree and a felony of

639 the third degree, punishable as provided in s. 775.082, s.

640 775.083, or s. 775.084, if the property stolen is:

641 1. Valued at \$300 or more, but less than \$5,000.

642 2. Valued at \$5,000 or more, but less than \$10,000.

643 3. Valued at \$10,000 or more, but less than \$20,000.

644 4. A will, codicil, or other testamentary instrument.

645 5. A firearm.

646 6. A motor vehicle, except as provided in paragraph (a).

647 7. Any commercially farmed animal, including any animal of

648 the equine, bovine, or swine class, or other grazing animal, and

649 including aquaculture species raised at a certified aquaculture

650 facility. If the property stolen is aquaculture species raised

651 at a certified aquaculture facility, then a \$10,000 fine shall

652 be imposed.

653 8. Any fire extinguisher.

654 9. Any amount of citrus fruit consisting of 2,000 or more

655 individual pieces of fruit.

656 10. Taken from a designated construction site identified

657 by the posting of a sign as provided for in s. 810.09(2)(d).

658 11. Any stop sign.

659 12. Anhydrous ammonia.

660 13. Any amount of a controlled substance as defined in s.

661 893.02. Notwithstanding any other law, separate judgments and

662 sentences for theft of a controlled substance under this

663 subparagraph and for any applicable possession of controlled

664 substance offense under s. 893.13 or trafficking in controlled

665 substance offense under s. 893.135 may be imposed when all such
666 offenses involve the same amount or amounts of a controlled
667 substance.

668
669 However, if the property is stolen within a county that is
670 subject to a state of emergency declared by the Governor under
671 chapter 252, the property is stolen after the declaration of
672 emergency is made, and the perpetration of the theft is
673 facilitated by conditions arising from the emergency, the
674 offender commits a felony of the second degree, punishable as
675 provided in s. 775.082, s. 775.083, or s. 775.084, if the
676 property is valued at \$5,000 or more, but less than \$10,000, as
677 provided under subparagraph 2., or if the property is valued at
678 \$10,000 or more, but less than \$20,000, as provided under
679 subparagraph 3. As used in this paragraph, the term "conditions
680 arising from the emergency" means civil unrest, power outages,
681 curfews, voluntary or mandatory evacuations, or a reduction in
682 the presence of or the response time for first responders or
683 homeland security personnel. For purposes of sentencing under
684 chapter 921, a felony offense that is reclassified under this
685 paragraph is ranked one level above the ranking under s.
686 921.0022 or s. 921.0023 of the offense committed.

687 Section 19. Subsections (4) and (5) of section 893.07,
688 Florida Statutes, are amended to read:

689 893.07 Records.—

690 (4) Every inventory or record required by this chapter,
691 including prescription records, shall be maintained:

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692 (a) Separately from all other records of the registrant,
 693 or

694 (b) Alternatively, in the case of Schedule III, IV, or V
 695 controlled substances, in such form that information required by
 696 this chapter is readily retrievable from the ordinary business
 697 records of the registrant.

698
 699 In either case, the records described in this subsection shall
 700 be kept and made available for a period of at least 2 years for
 701 inspection and copying by law enforcement officers whose duty it
 702 is to enforce the laws of this state relating to controlled
 703 substances. Law enforcement officers are not required to obtain
 704 a subpoena, court order, or search warrant in order to obtain
 705 access to or copies of such records.

706 (5) Each person described in subsection (1) shall:

707 (a) Maintain a record which shall contain a detailed list
 708 of controlled substances lost, destroyed, or stolen, if any; the
 709 kind and quantity of such controlled substances; and the date of
 710 the discovering of such loss, destruction, or theft.

711 (b) In the event of the discovery of the theft or loss of
 712 controlled substances, report such theft or loss to the sheriff
 713 of that county within 48 hours after its discovery. A person who
 714 fails to report a theft or loss of a substance listed in s.
 715 893.03(3), (4), or (5) within 48 hours after discovery as
 716 required in this paragraph commits a misdemeanor of the second
 717 degree, punishable as provided in s. 775.082 or s. 775.083. A
 718 person who fails to report a theft or loss of a substance listed
 719 in s. 893.03(2) within 48 hours after discovery as required in

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720 this paragraph commits a misdemeanor of the first degree,
 721 punishable as provided in s. 775.082 or s. 775.083.

722 Section 20. Section 2 of chapter 2009-198, Laws of
 723 Florida, is repealed.

724 Section 21.

725 (1) BUY-BACK PROGRAM.—Within 10 days after the effective
 726 date of this act, each physician licensed under chapter 458,
 727 chapter 459, chapter 461, or chapter 466, Florida Statutes,
 728 shall ensure that undispensed inventory of controlled substances
 729 listed in Schedule II or Schedule III as provided in s. 893.03,
 730 Florida Statutes, purchased under the physician's Drug
 731 Enforcement Administration number for dispensing is:

732 (a) Returned to the wholesale distributor, as defined in
 733 s. 499.003, Florida Statutes, which distributed them; or

734 (b) Turned in to local law enforcement agencies and
 735 abandoned.

736
 737 Wholesale distributors shall buy back the undispensed inventory
 738 of controlled substances listed in Schedule II or Schedule III
 739 as provided in s. 893.03, Florida Statutes, at the purchase
 740 price paid by the physician, physician practice, clinic, or
 741 other paying entity. Each wholesale distributor shall submit a
 742 report of its activities under this section to the Department of
 743 Health by August 1, 2011. The report shall include the following
 744 information:

745 1. The name and address of the returning entity.

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746 2. The Florida license, registration, or permit number and
747 Drug Enforcement Administration number of the entity that
748 originally ordered the drugs.

749 3. The drug name and number of unit doses returned.

750 4. The date of return.

751 (2) PUBLIC HEALTH EMERGENCY.—

752 (a) The Legislature finds that:

753 1. Prescription drug overdose has been declared a public
754 health epidemic by the United States Centers for Disease Control
755 and Prevention.

756 2. Prescription drug abuse results in an average of 7
757 deaths in this state each day.

758 3. Physicians in this state purchased over 85 percent of
759 the oxycodone purchased by all practitioners in the United
760 States in 2006.

761 4. Physicians in this state purchased over 93 percent of
762 the methadone purchased by all practitioners in the United
763 States in 2006.

764 5. Some physicians in this state dispense medically
765 unjustifiable amounts of controlled substances to addicts and
766 people who intend to illegally sell the drugs.

767 6. Physicians in this state who have purchased large
768 quantities of controlled substances may have significant
769 inventory on the effective date of this act.

770 7. On the effective date of this act, the only legal
771 method for a dispensing practitioner to sell or otherwise
772 transfer controlled substances listed in Schedule II or Schedule
773 III as provided in s. 893.03, Florida Statutes, purchased for

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774 dispensing is through the buy-back procedure or abandonment
775 procedures of subsection (1).

776 8. It is likely that the same physicians who purchase and
777 dispense medically unjustifiable amounts of drugs will not
778 legally dispose of remaining inventory.

779 9. The actions of such dispensing practitioners may result
780 in substantial injury to the public health.

781 (b) Immediately on the effective date of this act, the
782 State Health Officer shall declare a public health emergency
783 pursuant to s. 381.00315, Florida Statutes. Pursuant to that
784 declaration, the Department of Health, the Attorney General, the
785 Department of Law Enforcement, and local law enforcement
786 agencies shall take the following actions:

787 1. Within 2 days after the effective date of this act, in
788 consultation with wholesale distributors as defined in s.
789 499.003, Florida Statutes, the Department of Health shall
790 identify dispensing practitioners that purchased more than an
791 average of 2,000 unit doses of controlled substances listed in
792 Schedule II or Schedule III as provided in s. 893.03, Florida
793 Statutes, per month in the previous 6 months, and shall identify
794 the dispensing practitioners in that group who pose the greatest
795 threat to the public health based on an assessment of:

796 a. The risk of noncompliance with subsection (1).

797 b. Purchase amounts.

798 c. Manner of medical practice.

799 d. Any other factor set by the State Health Officer.

800

801 The Attorney General shall consult and coordinate with federal
 802 law enforcement agencies. The Department of Law Enforcement
 803 shall coordinate the efforts of local law enforcement agencies.

804 2. On the 3rd day after the effective date of this act,
 805 the Department of Law Enforcement or local law enforcement
 806 agencies shall enter the business premises of the dispensing
 807 practitioners identified as posing the greatest threat to public
 808 health and quarantine the inventory of controlled substances
 809 listed in Schedule II or Schedule III as provided in s. 893.03,
 810 Florida Statutes, of such dispensing practitioners on site.

811 3. The Department of Law Enforcement or local law
 812 enforcement agencies shall ensure the security of such inventory
 813 24 hours a day through the 10th day after the effective date of
 814 this act or until the inventory is validly transferred pursuant
 815 to subsection (1), whichever is earlier.

816 4. On the 11th day after the effective date of this act,
 817 any remaining inventory of controlled substances listed in
 818 Schedule II or Schedule III as provided in s. 893.03, Florida
 819 Statutes, purchased for dispensing by practitioners is deemed
 820 contraband under s. 893.12, Florida Statutes. The Department of
 821 Law Enforcement or local law enforcement agencies shall seize
 822 the inventory and comply with the provisions of s. 893.12,
 823 Florida Statutes, to destroy it.

824 (c) In order to implement the provisions of this section,
 825 the sum of \$3 million of nonrecurring funds from the General
 826 Revenue Fund is appropriated to the Department of Law
 827 Enforcement for the 2010-2011 fiscal year. The Department of Law
 828 Enforcement shall expend the appropriation by reimbursing local

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829 law enforcement agencies for the overtime-hour costs associated
830 with securing the quarantined controlled substance inventory as
831 provided in paragraph (b) and activities related to
832 investigation and prosecution of crimes related to prescribed
833 controlled substances. If requests for reimbursement exceed the
834 amount appropriated, the reimbursements shall be prorated by the
835 hours of overtime per requesting agency at a maximum of one law
836 enforcement officer per quarantine site.

837 (3) This section is repealed January 1, 2013.

838 Section 22. This act shall take effect upon becoming a
839 law.