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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; repealing s. 458.3265, F.S.,  
5 relating to regulation of pain-management clinics and  
6 medical doctors; amending s. 458.327, F.S.; providing that  
7 dispensing certain controlled substances in violation of  
8 specified provisions is a third-degree felony; deleting  
9 references to felonies for certain activities related to  
10 pain-management clinics and medical doctors; amending s.  
11 458.331, F.S.; deleting grounds for disciplinary actions  
12 against physicians relating to pain-management clinics and  
13 advertising controlled substances; repealing s. 459.0137,  
14 F.S., relating to pain-management clinics and osteopathic  
15 physicians; amending s. 459.013, F.S., relating to  
16 penalties for violations; providing that dispensing  
17 certain controlled substances in violation of specified  
18 provisions is a third-degree felony; deleting provisions  
19 relating to felonies for certain activities related to  
20 pain-management clinics and osteopathic physicians;  
21 amending s. 459.015, F.S.; deleting grounds for  
22 disciplinary actions against osteopathic physicians  
23 relating to pain-management clinics and advertising  
24 controlled substances; amending s. 465.015, F.S.;  
25 requiring a pharmacist, pharmacy intern, or other person  
26 employed by or at a pharmacy to report to the sheriff  
27 within a specified period any instance in which a person  
28 fraudulently obtained or attempted to fraudulently obtain

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29 a controlled substance; providing criminal penalties;  
30 providing requirements for reports; amending s. 465.0276,  
31 F.S.; prohibiting registered dispensing practitioners from  
32 dispensing certain controlled substances; providing an  
33 exception; repealing a 72-hour supply limit on dispensing  
34 certain controlled substances to certain patients in  
35 registered pain-management clinics; providing an exception  
36 for dispensing controlled substances in the health care  
37 system of the Department of Corrections; amending s.  
38 499.005, F.S.; prohibiting distribution of certain  
39 controlled substances by specified practitioners; amending  
40 s. 499.0121, F.S.; providing reporting requirements for  
41 wholesale distributors of certain controlled substances;  
42 amending s. 499.05, F.S.; authorizing rulemaking  
43 concerning specified controlled substance wholesale  
44 distributor reporting requirements; amending s. 810.02,  
45 F.S.; authorizing separate judgments and sentences for  
46 burglary with the intent to commit theft of a controlled  
47 substance under specified provisions and for any  
48 applicable possession of controlled substance offense  
49 under specified provisions in certain circumstances;  
50 amending s. 812.014, F.S.; authorizing separate judgments  
51 and sentences for theft of a controlled substance under  
52 specified provisions and for any applicable possession of  
53 controlled substance offense under specified provisions in  
54 certain circumstances; amending s. 893.07, F.S.; providing  
55 that law enforcement officers are not required to obtain a  
56 subpoena, court order, or search warrant in order to

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57 obtain access to or copies of specified controlled  
58 substance inventory records; requiring reporting discovery  
59 of the theft or loss of controlled substances to the  
60 sheriff within a specified period; providing criminal  
61 penalties; repealing s. 2 of chapter 2009-198, Laws of  
62 Florida, relating to Program Implementation and Oversight  
63 Task Force in the Executive Office of the Governor  
64 concerning the electronic system established for the  
65 prescription drug monitoring program; providing a buyback  
66 program for undispensed controlled substance inventory  
67 held by specified licensed physicians; requiring reports  
68 of program; providing for a declaration of a public health  
69 emergency; requiring certain actions relating to  
70 dispensing practitioners identified as posing the greatest  
71 threat to public health; providing an appropriation;  
72 providing for future repeal of program provisions;  
73 providing an effective date.

74  
75 Be It Enacted by the Legislature of the State of Florida:

76  
77 Section 1. Subsection (5) of section 456.037, Florida  
78 Statutes, is amended to read:

79 456.037 Business establishments; requirements for active  
80 status licenses; delinquency; discipline; applicability.—

81 (5) This section applies to any business establishment  
82 registered, permitted, or licensed by the department to do  
83 business. Business establishments include, but are not limited  
84 to, dental laboratories, electrology facilities, massage

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85 establishments, and pharmacies, ~~and pain management clinics~~  
 86 ~~required to be registered under s. 458.3265 or s. 459.0137.~~

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

89 456.057 Ownership and control of patient records; report  
 90 or copies of records to be furnished.—

91 (9) (a) 1. The department may obtain patient records  
 92 pursuant to a subpoena without written authorization from the  
 93 patient if the department and the probable cause panel of the  
 94 appropriate board, if any, find reasonable cause to believe that  
 95 a health care practitioner has excessively or inappropriately  
 96 prescribed any controlled substance specified in chapter 893 in  
 97 violation of this chapter or any professional practice act or  
 98 that a health care practitioner has practiced his or her  
 99 profession below that level of care, skill, and treatment  
 100 required as defined by this chapter or any professional practice  
 101 act and also find that appropriate, reasonable attempts were  
 102 made to obtain a patient release. ~~Notwithstanding the foregoing,~~  
 103 ~~the department need not attempt to obtain a patient release when~~  
 104 ~~investigating an offense involving the inappropriate~~  
 105 ~~prescribing, overprescribing, or diversion of controlled~~  
 106 ~~substances and the offense involves a pain-management clinic.~~  
 107 ~~The department may obtain patient records without patient~~  
 108 ~~authorization or subpoena from any pain-management clinic~~  
 109 ~~required to be licensed if the department has probable cause to~~  
 110 ~~believe that a violation of any provision of s. 458.3265 or s.~~  
 111 ~~459.0137 is occurring or has occurred and reasonably believes~~  
 112 ~~that obtaining such authorization is not feasible due to the~~

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113 ~~volume of the dispensing and prescribing activity involving~~  
114 ~~controlled substances and that obtaining patient authorization~~  
115 ~~or the issuance of a subpoena would jeopardize the~~  
116 ~~investigation.~~

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

125 3. The department may obtain patient records, billing  
126 records, insurance information, provider contracts, and all  
127 attachments thereto pursuant to a subpoena without written  
128 authorization from the patient if the department and probable  
129 cause panel of the appropriate board, if any, find reasonable  
130 cause to believe that a health care practitioner has submitted a  
131 claim, statement, or bill using a billing code that would result  
132 in payment greater in amount than would be paid using a billing  
133 code that accurately describes the services performed, requested  
134 payment for services that were not performed by that health care  
135 practitioner, used information derived from a written report of  
136 an automobile accident generated pursuant to chapter 316 to  
137 solicit or obtain patients personally or through an agent  
138 regardless of whether the information is derived directly from  
139 the report or a summary of that report or from another person,  
140 solicited patients fraudulently, received a kickback as defined

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141 in s. 456.054, violated the patient brokering provisions of s.  
 142 817.505, or presented or caused to be presented a false or  
 143 fraudulent insurance claim within the meaning of s.  
 144 817.234(1)(a), and also find that, within the meaning of s.  
 145 817.234(1)(a), patient authorization cannot be obtained because  
 146 the patient cannot be located or is deceased, incapacitated, or  
 147 suspected of being a participant in the fraud or scheme, and if  
 148 the subpoena is issued for specific and relevant records.

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

157 Section 3. Section 458.3265, Florida Statutes, is  
 158 repealed.

159 Section 4. Section 458.327, Florida Statutes, is amended  
 160 to read:

161 458.327 Penalty for violations.—

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

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

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

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

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

175 (e) Dispensing a controlled substance listed in Schedule  
 176 II, Schedule III, Schedule IV, or Schedule V in violation of s.  
 177 465.0276. Knowingly operating, owning, or managing a  
 178 nonregistered pain-management clinic that is required to be  
 179 registered with the Department of Health pursuant to s.  
 180 458.3265(1).

181 (2) Each of the following acts constitutes a misdemeanor  
 182 of the first degree, punishable as provided in s. 775.082 or s.  
 183 775.083:

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

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

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

197 1. The ownership of registered securities issued by a  
 198 publicly held corporation or the ownership of securities issued  
 199 by a publicly held corporation, the shares of which are traded  
 200 on a national exchange or the over-the-counter market;

201 2. A physician's own practice, whether he or she is a sole  
 202 practitioner or part of a group, when the health care good or  
 203 service is prescribed or provided solely for the physician's own  
 204 patients and is provided or performed by the physician or under  
 205 the physician's supervision; or

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

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

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

217 ~~(f) Knowingly prescribing or dispensing, or causing to be~~  
 218 ~~prescribed or dispensed, controlled substances in a~~  
 219 ~~nonregistered pain-management clinic that is required to be~~  
 220 ~~registered with the Department of Health pursuant to s.~~  
 221 ~~458.3265(1).~~

222 Section 5. Paragraphs (oo), (pp), and (qq) of subsection  
 223 (1) of section 458.331, Florida Statutes, are amended to read:  
 224 458.331 Grounds for disciplinary action; action by the



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225 board and department.-

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

228 (oo) Dispensing a controlled substance listed in Schedule  
229 II, Schedule III, Schedule IV, or Schedule V in violation of s.  
230 465.0276. Applicable to a licensee who serves as the designated  
231 physician of a pain management clinic as defined in s. 458.3265  
232 or s. 459.0137:

233 1. ~~Registering a pain management clinic through~~  
234 ~~misrepresentation or fraud;~~

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

238 3. ~~Failing to comply with any requirement of chapter 499,~~  
239 ~~the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the~~  
240 ~~Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq.,~~  
241 ~~the Drug Abuse Prevention and Control Act; or chapter 893, the~~  
242 ~~Florida Comprehensive Drug Abuse Prevention and Control Act;~~

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

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

252 6. ~~Being convicted of, or entering a plea of guilty or~~

253 ~~nolo contendere to, regardless of adjudication, a crime in any~~  
 254 ~~jurisdiction of the courts of this state, of any other state, or~~  
 255 ~~of the United States which relates to the practice of, or the~~  
 256 ~~ability to practice, a licensed health care profession;~~

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

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

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

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

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

276 Section 6. Section 459.0137, Florida Statutes, is  
 277 repealed.

278 Section 7. Paragraph (e) of subsection (1) and paragraph  
 279 (d) of subsection (2) of section 459.013, Florida Statutes, are  
 280 amended to read:

281 459.013 Penalty for violations.—

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

285 (e) Dispensing a controlled substance listed in Schedule  
 286 II, Schedule III, Schedule IV, or Schedule V in violation of s.  
 287 465.0276. ~~Knowingly operating, owning, or managing a~~  
 288 ~~nonregistered pain-management clinic that is required to be~~  
 289 ~~registered with the Department of Health pursuant to s.~~  
 290 ~~459.0137(1).~~

291 (2) Each of the following acts constitutes a misdemeanor  
 292 of the first degree, punishable as provided in s. 775.082 or s.  
 293 775.083:

294 ~~(d) Knowingly prescribing or dispensing, or causing to be~~  
 295 ~~prescribed or dispensed, controlled substances in a~~  
 296 ~~nonregistered pain-management clinic that is required to be~~  
 297 ~~registered with the Department of Health pursuant to s.~~  
 298 ~~459.0137(1).~~

299 Section 8. Paragraphs (qq), (rr), and (ss) of subsection  
 300 (1) of section 459.015, Florida Statutes, are amended to read:

301 459.015 Grounds for disciplinary action; action by the  
 302 board and department.—

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

305 (qq) Dispensing a controlled substance listed in Schedule  
 306 II, Schedule III, Schedule IV, or Schedule V in violation of s.  
 307 465.0276. ~~Applicable to a licensee who serves as the designated~~  
 308 ~~physician of a pain-management clinic as defined in s. 458.3265~~

309 ~~or s. 459.0137:~~

310       1. ~~Registering a pain-management clinic through~~

311 ~~misrepresentation or fraud;~~

312       2. ~~Procuring, or attempting to procure, the registration~~

313 ~~of a pain-management clinic for any other person by making or~~

314 ~~causing to be made, any false representation;~~

315       3. ~~Failing to comply with any requirement of chapter 499,~~

316 ~~the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the~~

317 ~~Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq.,~~

318 ~~the Drug Abuse Prevention and Control Act; or chapter 893, the~~

319 ~~Florida Comprehensive Drug Abuse Prevention and Control Act;~~

320       4. ~~Being convicted or found guilty of, regardless of~~

321 ~~adjudication to, a felony or any other crime involving moral~~

322 ~~turpitude, fraud, dishonesty, or deceit in any jurisdiction of~~

323 ~~the courts of this state, of any other state, or of the United~~

324 ~~States;~~

325       5. ~~Being convicted of, or disciplined by a regulatory~~

326 ~~agency of the Federal Government or a regulatory agency of~~

327 ~~another state for, any offense that would constitute a violation~~

328 ~~of this chapter;~~

329       6. ~~Being convicted of, or entering a plea of guilty or~~

330 ~~nolo contendere to, regardless of adjudication, a crime in any~~

331 ~~jurisdiction of the courts of this state, of any other state, or~~

332 ~~of the United States which relates to the practice of, or the~~

333 ~~ability to practice, a licensed health care profession;~~

334       7. ~~Being convicted of, or entering a plea of guilty or~~

335 ~~nolo contendere to, regardless of adjudication, a crime in any~~

336 ~~jurisdiction of the courts of this state, of any other state, or~~

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337 ~~of the United States which relates to health care fraud;~~

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

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

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

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

353 Section 9. Subsections (3) and (4) of section 465.015,  
354 Florida Statutes, are renumbered as subsections (4) and (5),  
355 respectively, a new subsection (3) is added to that section, and  
356 present subsection (4) of that section is amended, to read:

357 465.015 Violations and penalties.—

358 (3) It is unlawful for any pharmacist, pharmacy intern, or  
359 other person employed by or at a pharmacy to fail to report to  
360 the sheriff of the county where the pharmacy is located within  
361 24 hours after learning of any instance in which a person  
362 obtained or attempted to obtain a controlled substance, as  
363 defined in s. 893.02, that the pharmacist, pharmacy intern, or  
364 other person employed by or at the pharmacy knew or reasonably

365 should have known was obtained or attempted to be obtained from  
 366 the pharmacy through fraudulent methods or representations. Any  
 367 pharmacist, pharmacy intern, or other person employed by or at a  
 368 pharmacy who fails to make such a report within 24 hours after  
 369 learning of the fraud or attempted fraud commits a misdemeanor  
 370 of the first degree, punishable as provided in s. 775.082 or s.  
 371 775.083. A sufficient report of the fraudulent obtaining of  
 372 controlled substances under this subsection shall contain, at a  
 373 minimum, a copy of the prescription used or presented and a  
 374 narrative, including all information available to the pharmacy  
 375 concerning the transaction, such as the name and telephone  
 376 number of the prescribing physician; the name, description, and  
 377 any personal identification information pertaining to the person  
 378 who presented the prescription; and all other material  
 379 information, such as photographic or video surveillance of the  
 380 transaction.

381 (5)~~(4)~~ Any person who violates any provision of subsection  
 382 (1) or subsection (4) ~~(3)~~ commits a misdemeanor of the first  
 383 degree, punishable as provided in s. 775.082 or s. 775.083. Any  
 384 person who violates any provision of subsection (2) commits a  
 385 felony of the third degree, punishable as provided in s.  
 386 775.082, s. 775.083, or s. 775.084. In any warrant, information,  
 387 or indictment, it shall not be necessary to negative any  
 388 exceptions, and the burden of any exception shall be upon the  
 389 defendant.

390 Section 10. Paragraph (b) of subsection (1) of section  
 391 465.0276, Florida Statutes, is amended to read:

392 465.0276 Dispensing practitioner.—

393 (1)  
 394 (b) A practitioner registered under this section may not  
 395 dispense a controlled substance listed in Schedule II, Schedule  
 396 III, Schedule IV, or Schedule V as provided in s. 893.03. A  
 397 ~~practitioner registered under this section may not dispense more~~  
 398 ~~than a 72-hour supply of a controlled substance listed in~~  
 399 ~~Schedule II, Schedule III, Schedule IV, or Schedule V of s.~~  
 400 ~~893.03 for any patient who pays for the medication by cash,~~  
 401 ~~check, or credit card in a clinic registered under s. 458.3265~~  
 402 ~~or s. 459.0137. A practitioner who violates this paragraph~~  
 403 ~~commits a felony of the third degree, punishable as provided in~~  
 404 ~~s. 775.082, s. 775.083, or s. 775.084. This paragraph does not~~  
 405 ~~apply to:~~

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

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

411 ~~1.3.~~ The dispensing of complimentary packages of medicinal  
 412 drugs to the practitioner's own patients in the regular course  
 413 of her or his practice without the payment of a fee or  
 414 remuneration of any kind, whether direct or indirect, as  
 415 provided in subsection (5).

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

418 Section 11. Subsection (30) is added to section 499.005,  
 419 Florida Statutes, to read:

420 499.005 Prohibited acts.—It is unlawful for a person to

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421 perform or cause the performance of any of the following acts in  
422 this state:

423 (30) The distribution of a controlled substance in  
424 Schedule II, Schedule III, Schedule IV, or Schedule V as  
425 provided in s. 893.03 to, or under the Drug Enforcement  
426 Administration number of, any practitioner licensed under  
427 chapter 458, chapter 459, chapter 461, or chapter 466, including  
428 practitioners designated pursuant to s. 499.01(1)(t).

429 Section 12. Subsection (14) is added to section 499.0121,  
430 Florida Statutes, to read:

431 499.0121 Storage and handling of prescription drugs;  
432 recordkeeping.—The department shall adopt rules to implement  
433 this section as necessary to protect the public health, safety,  
434 and welfare. Such rules shall include, but not be limited to,  
435 requirements for the storage and handling of prescription drugs  
436 and for the establishment and maintenance of prescription drug  
437 distribution records.

438 (14) DISTRIBUTION REPORTING.—Each wholesale distributor  
439 shall submit a report of its distributions of controlled  
440 substances listed in Schedule II, Schedule III, Schedule IV, or  
441 Schedule V as provided in s. 893.03 to the department. The  
442 report shall be submitted weekly, in an electronic format  
443 specified by the department. The report shall contain the  
444 following information:

445 (a) The name and address of the entity to which the drugs  
446 are distributed.



447       (b) The Florida license, registration, or permit number  
 448 and Drug Enforcement Administration number of the entity that  
 449 ordered the drugs.

450       (c) The name and address of the entity rendering payment  
 451 for the drugs, if different than that reported under paragraphs  
 452 (a) and (b).

453       (d) The drug name, lot and batch number, and number of  
 454 unit doses distributed.

455       (e) The date of sale.

456       Section 13. Paragraph (o) is added to subsection (1) of  
 457 section 499.05, Florida Statutes, to read:

458       499.05 Rules.—

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

461       (o) Wholesale distributor reporting requirements of s.  
 462 499.0121(14).

463       Section 14. Paragraph (f) is added to subsection (3) of  
 464 section 810.02, Florida Statutes, to read:

465       810.02 Burglary.—

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

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

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475 judgments and sentences for burglary with the intent to commit  
 476 theft of a controlled substance under this paragraph and for any  
 477 applicable possession of controlled substance offense under s.  
 478 893.13 or trafficking in controlled substance offense under s.  
 479 893.135 may be imposed when all such offenses involve the same  
 480 amount or amounts of a controlled substance.

481  
 482 However, if the burglary is committed within a county that is  
 483 subject to a state of emergency declared by the Governor under  
 484 chapter 252 after the declaration of emergency is made and the  
 485 perpetration of the burglary is facilitated by conditions  
 486 arising from the emergency, the burglary is a felony of the  
 487 first degree, punishable as provided in s. 775.082, s. 775.083,  
 488 or s. 775.084. As used in this subsection, the term "conditions  
 489 arising from the emergency" means civil unrest, power outages,  
 490 curfews, voluntary or mandatory evacuations, or a reduction in  
 491 the presence of or response time for first responders or  
 492 homeland security personnel. A person arrested for committing a  
 493 burglary within a county that is subject to such a state of  
 494 emergency may not be released until the person appears before a  
 495 committing magistrate at a first appearance hearing. For  
 496 purposes of sentencing under chapter 921, a felony offense that  
 497 is reclassified under this subsection is ranked one level above  
 498 the ranking under s. 921.0022 or s. 921.0023 of the offense  
 499 committed.

500 Section 15. Paragraph (c) of subsection (2) of section  
 501 812.014, Florida Statutes, is amended to read:

502 812.014 Theft.—

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503 (2)

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

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

506 775.083, or s. 775.084, if the property stolen is:

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

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

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

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

511 5. A firearm.

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

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

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

515 including aquaculture species raised at a certified aquaculture

516 facility. If the property stolen is aquaculture species raised

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

518 be imposed.

519 8. Any fire extinguisher.

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

521 individual pieces of fruit.

522 10. Taken from a designated construction site identified

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

524 11. Any stop sign.

525 12. Anhydrous ammonia.

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

527 893.02. Notwithstanding any other law, separate judgments and

528 sentences for theft of a controlled substance under this

529 subparagraph and for any applicable possession of controlled

530 substance offense under s. 893.13 or trafficking in controlled

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531 substance offense under s. 893.135 may be imposed when all such  
532 offenses involve the same amount or amounts of a controlled  
533 substance.

534

535 However, if the property is stolen within a county that is  
536 subject to a state of emergency declared by the Governor under  
537 chapter 252, the property is stolen after the declaration of  
538 emergency is made, and the perpetration of the theft is  
539 facilitated by conditions arising from the emergency, the  
540 offender commits a felony of the second degree, punishable as  
541 provided in s. 775.082, s. 775.083, or s. 775.084, if the  
542 property is valued at \$5,000 or more, but less than \$10,000, as  
543 provided under subparagraph 2., or if the property is valued at  
544 \$10,000 or more, but less than \$20,000, as provided under  
545 subparagraph 3. As used in this paragraph, the term "conditions  
546 arising from the emergency" means civil unrest, power outages,  
547 curfews, voluntary or mandatory evacuations, or a reduction in  
548 the presence of or the response time for first responders or  
549 homeland security personnel. For purposes of sentencing under  
550 chapter 921, a felony offense that is reclassified under this  
551 paragraph is ranked one level above the ranking under s.  
552 921.0022 or s. 921.0023 of the offense committed.

553 Section 16. Subsections (4) and (5) of section 893.07,  
554 Florida Statutes, are amended to read:

555 893.07 Records.—

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

558 (a) Separately from all other records of the registrant,

559 | or

560 |         (b) Alternatively, in the case of Schedule III, IV, or V  
561 | controlled substances, in such form that information required by  
562 | this chapter is readily retrievable from the ordinary business  
563 | records of the registrant.

564 |  
565 | In either case, the records described in this subsection shall  
566 | be kept and made available for a period of at least 2 years for  
567 | inspection and copying by law enforcement officers whose duty it  
568 | is to enforce the laws of this state relating to controlled  
569 | substances. Law enforcement officers are not required to obtain  
570 | a subpoena, court order, or search warrant in order to obtain  
571 | access to or copies of such records.

572 |         (5) Each person described in subsection (1) shall:

573 |         (a) Maintain a record which shall contain a detailed list  
574 | of controlled substances lost, destroyed, or stolen, if any; the  
575 | kind and quantity of such controlled substances; and the date of  
576 | the discovering of such loss, destruction, or theft.

577 |         (b) In the event of the discovery of the theft or loss of  
578 | controlled substances, report such theft or loss to the sheriff  
579 | of that county within 48 hours after its discovery. A person who  
580 | fails to report a theft or loss of a substance listed in s.  
581 | 893.03(3), (4), or (5) within 48 hours after discovery as  
582 | required in this paragraph commits a misdemeanor of the second  
583 | degree, punishable as provided in s. 775.082 or s. 775.083. A  
584 | person who fails to report a theft or loss of a substance listed  
585 | in s. 893.03(2) within 48 hours after discovery as required in  
586 | this paragraph commits a misdemeanor of the first degree,

587 punishable as provided in s. 775.082 or s. 775.083.

588 Section 17. Section 2 of chapter 2009-198, Laws of  
 589 Florida, is repealed.

590 Section 18. (1) BUY-BACK PROGRAM.—Within 10 days after  
 591 the effective date of this act, each physician licensed under  
 592 chapter 458, chapter 459, chapter 461, or chapter 466, Florida  
 593 Statutes, shall ensure that undispensed controlled substance  
 594 inventory purchased under the physician's Drug Enforcement  
 595 Administration number for dispensing is:

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

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

600  
 601 Wholesale distributors shall buy back undispensed controlled  
 602 substance inventory at the purchase price paid by the physician,  
 603 physician practice, clinic, or other paying entity. Each  
 604 wholesale distributor shall submit a report of its activities  
 605 under this section to the Department of Health by August 1,  
 606 2011. The report shall include the following information:

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

608 2. The Florida license, registration, or permit number and  
 609 Drug Enforcement Administration number of the entity that  
 610 originally ordered the drugs.

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

612 4. The date of return.

613 (2) PUBLIC HEALTH EMERGENCY.—

614 (a) The Legislature finds that:

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615 1. Prescription drug overdose has been declared a public  
616 health epidemic by the United States Centers for Disease Control  
617 and Prevention.

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

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

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

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

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

632 7. On the effective date of this act, the only legal  
633 method for a dispensing practitioner to sell or otherwise  
634 transfer controlled substances purchased for dispensing is  
635 through the buy-back procedure or abandonment procedures of  
636 subsection (1).

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

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

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

648 1. Within 2 days after the effective date of this act, in  
649 consultation with wholesale distributors as defined in s.  
650 499.003, Florida Statutes, the Department of Health shall  
651 identify dispensing practitioners that purchased more than an  
652 average of 2,000 unit doses of controlled substances per month  
653 in the previous 6 months, and shall identify the dispensing  
654 practitioners in that group who pose the greatest threat to the  
655 public health based on an assessment of:

- 656 a. The risk of noncompliance with subsection (1).  
657 b. Purchase amounts.  
658 c. Manner of medical practice.  
659 d. Any other factor set by the State Health Officer.

660  
661 The Attorney General shall consult and coordinate with federal  
662 law enforcement agencies. The Department of Law Enforcement  
663 shall coordinate the efforts of local law enforcement agencies.

664 2. On the 3rd day after the effective date of this act,  
665 the Department of Law Enforcement or local law enforcement  
666 agencies shall enter the business premises of the dispensing  
667 practitioners identified as posing the greatest threat to public  
668 health and quarantine the controlled substance inventory of such  
669 dispensing practitioners on site.



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670       3. The Department of Law Enforcement or local law  
671 enforcement agencies shall ensure the security of such inventory  
672 24 hours a day through the 10th day after the effective date of  
673 this act or until the inventory is validly transferred pursuant  
674 to subsection (1), whichever is earlier.

675       4. On the 11th day after the effective date of this act,  
676 any remaining controlled substance purchased for dispensing by  
677 practitioners is deemed contraband under s. 893.12, Florida  
678 Statutes. The Department of Law Enforcement or local law  
679 enforcement agencies shall seize the inventory and comply with  
680 the provisions of s. 893.12, Florida Statutes, to destroy it.

681       (c) In order to implement the provisions of this section,  
682 the sum of \$1.5 million of nonrecurring funds from the General  
683 Revenue Fund is appropriated to the Department of Law  
684 Enforcement for the 2010-2011 fiscal year. The Department of Law  
685 Enforcement shall expend the appropriation by reimbursing local  
686 law enforcement agencies for the overtime-hour costs associated  
687 with securing the quarantined controlled substance inventory as  
688 provided in paragraph (b). All requests for reimbursement must  
689 be submitted to the Department of Law Enforcement by June 1,  
690 2011. If the requests for reimbursement exceed the amount  
691 appropriated, the reimbursements shall be prorated by the hours  
692 of overtime per requesting agency at a maximum of one law  
693 enforcement officer per quarantine site.

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

695       Section 19. This act shall take effect upon becoming a  
696 law.