A bill to be entitled
An act relating to controlled substances; amending ss. 456.037 and 456.057, F.S.; conforming provisions to changes made by the act; amending s. 456.42, F.S.; requiring prescriptions for controlled substances to be written on a counterfeit-resistant pad produced by an approved vendor or electronically prescribed; repealing s. 458.3265, F.S., relating to regulation of pain-management clinics and medical doctors; amending s. 458.327, F.S.; providing that dispensing certain controlled substances in violation of specified provisions is a third-degree felony; deleting references to felonies for certain activities related to pain-management clinics and medical doctors; amending s. 458.331, F.S.; deleting grounds for disciplinary actions against physicians relating to pain-management clinics and advertising controlled substances; repealing s. 459.0137, F.S., relating to pain-management clinics and osteopathic physicians; amending s. 459.013, F.S., relating to penalties for violations; providing that dispensing certain controlled substances in violation of specified provisions is a third-degree felony; deleting provisions relating to felonies for certain activities related to pain-management clinics and osteopathic physicians; amending s. 459.015, F.S.; deleting grounds for disciplinary actions against osteopathic physicians relating to pain-management clinics and advertising controlled substances; amending s. 465.015, F.S.; requiring a pharmacist, pharmacy intern, or other person...
employed by or at a pharmacy to report to the sheriff
within a specified period any instance in which a person
fraudulently obtained or attempted to fraudulently obtain
a controlled substance; providing criminal penalties;
providing requirements for reports; amending s. 465.018,
F.S.; limiting the community pharmacies that may dispense
controlled substances; providing an exemption; amending s.
465.0276, F.S.; prohibiting registered dispensing
practitioners from dispensing certain controlled
substances; providing an exception; repealing a 72-hour
supply limit on dispensing certain controlled substances
to certain patients in registered pain-management clinics;
providing an exception for dispensing controlled
substances in the health care system of the Department of
Corrections; amending s. 499.012, F.S.; requiring
wholesale distributor permit applicants to submit
documentation of credentialing policies; amending s.
499.0121, F.S.; providing reporting requirements for
wholesale distributors of certain controlled substances;
requiring the Department of Health to share the reported
data with law enforcement agencies; requiring the
Department of Law Enforcement to make investigations based
on the reported data; providing credentialing requirements
for distribution of controlled substances to certain
entities by wholesale distributors; limiting monthly
distribution amounts of controlled substances to retail
pharmacies; prohibiting distribution to entities with
certain criminal backgrounds; amending s. 499.05, F.S.;
authorizing rulemaking concerning specified controlled
substance wholesale distributor reporting requirements and
credentialing requirements; amending s. 499.067, F.S.;
requiring the Department of Health to take disciplinary
action against wholesale distributors failing to comply
with specified credentialing requirements; amending s.
810.02, F.S.; authorizing separate judgments and sentences
for burglary with the intent to commit theft of a
controlled substance under specified provisions and for
any applicable possession of controlled substance offense
under specified provisions in certain circumstances;
amending s. 812.014, F.S.; authorizing separate judgments
and sentences for theft of a controlled substance under
specified provisions and for any applicable possession of
controlled substance offense under specified provisions in
certain circumstances; amending s. 893.07, F.S.; providing
that law enforcement officers are not required to obtain a
subpoena, court order, or search warrant in order to
obtain access to or copies of specified controlled
substance inventory records; requiring reporting discovery
of the theft or loss of controlled substances to the
sheriff within a specified period; providing criminal
penalties; repealing s. 2 of chapter 2009-198, Laws of
Florida, relating to Program Implementation and Oversight
Task Force in the Executive Office of the Governor
concerning the electronic system established for the
prescription drug monitoring program; providing a buyback
program for undispensed controlled substance inventory
held by specified licensed physicians; requiring reports
of program; providing for a declaration of a public health
emergency; requiring certain actions relating to
dispensing practitioners identified as posing the greatest
threat to public health; providing an appropriation;
providing for future repeal of program provisions;
providing an effective date.

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

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

456.037 Business establishments; requirements for active
status licenses; delinquency; discipline; applicability.—
(5) This section applies to any business establishment
registered, permitted, or licensed by the department to do
business. Business establishments include, but are not limited
to, dental laboratories, electrology facilities, massage
establishments, and pharmacies, and pain management clinics
required to be registered under s. 458.3265 or s. 459.0137.

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

456.057 Ownership and control of patient records; report
or copies of records to be furnished.—
(9)(a)1. The department may obtain patient records
pursuant to a subpoena without written authorization from the
patient if the department and the probable cause panel of the
appropriate board, if any, find reasonable cause to believe that
a health care practitioner has excessively or inappropriately prescribed any controlled substance specified in chapter 893 in violation of this chapter or any professional practice act or that a health care practitioner has practiced his or her profession below that level of care, skill, and treatment required as defined by this chapter or any professional practice act and also find that appropriate, reasonable attempts were made to obtain a patient release. Notwithstanding the foregoing, the department need not attempt to obtain a patient release when investigating an offense involving the inappropriate prescribing, overprescribing, or diversion of controlled substances and the offense involves a pain-management clinic. The department may obtain patient records without patient authorization or subpoena from any pain-management clinic required to be licensed if the department has probable cause to believe that a violation of any provision of s. 458.3265 or s. 459.0137 is occurring or has occurred and reasonably believes that obtaining such authorization is not feasible due to the volume of the dispensing and prescribing activity involving controlled substances and that obtaining patient authorization or the issuance of a subpoena would jeopardize the investigation.

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

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

4. Notwithstanding subparagraphs 1.-3., when the
department investigates a professional liability claim or
undertakes action pursuant to s. 456.049 or s. 627.912, the
department may obtain patient records pursuant to a subpoena
without written authorization from the patient if the patient
refuses to cooperate or if the department attempts to obtain a
patient release and the failure to obtain the patient records
would be detrimental to the investigation.

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

456.42 Written prescriptions for medicinal drugs.—
(1) A written prescription for a medicinal drug issued by
a health care practitioner licensed by law to prescribe such
drug must be legibly printed or typed so as to be capable of
being understood by the pharmacist filling the prescription;
must contain the name of the prescribing practitioner, the name
and strength of the drug prescribed, the quantity of the drug
prescribed, and the directions for use of the drug; must be
dated; and must be signed by the prescribing practitioner on the
day when issued. A written prescription for a controlled
substance listed in chapter 893 must have the quantity of the
drug prescribed in both textual and numerical formats and must
be dated with the abbreviated month written out on the face of
the prescription. However, a prescription that is electronically
generated and transmitted must contain the name of the
prescribing practitioner, the name and strength of the drug
prescribed, the quantity of the drug prescribed in numerical
format, and the directions for use of the drug and must be dated
and signed by the prescribing practitioner only on the day
issued, which signature may be in an electronic format as defined in s. 668.003(4).

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

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

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

458.327 Penalty for violations.—

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

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

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

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

(d) Attempting to obtain or obtaining a position as a medical practitioner or medical resident in a clinic or hospital
through knowing misrepresentation of education, training, or experience.

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

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

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

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

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

1. The ownership of registered securities issued by a publicly held corporation or the ownership of securities issued by a publicly held corporation, the shares of which are traded on a national exchange or the over-the-counter market;
2. A physician's own practice, whether he or she is a sole practitioner or part of a group, when the health care good or service is prescribed or provided solely for the physician's own patients and is provided or performed by the physician or under the physician's supervision; or

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

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

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

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

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

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

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):
(oo) Dispensing a controlled substance listed in Schedule II or Schedule III in violation of s. 465.0276. Applicable to a licensee who serves as the designated physician of a pain-management clinic as defined in s. 458.3265 or s. 459.0137:

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

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


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

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

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

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

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

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

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

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

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

459.013 Penalty for violations.—
(1) Each of the following acts constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:
(e) Dispensing a controlled substance listed in Schedule II or Schedule III in violation of s. 465.0276. Knowingly operating, owning, or managing a nonregistered pain-management clinic that is required to be registered with the Department of Health pursuant to s. 459.0137(1).

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

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

Section 9. Paragraphs (qq), (rr), and (ss) of subsection (1) of section 459.015, Florida Statutes, are amended to read:

459.015 Grounds for disciplinary action; action by the board and department.—

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

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

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

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

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

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

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

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

8. Dispensing any medicinal drug based upon a communication that purports to be a prescription as defined in s. 465.003(14) or s. 893.02 if the dispensing practitioner knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship; or
9. Failing to timely notify the board of the date of his or her termination from a pain-management clinic as required by s. 459.0137(2).

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

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

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

465.015 Violations and penalties.—

(3) It is unlawful for any pharmacist, pharmacy intern, or other person employed by or at a pharmacy to fail to report to the sheriff of the county where the pharmacy is located within 24 hours after learning of any instance in which a person obtained or attempted to obtain a controlled substance, as defined in s. 893.02, that the pharmacist, pharmacy intern, or other person employed by or at the pharmacy knew or reasonably should have known was obtained or attempted to be obtained from the pharmacy though fraudulent methods or representations. Any pharmacist, pharmacy intern, or other person employed by or at a pharmacy who fails to make such a report within 24 hours after learning of the fraud or attempted fraud commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s.
775.083. A sufficient report of the fraudulent obtaining of
controlled substances under this subsection shall contain, at a
minimum, a copy of the prescription used or presented and a
narrative, including all information available to the pharmacy
concerning the transaction, such as the name and telephone
number of the prescribing physician; the name, description, and
any personal identification information pertaining to the person
who presented the prescription; and all other material
information, such as photographic or video surveillance of the
transaction.

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

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

465.018 Community pharmacies; permits.—
(1) Any person desiring a permit to operate a community
pharmacy shall apply to the department. If the board office
certifies that the application complies with the laws of the
state and the rules of the board governing pharmacies, the
department shall issue the permit. No permit shall be issued
unless a licensed pharmacist is designated as the prescription
department manager responsible for maintaining all drug records, providing for the security of the prescription department, and following such other rules as relate to the practice of the profession of pharmacy. The permittee and the newly designated prescription department manager shall notify the department within 10 days of any change in prescription department manager.

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

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

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

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

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

465.0276 Dispensing practitioner.—

(1)

(b) A practitioner registered under this section may not dispense a controlled substance listed in Schedule II or Schedule III as provided in s. 893.03. A practitioner registered under this section may not dispense more than a 72-hour supply of a controlled substance listed in Schedule II, Schedule III, Schedule IV, or Schedule V of s. 893.03 for any patient who pays for the medication by cash, check, or credit card in a clinic registered under s. 458.3265 or s. 459.0137. A practitioner who violates this paragraph commits a felony of the third degree,
punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

This paragraph does not apply to:

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

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

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

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

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

499.012 Permit application requirements.—
(8) An application for a permit or to renew a permit for a prescription drug wholesale distributor or an out-of-state prescription drug wholesale distributor submitted to the department must include:

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

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

499.0121 Storage and handling of prescription drugs; recordkeeping.—The department shall adopt rules to implement this section as necessary to protect the public health, safety,
and welfare. Such rules shall include, but not be limited to, requirements for the storage and handling of prescription drugs and for the establishment and maintenance of prescription drug distribution records.

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

(a) The federal Drug Enforcement Administration registration number of the wholesale distributing location.
(b) The federal Drug Enforcement Administration registration number of the entity to which the drugs are distributed or from which the drugs are received.

c) The transaction code that indicates the type of transaction.

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

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

(f) The date of the transaction.

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

(15) DUE DILIGENCE.—Each wholesale distributor must establish and maintain policies and procedures to credential physicians licensed under chapter 459, chapter 459, chapter 461, or chapter 466 and pharmacies that would purchase or otherwise receive from the wholesale distributor controlled substances listed in Schedule II or Schedule III as provided in s. 893.03. The wholesale distributor shall maintain records of such
credentialing and make the records available to the department upon request. Such credentialing must, at a minimum, include:

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

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

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

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

Wholesale distributors may not distribute more than 5,000 unit doses of any one controlled substance to a retail pharmacy in any given month. Wholesale distributors may not distribute controlled substances to an entity if any criminal history record check for any person associated with that entity shows the person has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction related to controlled substances, the practice of pharmacy, or the dispensing of medicinal drugs.
Section 15. Paragraphs (o) and (p) are added to subsection (1) of section 499.05, Florida Statutes, to read:

499.05 Rules.—

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

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

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

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

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

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

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

810.02 Burglary.—

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

(f) Structure or conveyance when the offense intended to be committed therein is theft of a controlled substance as defined in s. 893.02. Notwithstanding any other law, separate
judgments and sentences for burglary with the intent to commit
theft of a controlled substance under this paragraph and for any
applicable possession of controlled substance offense under s. 893.13 or trafficking in controlled substance offense under s. 893.135 may be imposed when all such offenses involve the same
amount or amounts of a controlled substance.

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

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

812.014 Theft.—
(c) It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is:

1. Valued at $300 or more, but less than $5,000.
2. Valued at $5,000 or more, but less than $10,000.
3. Valued at $10,000 or more, but less than $20,000.
4. A will, codicil, or other testamentary instrument.
5. A firearm.
6. A motor vehicle, except as provided in paragraph (a).
7. Any commercially farmed animal, including any animal of the equine, bovine, or swine class, or other grazing animal, and including aquaculture species raised at a certified aquaculture facility. If the property stolen is aquaculture species raised at a certified aquaculture facility, then a $10,000 fine shall be imposed.

8. Any fire extinguisher.
9. Any amount of citrus fruit consisting of 2,000 or more individual pieces of fruit.
10. Taken from a designated construction site identified by the posting of a sign as provided for in s. 810.09(2)(d).
11. Any stop sign.
13. Any amount of a controlled substance as defined in s. 893.02. Notwithstanding any other law, separate judgments and sentences for theft of a controlled substance under this subparagraph and for any applicable possession of controlled substance offense under s. 893.13 or trafficking in controlled

Page 24 of 31
substance offense under s. 893.135 may be imposed when all such offenses involve the same amount or amounts of a controlled substance.

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

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

893.07 Records.—
(4) Every inventory or record required by this chapter, including prescription records, shall be maintained:
(a) Separately from all other records of the registrant, or
(b) Alternatively, in the case of Schedule III, IV, or V controlled substances, in such form that information required by this chapter is readily retrievable from the ordinary business records of the registrant.

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

(5) Each person described in subsection (1) shall:
   (a) Maintain a record which shall contain a detailed list of controlled substances lost, destroyed, or stolen, if any; the kind and quantity of such controlled substances; and the date of the discovering of such loss, destruction, or theft.
   (b) In the event of the discovery of the theft or loss of controlled substances, report such theft or loss to the sheriff of that county within 48 hours after its discovery. A person who fails to report a theft or loss of a substance listed in s. 893.03(3), (4), or (5) within 48 hours after discovery as required in this paragraph commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A person who fails to report a theft or loss of a substance listed in s. 893.03(2) within 48 hours after discovery as required in
this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

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

Section 21.

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

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

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

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

1. The name and address of the returning entity.
2. The Florida license, registration, or permit number and Drug Enforcement Administration number of the entity that originally ordered the drugs.

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

4. The date of return.

(2) PUBLIC HEALTH EMERGENCY.—
(a) The Legislature finds that:
1. Prescription drug overdose has been declared a public health epidemic by the United States Centers for Disease Control and Prevention.

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

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

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

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

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

7. On the effective date of this act, the only legal method for a dispensing practitioner to sell or otherwise transfer controlled substances listed in Schedule II or Schedule III as provided in s. 893.03, Florida Statutes, purchased for
dispensing is through the buy-back procedure or abandonment procedures of subsection (1).

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

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

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

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

   a. The risk of noncompliance with subsection (1).
   b. Purchase amounts.
   c. Manner of medical practice.
   d. Any other factor set by the State Health Officer.
The Attorney General shall consult and coordinate with federal law enforcement agencies. The Department of Law Enforcement shall coordinate the efforts of local law enforcement agencies.

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

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

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

(c) In order to implement the provisions of this section, the sum of $3 million of nonrecurring funds from the General Revenue Fund is appropriated to the Department of Law Enforcement for the 2010-2011 fiscal year. The Department of Law Enforcement shall expend the appropriation by reimbursing local
law enforcement agencies for the overtime-hour costs associated with securing the quarantined controlled substance inventory as provided in paragraph (b) and activities related to investigation and prosecution of crimes related to prescribed controlled substances. If requests for reimbursement exceed the amount appropriated, the reimbursements shall be prorated by the hours of overtime per requesting agency at a maximum of one law enforcement officer per quarantine site.

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

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