

By Representative Kelly

1                                   A bill to be entitled  
2           An act relating to pharmacy; amending s.  
3           465.003, F.S.; revising the definitions of  
4           "pharmacy" and "practice of the profession of  
5           pharmacy"; creating s. 465.0123, F.S.;  
6           providing for pharmacist practitioner  
7           licensure; providing for fees; providing for  
8           rules; amending s. 465.0125, F.S.; providing  
9           responsibilities of consultant pharmacists and  
10          doctors of pharmacy; providing for rules;  
11          amending s. 465.014, F.S.; revising tasks and  
12          duties delegated to a pharmacy technician;  
13          amending s. 465.0156, F.S.; revising  
14          information required for registration of  
15          nonresident pharmacies; amending s. 465.016,  
16          F.S.; revising disciplinary actions; increasing  
17          the administrative fine; providing penalties;  
18          amending s. 465.0196, F.S., relating to special  
19          pharmacy permits; correcting a cross reference;  
20          amending s. 465.022, F.S.; requiring the Board  
21          of Pharmacy to adopt rules relating to the  
22          functions of a pharmacist in a community  
23          pharmacy; amending s. 465.035, F.S.; allowing  
24          the dispensing of controlled substances based  
25          on electronic facsimiles of the original  
26          prescriptions; amending s. 465.186, F.S.;  
27          providing for inclusion of certain products and  
28          over-the-counter proprietary drugs in the  
29          formulary of authorized medicinal drug products  
30          and dispensing procedures; amending s. 893.03,  
31          F.S.; adding butorphanol tartrate and

1 carisoprodol as Schedule IV controlled  
2 substances; reenacting ss. 316.193(5),  
3 327.35(5), 440.102(11)(b), 458.326(3),  
4 817.563(1), 831.31(1)(a) and (2),  
5 856.015(1)(d), 893.02(4), 893.08(1)(b),  
6 893.13(1)(a), (c), and (d), (2)(a), (4)(b), and  
7 (5)(b), F.S., relating to driving under the  
8 influence, boating under the influence,  
9 drug-free workplace program requirements,  
10 authorized treatment of intractable pain, sales  
11 of substances in lieu of controlled substances,  
12 counterfeit controlled substances, open house  
13 parties, definitions applicable to regulation  
14 of controlled substance, exceptions to required  
15 prescription for distribution at retail, and  
16 prohibited acts relating to controlled  
17 substances, respectively, to incorporate the  
18 amendment to s. 893.03, F.S., in references  
19 thereto; providing an effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23 Section 1. Subsections (10) and (12) of section  
24 465.003, Florida Statutes, are amended to read:

25 465.003 Definitions.--As used in this chapter, the  
26 term:

27 (10)(a) "Pharmacy" includes a community pharmacy, an  
28 institutional pharmacy, a nuclear pharmacy, and a special  
29 pharmacy.

30 1.~~(a)~~ The term "community pharmacy" includes every  
31 location where medicinal drugs are compounded, dispensed,

1 stored, or sold or where prescriptions are filled or dispensed  
2 on an outpatient basis.

3 2.(b) The term "institutional pharmacy" includes every  
4 location in a hospital, clinic, nursing home, dispensary,  
5 sanitarium, extended care facility, or other facility,  
6 hereinafter referred to as "health care institutions," where  
7 medicinal drugs are compounded, dispensed, stored, or sold.

8 3.(c) The term "nuclear pharmacy" includes every  
9 location where radioactive drugs and chemicals within the  
10 classification of medicinal drugs are compounded, dispensed,  
11 stored, or sold. The term "nuclear pharmacy" does not include  
12 hospitals licensed under chapter 395 or the nuclear medicine  
13 facilities of such hospitals.

14 4.(d) The term "special pharmacy" includes every  
15 location where medicinal drugs are compounded, dispensed,  
16 stored, or sold if such locations are not otherwise defined in  
17 this subsection.

18 (b) The pharmacy department of any permittee shall be  
19 considered closed whenever a Florida licensed pharmacist is  
20 not present and on duty. The term "not present and on duty"  
21 shall not be construed to prevent a pharmacist from exiting  
22 the prescription department for the purposes of consulting or  
23 responding to inquiries or providing assistance to patients or  
24 customers, attending to personal hygiene needs, or performing  
25 any other function for which the pharmacist is responsible,  
26 provided that such activities are conducted in a manner  
27 consistent with the pharmacist's responsibility to provide  
28 pharmacy services.

29 (12) "Practice of the profession of pharmacy" includes  
30 compounding, dispensing, administration, and consulting  
31 concerning contents, therapeutic values, and uses of any

1 medicinal drug and ~~consulting~~ concerning therapeutic values  
2 and interactions of patent or proprietary preparations,  
3 whether pursuant to prescriptions or in the absence and  
4 entirely independent of such prescriptions or orders, and  
5 other related cognitive services. The phrase also includes  
6 any other act, service, operation, or transaction incidental  
7 to, or forming a part of, any of the foregoing acts,  
8 requiring, involving, or employing the science or art of any  
9 branch of the pharmaceutical profession, study, or training,  
10 and shall expressly permit a pharmacist to transmit  
11 information from persons authorized to prescribe medicinal  
12 drugs to their patients. In addition, the phrase also  
13 includes the compounding of drugs and devices for the purpose  
14 of sale or transfer to practitioners authorized pursuant to  
15 chapter 458, chapter 459, chapter 461, chapter 466, or chapter  
16 474 to prescribe and administer medicinal drugs for the  
17 purpose of administering such drugs to their patients.  
18 However, this activity may not involve more than 5 percent of  
19 the total annual dollar value of all medicinal drugs sold by  
20 the compounding pharmacy in the year during which the sale or  
21 transfer occurs.

22 Section 2. Section 465.0123, Florida Statutes, is  
23 created to read:

24 465.0123 Pharmacist practitioner.--The department  
25 shall issue or renew a pharmacist practitioner license upon  
26 receipt of an initial or renewal application which conforms to  
27 the requirements for such initial licensure or renewal as  
28 promulgated by the board by rule and a fee established by the  
29 board not to exceed \$250. A pharmacist practitioner must have  
30 completed required advanced instruction in disease modules,  
31 for the purpose of providing primary care professional

1 referral and consulting services. The pharmacist practitioner  
2 may also be responsible for ordering and evaluating laboratory  
3 and clinical testing for the specific disease states for which  
4 he or she has received advanced instruction. The board shall  
5 adopt rules to implement, administer, and otherwise carry out  
6 the provisions of this section.

7 Section 3. Section 465.0125, Florida Statutes, is  
8 amended to read:

9 465.0125 Consultant pharmacist license; application,  
10 renewal, fees; responsibilities; rules.--

11 (1) The department shall issue or renew a consultant  
12 pharmacist license upon receipt of an initial or renewal  
13 application which conforms to the requirements for consultant  
14 pharmacist initial licensure or renewal as promulgated by the  
15 board by rule and a fee set by the board not to exceed \$250.  
16 The consultant pharmacist shall be responsible for maintaining  
17 all drug records required by law and for establishing drug  
18 handling procedures for the safe handling and storage of  
19 drugs. The consultant pharmacist may also be responsible for  
20 ordering and evaluating any laboratory or clinical testing  
21 when, in the judgment of the consultant pharmacist, such  
22 activity is necessary for the proper performance of the  
23 consultant pharmacist's responsibilities. Such laboratory or  
24 clinical testing may be ordered only with regard to patients  
25 residing in a nursing home facility, and then only when  
26 authorized by the medical director of the nursing home  
27 facility. The consultant pharmacist must have completed such  
28 additional training and demonstrate such additional  
29 qualifications in the practice of institutional pharmacy as  
30 shall be required by the board of ~~Pharmacy~~ in addition to  
31 licensure as a registered pharmacist. ~~The board shall~~

1 ~~promulgate rules necessary to implement and administer this~~  
2 ~~section.~~

3       (2) Notwithstanding the provisions of subsection (1),  
4 a consultant pharmacist or a doctor of pharmacy licensed in  
5 this state may also be responsible for ordering and evaluating  
6 any laboratory or clinical testing for persons under the care  
7 of a licensed home health agency when, in the judgment of the  
8 consultant pharmacist or doctor of pharmacy, such activity is  
9 necessary for the proper performance of his or her  
10 responsibilities and only when authorized by the person's  
11 physician. In order for the consultant pharmacist or doctor  
12 of pharmacy to qualify and accept this authority, he or she  
13 must receive 3 hours of continuing education relating to  
14 laboratory and clinical testing as established by the board.

15       (3) The board shall promulgate rules necessary to  
16 implement and administer this section.

17       Section 4. Section 465.014, Florida Statutes, is  
18 amended to read:

19       465.014 Pharmacy technician.--No person other than a  
20 licensed pharmacist or pharmacy intern may engage in the  
21 practice of the profession of pharmacy, except that a licensed  
22 pharmacist may delegate to nonlicensed pharmacy technicians  
23 those duties, tasks, and functions which do not fall within  
24 the purview of s. 465.003(12). All such delegated acts shall  
25 be performed under the direct supervision of a licensed  
26 pharmacist who shall be responsible for all such acts  
27 performed by persons under his or her supervision. A pharmacy  
28 technician, under the supervision of a pharmacist, may  
29 initiate or receive communications with a practitioner or his  
30 or her agent, on behalf of a patient, regarding refill  
31 authorization requests and related information.No licensed

1 pharmacist shall supervise more than one pharmacy technician  
2 unless otherwise permitted by the guidelines adopted by the  
3 board. The board shall establish guidelines to be followed by  
4 licensees or permittees in determining the circumstances under  
5 which a licensed pharmacist may supervise more than one but  
6 not more than two pharmacy technicians.

7 Section 5. Subsection (1) of section 465.0156, Florida  
8 Statutes, is amended to read:

9 465.0156 Registration of nonresident pharmacies.--

10 (1) Any pharmacy which is located outside this state  
11 and which ships, mails, or delivers, in any manner, a  
12 dispensed medicinal drug into this state shall be considered a  
13 nonresident pharmacy, shall be registered with the board,  
14 shall provide pharmacy services at a high level of protection  
15 and competence, and shall disclose to the board the following  
16 specific information:

17 (a) That it maintains at all times a valid, unexpired  
18 license, permit, or registration to operate the pharmacy in  
19 compliance with the laws of the state in which the dispensing  
20 facility is located and from which the medicinal drugs shall  
21 be dispensed;

22 (b) The location, names, and titles of all principal  
23 corporate officers and the pharmacist who serves as the  
24 prescription department manager for all pharmacists who are  
25 dispensing medicinal drugs to residents of this state. This  
26 disclosure shall be made on a biennial ~~an annual~~ basis with  
27 renewal of registration and within 10 ~~30~~ days after any change  
28 of ~~office~~ location, corporate officer, or pharmacist serving  
29 as the prescription department manager for dispensing  
30 medicinal drugs to residents of this state;

31

1           (c) That it complies with all lawful directions and  
2 requests for information from the regulatory or licensing  
3 agency of all states in which it is licensed as well as with  
4 all requests for information made by the board pursuant to  
5 this section. It shall respond directly to all communications  
6 from the board concerning emergency circumstances arising from  
7 errors in the dispensing of medicinal drugs to the residents  
8 of this state;

9           (d) That it maintains its records of medicinal drugs  
10 dispensed to patients in this state so that the records are  
11 readily retrievable from the other business records of the  
12 pharmacy and from the records of other medicinal drugs  
13 dispensed; and

14           (e) That during its regular hours of operation but not  
15 less than 6 days per week, for a minimum of 40 hours per week,  
16 a toll-free telephone service shall be provided to facilitate  
17 communication between patients in this state and a pharmacist  
18 at the pharmacy who has access to the patient's records. This  
19 toll-free number must be disclosed on the label affixed to  
20 each container of dispensed medicinal drugs.

21           Section 6. Paragraph (o) of subsection (1) and  
22 paragraphs (c) and (e) of subsection (2) of section 465.016,  
23 Florida Statutes, are amended to read:

24           465.016 Disciplinary actions.--

25           (1) The following acts shall be grounds for  
26 disciplinary action set forth in this section:

27           (o) Failing to report to the department ~~Division of~~  
28 ~~Medical Quality Assurance~~ any licensee ~~physician licensed~~  
29 under chapter 458 or ~~osteopathic physician licensed under~~  
30 chapter 459 who the pharmacist knows has violated the grounds  
31 for disciplinary action set out in the law under which that

1 ~~person physician or osteopathic physician~~ is licensed and who  
2 provides health care services in a facility licensed under  
3 chapter 395, or a health maintenance organization certificated  
4 under part I of chapter 641, in which the pharmacist also  
5 provides services.

6 (2) When the board finds any person guilty of any of  
7 the grounds set forth in subsection (1), it may enter an order  
8 imposing one or more of the following penalties:

9 (c) Imposition of an administrative fine not to exceed  
10 ~~<U>\$5,000\$1,000~~ for each count or separate offense.

11 (e) Placement of the pharmacist on probation for a  
12 period of time and subject to such conditions as the board may  
13 specify, including, but not limited to, requiring the  
14 pharmacist to submit to treatment, to attend continuing  
15 education courses, to submit to reexamination, or to work  
16 under the supervision of another pharmacist.

17 Section 7. Section 465.0196, Florida Statutes, is  
18 amended to read:

19 465.0196 Special pharmacy permits.--Any person  
20 desiring a permit to operate a pharmacy which does not fall  
21 within the definitions set forth in s. 465.003(10)(a)1.,  
22 2.(b), and 3.(c) shall apply to the department for a special  
23 pharmacy permit. If the board certifies that the application  
24 complies with the applicable laws and rules of the board  
25 governing the practice of the profession of pharmacy, the  
26 department shall issue the permit. No permit shall be issued  
27 unless a licensed pharmacist is designated to undertake the  
28 professional supervision of the compounding and dispensing of  
29 all drugs dispensed by the pharmacy. The licensed pharmacist  
30 shall be responsible for maintaining all drug records and for  
31 providing for the security of the area in the facility in

1 which the compounding, storing, and dispensing of medicinal  
2 drugs occurs. The permittee shall notify the department  
3 within 10 days of any change of the licensed pharmacist  
4 responsible for such duties.

5 Section 8. Paragraph (i) is added to subsection (1) of  
6 section 465.022, Florida Statutes, to read:

7 465.022 Pharmacies; general requirements; fees.--

8 (1) The board shall adopt such rules relating to  
9 pharmacies as are necessary to protect the public health,  
10 safety, and welfare. Such rules shall include, but shall not  
11 be limited to, rules relating to:

12 (i) Functions of a pharmacist in a community pharmacy,  
13 consistent with the size and scope of the pharmacy, including  
14 minimum staffing levels of pharmacists based upon anticipated  
15 pharmacist's workload.

16 Section 9. Section 465.035, Florida Statutes, is  
17 amended to read:

18 465.035 Dispensing of medicinal ~~medical~~ drugs pursuant  
19 to facsimile of prescription.--

20 (1) Notwithstanding any other provision of this  
21 chapter, it is lawful for a pharmacy to dispense medicinal  
22 drugs, including controlled substances as provided in this  
23 section, based on reception of an electronic facsimile of the  
24 original prescription if all of the following conditions are  
25 met:

26 (a) In the course of the transaction the pharmacy  
27 complies with laws and administrative rules relating to  
28 pharmacies and pharmacists.

29 (b) Except in the case of the transmission of a  
30 prescription by a person authorized by law to prescribe  
31 medicinal drugs:

1           1. The facsimile system making the transmission  
2 provides the pharmacy receiving the transmission with audio  
3 communication via telephonic, electronic, or similar means  
4 with the person presenting the prescription.

5           2. At the time of the delivery of the medicinal drugs,  
6 the pharmacy has in its possession the original prescription  
7 for the medicinal drug involved.

8           3. The recipient of the prescription shall sign a log  
9 and shall indicate the name and address of both the recipient  
10 and the patient for whom the medicinal drug was prescribed.

11           ~~(2) This section does not apply to the dispensing of~~  
12 ~~Controlled substances listed in Schedule II as defined in s.~~  
13 ~~893.03(2) may be dispensed as provided in 21 C.F.R. s.~~  
14 ~~1306.11.~~

15           Section 10. Subsection (1) of section 465.186, Florida  
16 Statutes, is amended to read:

17           465.186 Pharmacist's order for medicinal drugs;  
18 dispensing procedure; development of formulary.--

19           (1) There is hereby created a committee composed of  
20 two members of the Board of Medicine licensed under chapter  
21 458 chosen by said board, one member of the Board of  
22 Osteopathic Medicine licensed under chapter 459 chosen by said  
23 board, three members of the Board of Pharmacy licensed under  
24 this chapter ~~and~~ chosen by said board, and one ~~additional~~  
25 person with a background in health care or pharmacology chosen  
26 by the committee. The committee shall establish a formulary  
27 of medicinal drug products and dispensing procedures which  
28 shall be used by a pharmacist when ordering and dispensing  
29 such drug products to the public. Dispensing procedures may  
30 include matters related to reception of patient, description  
31 of his condition, patient interview, patient physician

1 referral, product selection, and dispensing and use  
2 limitations. In developing the formulary of medicinal drug  
3 products, the committee may include products falling within  
4 the following categories:

5 (a) Any medicinal drug of single or multiple active  
6 ingredients in any strengths when such active ingredients have  
7 been approved individually or in combination for  
8 over-the-counter sale by the United States Food and Drug  
9 Administration.

10 (b) Any medicinal drug recommended by the United  
11 States Food and Drug Administration Advisory Panel for  
12 transfer to over-the-counter status pending approval by the  
13 United States Food and Drug Administration.

14 (c) Any medicinal drug containing any antihistamine or  
15 decongestant as a single active ingredient or in combination.

16 (d) Any medicinal drug containing fluoride in any  
17 strength.

18 (e) Any medicinal drug containing lindane in any  
19 strength.

20 (f) Any over-the-counter proprietary drug under  
21 federal law that has been approved for reimbursement by the  
22 Florida Medicaid Program.

23 (g) Any topical anti-infectives.

24 (h) Any anti-emetics.

25 (i) Any antibiotic eye drops or antibiotic ear drops.

26 (j) Any urinary tract anti-infectives.

27

28 Except as provided in paragraph (f)~~However~~, any drug which is  
29 sold as an over-the-counter proprietary drug under federal law  
30 shall not be included in the formulary or otherwise affected  
31 by this section.

1           Section 11. Paragraphs (iii) and (jjj) are added to  
2 subsection (4) of section 893.03, Florida Statutes, 1996  
3 Supplement, to read:

4           893.03 Standards and schedules.--The substances  
5 enumerated in this section are controlled by this chapter.  
6 The controlled substances listed or to be listed in Schedules  
7 I, II, III, IV, and V are included by whatever official,  
8 common, usual, chemical, or trade name designated. The  
9 provisions of this section shall not be construed to include  
10 within any of the schedules contained in this section any  
11 excluded drugs listed within the purview of 21 C.F.R. s.  
12 1308.22, styled "Excluded Substances"; 21 C.F.R. s. 1308.24,  
13 styled "Exempt Chemical Preparations"; 21 C.F.R. s. 1308.32,  
14 styled "Exempted Prescription Products"; or 21 C.F.R. s.  
15 1308.34, styled "Exempt Anabolic Steroid Products."

16           (4) SCHEDULE IV.--A substance in Schedule IV has a low  
17 potential for abuse relative to the substances in Schedule III  
18 and has a currently accepted medical use in treatment in the  
19 United States, and abuse of the substance may lead to limited  
20 physical or psychological dependence relative to the  
21 substances in Schedule III. Unless specifically excepted or  
22 unless listed in another schedule, any material, compound,  
23 mixture, or preparation which contains any quantity of the  
24 following substances, including its salts, isomers, and salts  
25 of isomers whenever the existence of such salts, isomers, and  
26 salts of isomers is possible within the specific chemical  
27 designation, are controlled in Schedule IV:

28           (iii) Butorphanol tartrate.

29           (jjj) Carisoprodol.

30           Section 12. For the purpose of incorporating the  
31 amendment to section 893.03, Florida Statutes, 1996

1 Supplement, in references thereto, the sections or  
2 subdivisions of Florida Statutes set forth below are reenacted  
3 to read:

4           316.193 Driving under the influence; penalties.--  
5           (5) The court shall place any offender convicted of  
6 violating this section on monthly reporting probation and  
7 shall require attendance at a substance abuse course licensed  
8 by the department; and the agency conducting the course may  
9 refer the offender to an authorized service provider for  
10 substance abuse evaluation and treatment, in addition to any  
11 sentence or fine imposed under this section. The offender  
12 shall assume reasonable costs for such education, evaluation,  
13 and treatment, with completion of all such education,  
14 evaluation, and treatment being a condition of reporting  
15 probation. Treatment resulting from a psychosocial evaluation  
16 may not be waived without a supporting psychosocial evaluation  
17 conducted by an agency appointed by the court and with access  
18 to the original evaluation. The offender shall bear the cost  
19 of this procedure. The term "substance abuse" means the abuse  
20 of alcohol or any substance named or described in Schedules I  
21 through V of s. 893.03. If an offender referred to treatment  
22 under this subsection fails to report for or complete such  
23 treatment or fails to complete the substance abuse education  
24 course, the DUI program shall notify the court and the  
25 department of the failure. Upon receipt of the notice, the  
26 department shall cancel the offender's driving privilege. The  
27 department shall reinstate the driving privilege when the  
28 offender completes the substance abuse education course or  
29 enters treatment required under this subsection. The  
30 organization that conducts the substance abuse education and  
31 evaluation may not provide required substance abuse treatment

1 unless a waiver has been granted to that organization by the  
2 department. A waiver may be granted only if the department  
3 determines, in accordance with its rules, that the service  
4 provider that conducts the substance abuse education and  
5 evaluation is the most appropriate service provider and is  
6 licensed under chapter 397 or is exempt from such licensure.  
7 All DUI treatment programs providing treatment services on  
8 January 1, 1994, shall be allowed to continue to provide such  
9 services until the department determines whether a waiver  
10 should be granted. A statistical referral report shall be  
11 submitted quarterly to the department by each organization  
12 authorized to provide services under this section.

13 327.35 Boating under the influence; penalties.--

14 (5) In addition to any sentence or fine, the court  
15 shall place any offender convicted of violating this section  
16 on monthly reporting probation and shall require attendance at  
17 a substance abuse course specified by the court; and the  
18 agency conducting the course may refer the offender to an  
19 authorized service provider for substance abuse evaluation and  
20 treatment, in addition to any sentence or fine imposed under  
21 this section. The offender shall assume reasonable costs for  
22 such education, evaluation, and treatment, with completion of  
23 all such education, evaluation, and treatment being a  
24 condition of reporting probation. Treatment resulting from a  
25 psychosocial evaluation may not be waived without a supporting  
26 psychosocial evaluation conducted by an agency appointed by  
27 the court and with access to the original evaluation. The  
28 offender shall bear the cost of this procedure. The term  
29 "substance abuse" means the abuse of alcohol or any substance  
30 named or described in Schedules I through V of s. 893.03.

31

1           440.102 Drug-free workplace program requirements.--The  
2 following provisions apply to a drug-free workplace program  
3 implemented pursuant to law or to rules adopted by the Agency  
4 for Health Care Administration:

5           (11) PUBLIC EMPLOYEES IN SAFETY-SENSITIVE OR  
6 SPECIAL-RISK POSITIONS.--

7           (b) An employee who is employed by a public employer  
8 in a special-risk position may be discharged or disciplined by  
9 a public employer for the first positive confirmed test result  
10 if the drug confirmed is an illicit drug under s. 893.03. A  
11 special-risk employee who is participating in an employee  
12 assistance program or drug rehabilitation program may not be  
13 allowed to continue to work in any special-risk or  
14 safety-sensitive position of the public employer, but may be  
15 assigned to a position other than a safety-sensitive position  
16 or placed on leave while the employee is participating in the  
17 program. However, the employee shall be permitted to use any  
18 accumulated annual leave credits before leave may be ordered  
19 without pay.

20           458.326 Intractable pain; authorized treatment.--

21           (3) Notwithstanding any other provision of law, a  
22 physician may prescribe or administer any controlled substance  
23 under Schedules II-V, as provided for in s. 893.03, to a  
24 person for the treatment of intractable pain, provided the  
25 physician does so in accordance with that level of care,  
26 skill, and treatment recognized by a reasonably prudent  
27 physician under similar conditions and circumstances.

28           817.563 Controlled substance named or described in s.  
29 893.03; sale of substance in lieu thereof.--It is unlawful for  
30 any person to agree, consent, or in any manner offer to  
31 unlawfully sell to any person a controlled substance named or

1 described in s. 893.03 and then sell to such person any other  
2 substance in lieu of such controlled substance. Any person who  
3 violates this section with respect to:

4 (1) A controlled substance named or described in s.  
5 893.03(1), (2), (3), or (4) is guilty of a felony of the third  
6 degree, punishable as provided in s. 775.082, s. 775.083, or  
7 s. 775.084.

8 831.31 Counterfeit controlled substance; sale,  
9 manufacture, delivery, or possession with intent to sell,  
10 manufacture, or deliver.--

11 (1) It is unlawful for any person to sell,  
12 manufacture, or deliver, or to possess with intent to sell,  
13 manufacture, or deliver, a counterfeit controlled substance.  
14 Any person who violates this subsection with respect to:

15 (a) A controlled substance named or described in s.  
16 893.03(1), (2), (3), or (4) is guilty of a felony of the third  
17 degree, punishable as provided in s. 775.082, s. 775.083, or  
18 s. 775.084.

19 (2) For purposes of this section, "counterfeit  
20 controlled substance" means:

21 (a) A controlled substance named or described in s.  
22 893.03 which, or the container or labeling of which, without  
23 authorization bears the trademark, trade name, or other  
24 identifying mark, imprint, or number, or any likeness thereof,  
25 of a manufacturer other than the person who in fact  
26 manufactured the controlled substance; or

27 (b) Any substance which is falsely identified as a  
28 controlled substance named or described in s. 893.03.

29 856.015 Open house parties.--

30 (1) Definitions.--As used in this section:

31

1 (d) "Drug" means a controlled substance, as that term  
2 is defined in ss. 893.02(4) and 893.03.

3 893.02 Definitions.--The following words and phrases  
4 as used in this chapter shall have the following meanings,  
5 unless the context otherwise requires:

6 (4) "Controlled substance" means any substance named  
7 or described in Schedules I through V of s. 893.03. Laws  
8 controlling the manufacture, distribution, preparation,  
9 dispensing, or administration of such substances are drug  
10 abuse laws.

11 893.08 Exceptions.--

12 (1) The following may be distributed at retail without  
13 a prescription, but only by a registered pharmacist:

14 (b) Any compound, mixture, or preparation containing  
15 any depressant or stimulant substance described in s.  
16 893.03(2)(a) or (c) except any amphetamine drug or  
17 sympathomimetic amine drug or compound designated as a  
18 Schedule II controlled substance pursuant to this chapter; in  
19 s. 893.03(3)(a); or in Schedule IV, if:

20 1. The compound, mixture, or preparation contains one  
21 or more active medicinal ingredients not having depressant or  
22 stimulant effect on the central nervous system, and

23 2. Such ingredients are included therein in such  
24 combinations, quantity, proportion, or concentration as to  
25 vitiate the potential for abuse of the controlled substances  
26 which do have a depressant or stimulant effect on the central  
27 nervous system.

28 893.13 Prohibited acts; penalties.--

29 (1)(a) Except as authorized by this chapter and  
30 chapter 499, it is unlawful for any person to sell,  
31 manufacture, or deliver, or possess with intent to sell,

1 manufacture, or deliver, a controlled substance. Any person  
2 who violates this provision with respect to:

3 1. A controlled substance named or described in s.  
4 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a  
5 felony of the second degree, punishable as provided in s.  
6 775.082, s. 775.083, or s. 775.084.

7 2. A controlled substance named or described in s.  
8 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the  
9 third degree, punishable as provided in s. 775.082, s.  
10 775.083, or s. 775.084.

11 3. A controlled substance named or described in s.  
12 893.03(5) commits a misdemeanor of the first degree,  
13 punishable as provided in s. 775.082 or s. 775.083.

14 (c) Except as authorized by this chapter, it is  
15 unlawful for any person to sell, manufacture, or deliver, or  
16 possess with intent to sell, manufacture, or deliver a  
17 controlled substance in, on, or within 1,000 feet of the real  
18 property comprising a public or private elementary, middle, or  
19 secondary school between the hours of 6 a.m. and 12 a.m. Any  
20 person who violates this paragraph with respect to:

21 1. A controlled substance named or described in s.  
22 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a  
23 felony of the first degree, punishable as provided in s.  
24 775.082, s. 775.083, or s. 775.084 and must be sentenced to a  
25 minimum term of imprisonment of 3 calendar years.

26 2. A controlled substance named or described in s.  
27 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the  
28 second degree, punishable as provided in s. 775.082, s.  
29 775.083, or s. 775.084.

30 3. Any other controlled substance, except as lawfully  
31 sold, manufactured, or delivered, must be sentenced to pay a

1 \$500 fine and to serve 100 hours of public service in addition  
2 to any other penalty prescribed by law.

3 (d) Except as authorized by this chapter, it is  
4 unlawful for any person to sell, manufacture, or deliver, or  
5 possess with intent to sell, manufacture, or deliver, a  
6 controlled substance in, on, or within 200 feet of the real  
7 property comprising a public housing facility, within 200 feet  
8 of the real property comprising a public or private college,  
9 university, or other postsecondary educational institution, or  
10 within 200 feet of any public park. Any person who violates  
11 this paragraph with respect to:

12 1. A controlled substance named or described in s.  
13 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a  
14 felony of the first degree, punishable as provided in s.  
15 775.082, s. 775.083, or s. 775.084.

16 2. A controlled substance named or described in s.  
17 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the  
18 second degree, punishable as provided in s. 775.082, s.  
19 775.083, or s. 775.084.

20 3. Any other controlled substance, except as lawfully  
21 sold, manufactured, or delivered, must be sentenced to pay a  
22 \$500 fine and to serve 100 hours of public service in addition  
23 to any other penalty prescribed by law.

24 (2)(a) Except as authorized by this chapter and  
25 chapter 499, it is unlawful for any person to purchase, or  
26 possess with intent to purchase, a controlled substance. Any  
27 person who violates this provision with respect to:

28 1. A controlled substance named or described in s.  
29 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a  
30 felony of the second degree, punishable as provided in s.  
31 775.082, s. 775.083, or s. 775.084.

1           2. A controlled substance named or described in s.  
2 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the  
3 third degree, punishable as provided in s. 775.082, s.  
4 775.083, or s. 775.084.

5           3. A controlled substance named or described in s.  
6 893.03(5) commits a misdemeanor of the first degree,  
7 punishable as provided in s. 775.082 or s. 775.083.

8           (4) Except as authorized by this chapter, it is  
9 unlawful for any person 18 years of age or older to deliver  
10 any controlled substance to a person under the age of 18  
11 years, or to use or hire a person under the age of 18 years as  
12 an agent or employee in the sale or delivery of such a  
13 substance, or to use such person to assist in avoiding  
14 detection or apprehension for a violation of this chapter.  
15 Any person who violates this provision with respect to:

16           (b) A controlled substance named or described in s.  
17 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the  
18 second degree, punishable as provided in s. 775.082, s.  
19 775.083, or s. 775.084.

20  
21 Imposition of sentence may not be suspended or deferred, nor  
22 shall the person so convicted be placed on probation.

23           (5) It is unlawful for any person to bring into this  
24 state any controlled substance unless the possession of such  
25 controlled substance is authorized by this chapter or unless  
26 such person is licensed to do so by the appropriate federal  
27 agency. Any person who violates this provision with respect  
28 to:

29           (b) A controlled substance named or described in s.  
30 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the  
31

1 third degree, punishable as provided in s. 775.082, s.  
2 775.083, or s. 775.084.

3 Section 13. This act shall take effect July 1, 1997.

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6 HOUSE SUMMARY

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8 Revises the definitions of "pharmacy" and "practice of  
9 the profession of pharmacy," to clarify when a pharmacy  
10 is considered closed and to authorize pharmacists to  
11 compound medicinal drugs under certain circumstances.  
12 Provides for licensure as a pharmacist practitioner.  
13 Provides responsibilities of consultant pharmacists and  
14 doctors of pharmacy. Revises tasks and duties delegated  
15 to a pharmacy technician. Revises information required  
16 for registration of nonresident pharmacies. Revises a  
17 ground for disciplinary action relating to reporting  
18 licensees in violation. Increases the administrative  
19 fine. Allows the dispensing of controlled substances  
20 based on electronic facsimiles of the original  
21 prescriptions. Provides for inclusion of certain  
22 over-the-counter proprietary drugs and any topical  
23 anti-infectives, anti-emetics, antibiotic eye drops,  
24 antibiotic ear drops, and urinary tract anti-infectives  
25 in the formulary of authorized medicinal drug products  
26 and dispensing procedures. Includes butorphanol tartrate  
27 and carisoprodol as Schedule IV controlled substances.

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