

Amendment No. 01 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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4		.	

ORIGINAL STAMP BELOW

The Committee on Crime Prevention, Corrections & Safety offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause

and insert:

Section 1. Section 456.075, Florida Statutes, is created to read:

456.075 In any criminal proceeding against a person licensed by the department to practice a health care profession in this state, a representative of the department may voluntarily appear and furnish pertinent information, make recommendations regarding specific conditions of probation, or provide any other assistance necessary to promote justice or protect the public. The court may order a representative of the department to appear in any criminal proceeding if the crime charged is substantially related to the qualifications, functions, or duties of a health care professional licensed by the department.

Section 2. Subsection (7) of section 893.13, Florida

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1 Statutes, is amended, and present subsections (8), (9), and
2 (10) of that section are amended and redesignated as
3 subsections (9), (10), and (11), respectively, and a new
4 subsection (8) is added to that section, to read:

5 893.13 Prohibited acts; penalties.--

6 (7)(a) It is unlawful for any person:

7 1. To distribute or dispense a controlled substance in
8 violation of this chapter.

9 2. To refuse or fail to make, keep, or furnish any
10 record, notification, order form, statement, invoice, or
11 information required under this chapter.

12 3. To refuse an entry into any premises for any
13 inspection or to refuse to allow any inspection authorized by
14 this chapter.

15 4. To distribute a controlled substance named or
16 described in s. 893.03(1) or (2) except pursuant to an order
17 form as required by s. 893.06.

18 5. To keep or maintain any store, shop, warehouse,
19 dwelling, building, vehicle, boat, aircraft, or other
20 structure or place which is resorted to by persons using
21 controlled substances in violation of this chapter for the
22 purpose of using these substances, or which is used for
23 keeping or selling them in violation of this chapter.

24 6. To use to his or her own personal advantage, or to
25 reveal, any information obtained in enforcement of this
26 chapter except in a prosecution or administrative hearing for
27 a violation of this chapter.

28 ~~7. To withhold information from a practitioner from
29 whom the person seeks to obtain a controlled substance or a
30 prescription for a controlled substance that the person has
31 received a controlled substance or a prescription for a~~

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1 ~~controlled substance of like therapeutic use from another~~
2 ~~practitioner within the last 30 days.~~

3 ~~7.8.~~ To possess a prescription form which has not been
4 completed and signed by the practitioner whose name appears
5 printed thereon, unless the person is that practitioner, is an
6 agent or employee of that practitioner, is a pharmacist, or is
7 a supplier of prescription forms who is authorized by that
8 practitioner to possess those forms.

9 8. To withhold information from a practitioner from
10 whom the person seeks to obtain a controlled substance or a
11 prescription for a controlled substance that the person making
12 the request has received a controlled substance or a
13 prescription for a controlled substance of like therapeutic
14 use from another practitioner within the previous 30 days.

15 9. To acquire or obtain, or attempt to acquire or
16 obtain, possession of a controlled substance by
17 misrepresentation, fraud, forgery, deception, or subterfuge.

18 10. To affix any false or forged label to a package or
19 receptacle containing a controlled substance.

20 11. To furnish false or fraudulent material
21 information in, or omit any material information from, any
22 report or other document required to be kept or filed under
23 this chapter or any record required to be kept by this
24 chapter.

25 (b) Any person who violates the provisions of
26 subparagraphs (a)1.-7. ~~(a)1.-8.~~ commits a misdemeanor of the
27 first degree, punishable as provided in s. 775.082 or s.
28 775.083; except that, upon a second or subsequent violation,
29 the person commits a felony of the third degree, punishable as
30 provided in s. 775.082, s. 775.083, or s. 775.084.

31 (c) Any person who violates the provisions of

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1 subparagraphs (a) 8.-11. (a) 9.-11. commits a felony of the
2 third degree, punishable as provided in s. 775.082, s.
3 775.083, or s. 775.084.

4 (8)(a) Notwithstanding subsection (9), a prescribing
5 practitioner may not:

6 1. Knowingly assist a patient, other person, or the
7 owner of an animal in obtaining a controlled substance through
8 deceptive, untrue, or fraudulent representations in or related
9 to the practice of the prescribing practitioner's professional
10 practice;

11 2. Employ a trick or scheme in the practice of the
12 prescribing practitioner's professional practice to assist a
13 patient, other person, or the owner of an animal in obtaining
14 a controlled substance;

15 3. Knowingly write a prescription for a controlled
16 substance for a fictitious person; or

17 4. Write a prescription for a controlled substance for
18 a patient, other person, or an animal if the sole purpose of
19 writing such prescription is to provide a monetary benefit to,
20 or obtain a monetary benefit for, the prescribing
21 practitioner.

22 (b) A permissive inference is created that a
23 prescribing practitioner knowingly assisted a patient, other
24 person, or the owner of an animal to obtain a controlled
25 substance in violation of subparagraph (a)1., if the
26 prescribing practitioner wrote a prescription or multiple
27 prescriptions for a controlled substance for the patient,
28 other person, or animal for which there was no medical
29 necessity, or that was in excess of what was medically
30 necessary to treat the patient, other person, or animal.

31 (c) A person who violates paragraph (a) commits a

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

3 (d) Notwithstanding paragraph (c), if a prescribing
4 practitioner has violated paragraph (a) and received \$1,000 or
5 more in payment for writing one or more prescriptions or, in
6 the case of a prescription written for a controlled substance
7 described in s. 893.135, has written one or more prescriptions
8 for a quantity of a controlled substance which, individually
9 or in the aggregate, meets the threshold for the offense of
10 trafficking in a controlled substance under s. 893.15, the
11 violation is reclassified as a felony of the second degree and
12 ranked in level 4 of the Criminal Punishment Code.

13 (9)(8) The provisions of subsections(1)-(8)(1)-(7)
14 are not applicable to the delivery to, or actual or
15 constructive possession for medical or scientific use or
16 purpose only of controlled substances by, persons included in
17 any of the following classes, or the agents or employees of
18 such persons, for use in the usual course of their business or
19 profession or in the performance of their official duties:

20 (a) Pharmacists.

21 (b) Practitioners.

22 (c) Persons who procure controlled substances in good
23 faith and in the course of professional practice only, by or
24 under the supervision of pharmacists or practitioners employed
25 by them, or for the purpose of lawful research, teaching, or
26 testing, and not for resale.

27 (d) Hospitals that procure controlled substances for
28 lawful administration by practitioners, but only for use by or
29 in the particular hospital.

30 (e) Officers or employees of state, federal, or local
31 governments acting in their official capacity only, or

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1 informers acting under their jurisdiction.

2 (f) Common carriers.

3 (g) Manufacturers, wholesalers, and distributors.

4 (h) Law enforcement officers for bona fide law
5 enforcement purposes in the course of an active criminal
6 investigation.

7 (10)~~(9)~~ Notwithstanding any provision of the
8 sentencing guidelines or the Criminal Punishment Code to the
9 contrary, on or after October 1, 1993, any defendant who:

10 (a) Violates subparagraph (1)(a)1., subparagraph
11 (1)(c)2., subparagraph (1)(d)2., subparagraph (2)(a)1., or
12 paragraph (5)(a); and

13 (b) Has not previously been convicted, regardless of
14 whether adjudication was withheld, of any felony, other than a
15 violation of subparagraph (1)(a)1., subparagraph (1)(c)2.,
16 subparagraph (1)(d)2., subparagraph (2)(a)1., or paragraph
17 (5)(a),

18
19 may be required by the court to successfully complete a term
20 of probation pursuant to the terms and conditions set forth in
21 s. 948.034(1), in lieu of serving a term of imprisonment.

22 (11)~~(10)~~ Notwithstanding any provision of the
23 sentencing guidelines or the Criminal Punishment Code to the
24 contrary, on or after January 1, 1994, any defendant who:

25 (a) Violates subparagraph (1)(a)2., subparagraph
26 (2)(a)2., paragraph (5)(b), or paragraph (6)(a); and

27 (b) Has not previously been convicted, regardless of
28 whether adjudication was withheld, of any felony, other than a
29 violation of subparagraph (1)(a)2., subparagraph (2)(a)2.,
30 paragraph (5)(b), or paragraph (6)(a),

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1 may be required by the court to successfully complete a term
2 of probation pursuant to the terms and conditions set forth in
3 s. 948.034(2), in lieu of serving a term of imprisonment.

4 Section 3. Paragraphs (a) and (c) of subsection (3) of
5 section 921.0022, Florida Statutes, as amended by section 2 of
6 chapter 2001-358, Laws of Florida, are amended to read:

7 921.0022 Criminal Punishment Code; offense severity
8 ranking chart.--

9 (3) OFFENSE SEVERITY RANKING CHART

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Florida Statute	Felony Degree	Description
		(a) LEVEL 1
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
212.15(2)(b)	3rd	Failure to remit sales taxes, amount greater than \$300 but less than \$20,000.
319.30(5)	3rd	Sell, exchange, give away certificate of title or identification number plate.
319.35(1)(a)	3rd	Tamper, adjust, change, etc., an odometer.
320.26(1)(a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.

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1	322.212(1)	3rd	Possession of forged, stolen,
2			counterfeit, or unlawfully issued
3			driver's license; possession of
4			simulated identification.
5	322.212(4)	3rd	Supply or aid in supplying
6			unauthorized driver's license or
7			identification card.
8	322.212(5)(a)	3rd	False application for driver's
9			license or identification card.
10	370.13(3)(a)	3rd	Molest any stone crab trap, line,
11			or buoy which is property of
12			licenseholder.
13	370.135(1)	3rd	Molest any blue crab trap, line,
14			or buoy which is property of
15			licenseholder.
16	372.663(1)	3rd	Poach any alligator or
17			crocodilia.
18	414.39(2)	3rd	Unauthorized use, possession,
19			forgery, or alteration of food
20			stamps, Medicaid ID, value
21			greater than \$200.
22	414.39(3)(a)	3rd	Fraudulent misappropriation of
23			public assistance funds by
24			employee/official, value more
25			than \$200.
26	443.071(1)	3rd	False statement or representation
27			to obtain or increase
28			unemployment compensation
29			benefits.
30	509.151(1)	3rd	Defraud an innkeeper, food or
31			lodging value greater than \$300.

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1	517.302(1)	3rd	Violation of the Florida
2			Securities and Investor
3			Protection Act.
4	562.27(1)	3rd	Possess still or still apparatus.
5	713.69	3rd	Tenant removes property upon
6			which lien has accrued, value
7			more than \$50.
8	812.014(3)(c)	3rd	Petit theft (3rd conviction);
9			theft of any property not
10			specified in subsection (2).
11	812.081(2)	3rd	Unlawfully makes or causes to be
12			made a reproduction of a trade
13			secret.
14	815.04(4)(a)	3rd	Offense against intellectual
15			property (i.e., computer
16			programs, data).
17	817.52(2)	3rd	Hiring with intent to defraud,
18			motor vehicle services.
19	826.01	3rd	Bigamy.
20	828.122(3)	3rd	Fighting or baiting animals.
21	831.04(1)	3rd	Any erasure, alteration, etc., of
22			any replacement deed, map, plat,
23			or other document listed in s.
24			92.28.
25	831.31(1)(a)	3rd	Sell, deliver, or possess
26			counterfeit controlled
27			substances, all but s. 893.03(5)
28			drugs.
29	832.041(1)	3rd	Stopping payment with intent to
30			defraud \$150 or more.
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1	832.05		
2	(2)(b)&(4)(c)	3rd	Knowing, making, issuing
3			worthless checks \$150 or more or
4			obtaining property in return for
5			worthless check \$150 or more.
6	838.015(3)	3rd	Bribery.
7	838.016(1)	3rd	Public servant receiving unlawful
8			compensation.
9	838.15(2)	3rd	Commercial bribe receiving.
10	838.16	3rd	Commercial bribery.
11	843.18	3rd	Fleeing by boat to elude a law
12			enforcement officer.
13	847.011(1)(a)	3rd	Sell, distribute, etc., obscene,
14			lewd, etc., material (2nd
15			conviction).
16	849.01	3rd	Keeping gambling house.
17	849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc.,
18			or assist therein, conduct or
19			advertise drawing for prizes, or
20			dispose of property or money by
21			means of lottery.
22	849.23	3rd	Gambling-related machines;
23			"common offender" as to property
24			rights.
25	849.25(2)	3rd	Engaging in bookmaking.
26	860.08	3rd	Interfere with a railroad signal.
27	860.13(1)(a)	3rd	Operate aircraft while under the
28			influence.
29	893.13(2)(a)2.	3rd	Purchase of cannabis.
30	893.13(6)(a)	3rd	Possession of cannabis (more than
31			20 grams).

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1	893.13(7)(a)10.	3rd	Affix false or forged label to
2			package of controlled substance.
3	934.03(1)(a)	3rd	Intercepts, or procures any other
4			person to intercept, any wire or
5			oral communication.
6			(c) LEVEL 3
7	316.1935(2)	3rd	Fleeing or attempting to elude
8			law enforcement officer in marked
9			patrol vehicle with siren and
10			lights activated.
11	319.30(4)	3rd	Possession by junkyard of motor
12			vehicle with identification
13			number plate removed.
14	319.33(1)(a)	3rd	Alter or forge any certificate of
15			title to a motor vehicle or
16			mobile home.
17	319.33(1)(c)	3rd	Procure or pass title on stolen
18			vehicle.
19	319.33(4)	3rd	With intent to defraud, possess,
20			sell, etc., a blank, forged, or
21			unlawfully obtained title or
22			registration.
23	328.05(2)	3rd	Possess, sell, or counterfeit
24			fictitious, stolen, or fraudulent
25			titles or bills of sale of
26			vessels.
27	328.07(4)	3rd	Manufacture, exchange, or possess
28			vessel with counterfeit or wrong
29			ID number.
30	376.302(5)	3rd	Fraud related to reimbursement
31			for cleanup expenses under the

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1			Inland Protection Trust Fund.
2	501.001(2)(b)	2nd	Tampers with a consumer product
3			or the container using materially
4			false/misleading information.
5	697.08	3rd	Equity skimming.
6	790.15(3)	3rd	Person directs another to
7			discharge firearm from a vehicle.
8	796.05(1)	3rd	Live on earnings of a prostitute.
9	806.10(1)	3rd	Maliciously injure, destroy, or
10			interfere with vehicles or
11			equipment used in firefighting.
12	806.10(2)	3rd	Interferes with or assaults
13			firefighter in performance of
14			duty.
15	810.09(2)(c)	3rd	Trespass on property other than
16			structure or conveyance armed
17			with firearm or dangerous weapon.
18	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
19			less than \$10,000.
20	815.04(4)(b)	2nd	Computer offense devised to
21			defraud or obtain property.
22	817.034(4)(a)3.	3rd	Engages in scheme to defraud
23			(Florida Communications Fraud
24			Act), property valued at less
25			than \$20,000.
26	817.233	3rd	Burning to defraud insurer.
27	817.234(8)&(9)	3rd	Unlawful solicitation of persons
28			involved in motor vehicle
29			accidents.
30	817.234(11)(a)	3rd	Insurance fraud; property value
31			less than \$20,000.

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1	817.505(4)	3rd	Patient brokering.
2	828.12(2)	3rd	Tortures any animal with intent
3			to inflict intense pain, serious
4			physical injury, or death.
5	831.28(2)(a)	3rd	Counterfeiting a payment
6			instrument with intent to defraud
7			or possessing a counterfeit
8			payment instrument.
9	831.29	2nd	Possession of instruments for
10			counterfeiting drivers' licenses
11			or identification cards.
12	838.021(3)(b)	3rd	Threatens unlawful harm to public
13			servant.
14	843.19	3rd	Injure, disable, or kill police
15			dog or horse.
16	870.01(2)	3rd	Riot; inciting or encouraging.
17	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
18			cannabis (or other s.
19			893.03(1)(c), (2)(c)1., (2)(c)2.,
20			(2)(c)3., (2)(c)5., (2)(c)6.,
21			(2)(c)7., (2)(c)8., (2)(c)9.,
22			(3), or (4) drugs).
23	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
24			893.03(1)(c), (2)(c)1., (2)(c)2.,
25			(2)(c)3., (2)(c)5., (2)(c)6.,
26			(2)(c)7., (2)(c)8., (2)(c)9.,
27			(3), or (4) drugs within 200 feet
28			of university or public park.
29	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s.
30			893.03(1)(c), (2)(c)1., (2)(c)2.,
31			(2)(c)3., (2)(c)5., (2)(c)6.,

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1			(2)(c)7., (2)(c)8., (2)(c)9.,
2			(3), or (4) drugs within 200 feet
3			of public housing facility.
4	893.13(6)(a)	3rd	Possession of any controlled
5			substance other than felony
6			possession of cannabis.
7	<u>893.13(7)(a)8.</u>	<u>3rd</u>	<u>Withhold information from</u>
8			<u>practitioner regarding previous</u>
9			<u>receipt of or prescription for a</u>
10			<u>controlled substance.</u>
11	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
12			controlled substance by fraud,
13			forgery, misrepresentation, etc.
14	<u>893.13(7)(a)10.</u>	<u>3rd</u>	<u>Affix false or forged label to</u>
15			<u>package of controlled substance.</u>
16	893.13(7)(a)11.	3rd	Furnish false or fraudulent
17			material information on any
18			document or record required by
19			chapter 893.
20	<u>893.13(8)(a)1.</u>	<u>3rd</u>	<u>Knowingly assist a patient, other</u>
21			<u>person, or owner of an animal in</u>
22			<u>obtaining a controlled substance</u>
23			<u>through deceptive, untrue, or</u>
24			<u>fraudulent representations in or</u>
25			<u>related to the practitioner's</u>
26			<u>practice.</u>
27	<u>893.13(8)(a)2.</u>	<u>3rd</u>	<u>Employ a trick or scheme in the</u>
28			<u>practitioner's practice to assist</u>
29			<u>a patient, other person, or owner</u>
30			<u>of an animal in obtaining a</u>
31			<u>controlled substance.</u>

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1 1993, the court may require any defendant who violates s.
2 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a), and
3 meets the criteria described in s. 893.13(10)~~s. 893.13(9)~~, to
4 successfully complete a term of probation pursuant to the
5 terms and conditions set forth in s. 948.034(1), in lieu of
6 serving a term of imprisonment.

7 2. Notwithstanding any provision of former s. 921.001
8 or s. 921.002 to the contrary, on or after October 1, 1993,
9 the court may require any defendant who violates s.
10 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a), and meets the
11 criteria described in s. 893.13(11)~~s. 893.13(10)~~, to
12 successfully complete a term of probation pursuant to the
13 terms and conditions set forth in s. 948.034(2), in lieu of
14 serving a term of imprisonment.

15 Section 5. This act shall take effect July 1, 2002.

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18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:

20 On page 1, line 2,
21 remove: entire title

22

23 and insert:

24 An act relating to criminal offenses involving
25 health care practitioners; creating s. 456.075,
26 F.S.; authorizing a representative of the
27 Department of Health to appear in a criminal
28 proceeding against a health care professional
29 to furnish information, make recommendations,
30 or provide other assistance; providing that the
31 court may order the representative to appear in

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1 a criminal proceeding that relates to the
2 qualifications, functions, or duties of a
3 health care professional; amending s. 893.13,
4 F.S.; increasing the penalty imposed for
5 withholding information from a practitioner
6 concerning a controlled substance; prohibiting
7 a practitioner from knowingly assisting a
8 person in obtaining a controlled substance
9 through fraud or scheme, knowingly prescribing
10 a controlled substance for a fictitious person,
11 or prescribing a controlled substance for
12 purposes of monetary benefit; providing for a
13 permissive inference that a prescribing
14 practitioner knowingly assisted a person to
15 obtain a controlled substance through fraud;
16 providing penalties; amending s. 921.0022,
17 F.S., relating to the offense severity ranking
18 chart of the Criminal Punishment Code;
19 conforming provisions to changes made by the
20 act; amending s. 921.187, F.S.; conforming
21 cross-references; providing an effective date.

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