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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

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~~

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

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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.—

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:

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.