

By the Committee on Health Regulation; and Senator Fasano

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1                                   A bill to be entitled  
2       An act relating to controlled substances; amending s.  
3       400.9905, F.S.; redefining the terms "clinic" and  
4       "portable equipment provider" within the Health Care  
5       Clinic Act; amending s. 456.013, F.S.; authorizing  
6       certain health care practitioners to complete a  
7       continuing education course relating to the  
8       prescription drug monitoring program; providing  
9       requirements for the course; requiring the Department  
10      of Health or a board that is authorized to exercise  
11      regulatory or rulemaking functions within the  
12      department to approve the course offered through a  
13      facility licensed under ch. 395, F.S., under certain  
14      circumstances; providing for application of the course  
15      requirements; requiring a board or the Department of  
16      Health to adopt rules; amending s. 458.305, F.S.;  
17      defining the term "dispensing physician" as it relates  
18      to the practice of medicine in this state; prohibiting  
19      certain persons from using titles or displaying signs  
20      that would lead the public to believe that they engage  
21      in the dispensing of controlled substances;  
22      prohibiting certain persons, firms, or corporations  
23      from using a trade name, sign, letter, or  
24      advertisement that implies that the persons, firms, or  
25      corporations are licensed or registered to dispense  
26      prescription drugs; prohibiting certain persons,  
27      firms, or corporations from holding themselves out to  
28      the public as licensed or registered to dispense  
29      controlled substances; providing penalties; amending

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30 s. 458.3191, F.S.; revising the information in the  
31 physician survey that is submitted by persons who  
32 apply for licensure renewal as a physician under ch.  
33 458 or ch. 459, F.S.; amending s. 458.3192, F.S.;  
34 requiring the Department of Health to provide  
35 nonidentifying information to the prescription drug  
36 monitoring program's Implementation and Oversight Task  
37 Force regarding the number of physicians that are  
38 registered with the prescription drug monitoring  
39 program and that use the database from the program in  
40 their practice; amending s. 458.3265, F.S.; revising  
41 the list of entities that are not required to register  
42 as a pain-management clinic; deleting certain  
43 requirements for a physician to practice medicine in a  
44 pain-management clinic; requiring a physician, an  
45 advanced registered nurse practitioner, or a physician  
46 assistant to perform an appropriate medical  
47 examination of a patient on the same day that the  
48 physician dispenses or prescribes a controlled  
49 substance to the patient at a pain-management clinic;  
50 requiring a physician who works in a pain-management  
51 clinic to document the reason a prescription for a  
52 certain dosage of a controlled substance is within the  
53 proper standard of care; creating a felony of the  
54 third degree for any person to register or attempt to  
55 register a pain-management clinic through  
56 misrepresentation or fraud; amending s. 458.327, F.S.;  
57 providing additional penalties; amending s. 458.331,  
58 F.S.; providing additional grounds for disciplinary

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59 action by the Board of Medicine; amending s. 459.003,  
60 F.S.; defining the term "dispensing physician" as it  
61 relates to the practice of osteopathic medicine in  
62 this state; amending s. 459.013, F.S.; providing  
63 additional penalties; amending s. 459.0137, F.S.;  
64 providing an exemption from the requirement that all  
65 privately owned pain-management clinics, facilities,  
66 or offices that advertise in any medium for any type  
67 of pain-management services, or employ an osteopathic  
68 physician who is primarily engaged in the treatment of  
69 pain by prescribing or dispensing controlled substance  
70 medications, must register with the Department of  
71 Health; requiring a physician, an advanced registered  
72 nurse practitioner, or a physician assistant to  
73 perform an appropriate medical examination of a  
74 patient on the same day that the physician dispenses  
75 or prescribes a controlled substance to the patient at  
76 a pain-management clinic; requiring an osteopathic  
77 physician who works in a pain-management clinic to  
78 document the reason a prescription for a certain  
79 dosage of a controlled substance is within the proper  
80 standard of care; creating a felony of the third  
81 degree for a licensee or other person who serves as  
82 the designated physician of a pain-management clinic  
83 to register a pain-management clinic through  
84 misrepresentation or fraud; amending s. 459.015, F.S.;  
85 providing additional grounds for disciplinary action  
86 by the Board of Osteopathic Medicine; amending s.  
87 465.015, F.S.; prohibiting certain persons from

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88 knowingly failing to report to the local county  
89 sheriff's office the commission of a felony involving  
90 a person who acquires or obtains possession of a  
91 controlled substance by misrepresentation, fraud,  
92 forgery, deception, or subterfuge under certain  
93 conditions; providing penalties; providing  
94 requirements for reporting the commission of a felony  
95 that involves a person who acquires or obtains  
96 possession of a controlled substance by  
97 misrepresentation, fraud, forgery, deception, or  
98 subterfuge; providing that a pharmacist, pharmacy  
99 intern, or other person employed by or at a pharmacy  
100 is not subject to disciplinary action for reporting;  
101 amending s. 465.0276, F.S.; requiring a practitioner  
102 to register as a dispensing practitioner in order to  
103 dispense controlled substances; amending s. 766.101,  
104 F.S.; conforming a cross-reference; amending s.  
105 810.02, F.S.; redefining the offense of burglary to  
106 include the theft of a controlled substance within a  
107 structure or conveyance; amending s. 812.014, F.S.;  
108 redefining the offense of theft to include the theft  
109 of a controlled substance; creating s. 893.021, F.S.;  
110 providing conditions in which a drug is considered  
111 adulterated; providing that a physician is not  
112 prevented from directing or prescribing a change to  
113 the recognized manufactured recommendations for use of  
114 any controlled substance for a patient under certain  
115 circumstances; requiring a prescribing physician to  
116 indicate on the original prescription any deviation of

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117 the recognized manufacturer's recommended use of a  
118 controlled substance; requiring a pharmacist or  
119 physician to indicate such deviation on the label of  
120 the prescription upon dispensing; amending s. 893.04,  
121 F.S.; revising the required information that must  
122 appear on the face of a prescription or written record  
123 of a controlled substance before it is dispensed by a  
124 pharmacist; amending s. 893.055, F.S.; requiring that  
125 the prescription drug monitoring program comply with  
126 the minimum requirements of the National All Schedules  
127 Prescription Electronic Reporting Act; requiring the  
128 Department of Health to establish a method to allow  
129 corrections to the database of the prescription drug  
130 monitoring program; requiring the number of refills  
131 ordered and whether the drug was dispensed as a refill  
132 or a first-time request to be included in the database  
133 of the prescription drug monitoring program; revising  
134 the number of days in which a dispensed controlled  
135 substance must be reported to the department through  
136 the prescription drug monitoring program; revising the  
137 list of acts of dispensing or administering which are  
138 exempt from reporting; requiring a pharmacy,  
139 prescriber, practitioner, or dispenser to register  
140 with the department by submitting a registering  
141 document in order to have access to certain  
142 information in the prescription drug monitoring  
143 program's database; requiring the department to  
144 approve the registering document before granting  
145 access to information in the prescription drug

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146 monitoring program's database; requiring criminal  
147 background screening for those persons who have direct  
148 access to the prescription drug monitoring program's  
149 database; authorizing the Attorney General to obtain  
150 confidential and exempt information for Medicaid fraud  
151 cases and Medicaid investigations; requiring certain  
152 documentation to be provided to the program manager in  
153 order to release confidential and exempt information  
154 from the prescription drug monitoring program's  
155 database to a patient, legal guardian, or a designated  
156 health care surrogate; authorizing the Agency for  
157 Health Care Administration to obtain confidential and  
158 exempt information from the prescription drug  
159 monitoring program's database for Medicaid fraud cases  
160 and Medicaid investigations involving controlled  
161 substances; deleting a provision requiring that  
162 administrative costs of the prescription drug  
163 monitoring program be funded through federal grants  
164 and private sources; requiring the State Surgeon  
165 General to enter into reciprocal agreements for the  
166 sharing of information in the prescription drug  
167 monitoring program with other states that have a  
168 similar prescription drug monitoring program;  
169 requiring the State Surgeon General to annually review  
170 a reciprocal agreement to determine its compatibility;  
171 providing requirements for compatibility; prohibiting  
172 the sharing of certain information; amending s.  
173 893.0551, F.S.; authorizing the Department of Health  
174 to disclose certain confidential and exempt

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175 information in the prescription drug monitoring  
176 program's database under certain circumstances  
177 involving reciprocal agreements with other states;  
178 prohibiting the sharing of information from the  
179 prescription drug monitoring program's database which  
180 is not for the purpose that is statutorily authorized  
181 or according to the State Surgeon General's  
182 determination of compatibility; amending s. 893.07,  
183 F.S.; requiring that a person report to the local  
184 sheriff's office the theft or loss of a controlled  
185 substance within a specified time; providing  
186 penalties; providing legislative intent; amending s.  
187 893.13, F.S.; prohibiting a person from obtaining or  
188 attempting to obtain from a practitioner a controlled  
189 substance or a prescription for a controlled substance  
190 by misrepresentation, fraud, forgery, deception,  
191 subterfuge, or concealment of a material fact;  
192 prohibiting a health care provider from providing a  
193 controlled substance or a prescription for a  
194 controlled substance by misrepresentation, fraud,  
195 forgery, deception, subterfuge, or concealment of a  
196 material fact; prohibiting a person from adulterating  
197 a controlled substance for certain use without  
198 authorization by a prescribing physician; authorizing  
199 a law enforcement officer to seize as evidence the  
200 adulteration or off-label use of a prescribed  
201 controlled substance; providing that such adulterated  
202 or off-label use of the controlled substance may be  
203 returned to its owner only under certain conditions;

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204 providing penalties; prohibiting a prescribing  
205 practitioner from writing a prescription for a  
206 controlled substance and authorizing or directing the  
207 adulteration of the dispensed form of the controlled  
208 substance for the purpose of ingestion by means not  
209 medically necessary; amending s. 893.138, F.S.;  
210 providing circumstances in which a pain-management  
211 clinic may be declared a public nuisance; providing  
212 definitions; requiring the Board of Pharmacy to create  
213 a list of opioid analgesic drugs; providing  
214 requirements for the list of opioid analgesic drugs;  
215 prohibiting a pharmacist from interchanging or  
216 substituting an opioid analgesic drug, brand, or  
217 generic for an opioid analgesic drug incorporating a  
218 tamper-resistance technology unless certain  
219 requirements are met; providing an effective date.

220

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

222

223 Section 1. Subsections (4) and (7) of section 400.9905,  
224 Florida Statutes, are amended to read:

225 400.9905 Definitions.—

226 (4) "Clinic" means an entity at which health care services  
227 are provided to individuals and which tenders charges for  
228 reimbursement or payment for such services, including a mobile  
229 clinic and a portable equipment provider. For purposes of this  
230 part, the term does not include and the licensure requirements  
231 of this part do not apply to:

232 (a) Entities licensed or registered by the state under



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233 chapter 395; or entities licensed or registered by the state and  
234 providing only health care services within the scope of services  
235 authorized under their respective licenses granted under ss.  
236 383.30-383.335, chapter 390, chapter 394, chapter 397, this  
237 chapter except part X, chapter 429, chapter 463, chapter 465,  
238 chapter 466, chapter 478, part I of chapter 483, chapter 484, or  
239 chapter 651; end-stage renal disease providers authorized under  
240 42 C.F.R. part 405, subpart U; or providers certified under 42  
241 C.F.R. part 485, subpart B or subpart H; or any entity that  
242 provides neonatal or pediatric hospital-based health care  
243 services or other health care services by licensed practitioners  
244 solely within a hospital licensed under chapter 395.

245 (b) Entities that own, directly or indirectly, entities  
246 licensed or registered by the state pursuant to chapter 395; or  
247 entities that own, directly or indirectly, entities licensed or  
248 registered by the state and providing only health care services  
249 within the scope of services authorized pursuant to their  
250 respective licenses granted under ss. 383.30-383.335, chapter  
251 390, chapter 394, chapter 397, this chapter except part X,  
252 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,  
253 part I of chapter 483, chapter 484, chapter 651; end-stage renal  
254 disease providers authorized under 42 C.F.R. part 405, subpart  
255 U; or providers certified under 42 C.F.R. part 485, subpart B or  
256 subpart H; or any entity that provides neonatal or pediatric  
257 hospital-based health care services by licensed practitioners  
258 solely within a hospital licensed under chapter 395.

259 (c) Entities that are owned, directly or indirectly, by an  
260 entity licensed or registered by the state pursuant to chapter  
261 395; or entities that are owned, directly or indirectly, by an

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262 entity licensed or registered by the state and providing only  
263 health care services within the scope of services authorized  
264 pursuant to their respective licenses granted under ss. 383.30-  
265 383.335, chapter 390, chapter 394, chapter 397, this chapter  
266 except part X, chapter 429, chapter 463, chapter 465, chapter  
267 466, chapter 478, part I of chapter 483, chapter 484, or chapter  
268 651; end-stage renal disease providers authorized under 42  
269 C.F.R. part 405, subpart U; or providers certified under 42  
270 C.F.R. part 485, subpart B or subpart H; or any entity that  
271 provides neonatal or pediatric hospital-based health care  
272 services by licensed practitioners solely within a hospital  
273 under chapter 395.

274 (d) Entities that are under common ownership, directly or  
275 indirectly, with an entity licensed or registered by the state  
276 pursuant to chapter 395; or entities that are under common  
277 ownership, directly or indirectly, with an entity licensed or  
278 registered by the state and providing only health care services  
279 within the scope of services authorized pursuant to their  
280 respective licenses granted under ss. 383.30-383.335, chapter  
281 390, chapter 394, chapter 397, this chapter except part X,  
282 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,  
283 part I of chapter 483, chapter 484, or chapter 651; end-stage  
284 renal disease providers authorized under 42 C.F.R. part 405,  
285 subpart U; or providers certified under 42 C.F.R. part 485,  
286 subpart B or subpart H; or any entity that provides neonatal or  
287 pediatric hospital-based health care services by licensed  
288 practitioners solely within a hospital licensed under chapter  
289 395.

290 (e) An entity that is exempt from federal taxation under 26

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291 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan  
292 under 26 U.S.C. s. 409 that has a board of trustees not less  
293 than two-thirds of which are Florida-licensed health care  
294 practitioners and provides only physical therapy services under  
295 physician orders, any community college or university clinic,  
296 and any entity owned or operated by the federal or state  
297 government, including agencies, subdivisions, or municipalities  
298 thereof.

299 (f) A sole proprietorship, group practice, partnership, or  
300 corporation that provides health care services by physicians  
301 covered by s. 627.419, that is directly supervised by one or  
302 more of such physicians, and that is wholly owned by one or more  
303 of those physicians or by a physician and the spouse, parent,  
304 child, or sibling of that physician.

305 (g) A sole proprietorship, group practice, partnership, or  
306 corporation that provides health care services by licensed  
307 health care practitioners under chapter 457, chapter 458,  
308 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,  
309 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,  
310 chapter 490, chapter 491, or part I, part III, part X, part  
311 XIII, or part XIV of chapter 468, or s. 464.012, which are  
312 wholly owned by one or more licensed health care practitioners,  
313 or the licensed health care practitioners set forth in this  
314 paragraph and the spouse, parent, child, or sibling of a  
315 licensed health care practitioner, so long as one of the owners  
316 who is a licensed health care practitioner is supervising the  
317 business activities and is legally responsible for the entity's  
318 compliance with all federal and state laws. However, a health  
319 care practitioner may not supervise services beyond the scope of

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320 the practitioner's license, except that, for the purposes of  
321 this part, a clinic owned by a licensee in s. 456.053(3)(b) that  
322 provides only services authorized pursuant to s. 456.053(3)(b)  
323 may be supervised by a licensee specified in s. 456.053(3)(b).

324 (h) Clinical facilities affiliated with an accredited  
325 medical school at which training is provided for medical  
326 students, residents, or fellows.

327 (i) Entities that provide only oncology or radiation  
328 therapy services by physicians licensed under chapter 458 or  
329 chapter 459 or entities that provide oncology or radiation  
330 therapy services by physicians licensed under chapter 458 or  
331 chapter 459 which are owned by a corporation whose shares are  
332 publicly traded on a recognized stock exchange.

333 (j) Clinical facilities affiliated with a college of  
334 chiropractic accredited by the Council on Chiropractic Education  
335 at which training is provided for chiropractic students.

336 (k) Entities that provide licensed practitioners to staff  
337 emergency departments or to deliver anesthesia services in  
338 facilities licensed under chapter 395 and that derive at least  
339 90 percent of their gross annual revenues from the provision of  
340 such services. Entities claiming an exemption from licensure  
341 under this paragraph must provide documentation demonstrating  
342 compliance.

343 (l) Orthotic or prosthetic clinical facilities that are a  
344 publicly traded corporation or that are wholly owned, directly  
345 or indirectly, by a publicly traded corporation. As used in this  
346 paragraph, a publicly traded corporation is a corporation that  
347 issues securities traded on an exchange registered with the  
348 United States Securities and Exchange Commission as a national

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349 securities exchange.

350 (7) "Portable equipment provider" means an entity that  
351 contracts with or employs persons to provide portable equipment  
352 to multiple locations performing treatment or diagnostic testing  
353 of individuals, ~~that bills third-party payors for those~~  
354 ~~services,~~ and that otherwise meets the definition of a clinic in  
355 subsection (4).

356 Section 2. Subsection (7) of section 456.013, Florida  
357 Statutes, is amended to read:

358 456.013 Department; general licensing provisions.—

359 (7) (a) The boards, or the department when there is no  
360 board, shall require the completion of a 2-hour course relating  
361 to prevention of medical errors as part of the licensure and  
362 renewal process. The 2-hour course counts ~~shall count~~ towards  
363 the total number of continuing education hours required for the  
364 profession. The board or department shall approve the course  
365 ~~shall be approved by the board or department,~~ as appropriate,  
366 which must and shall include a study of root-cause analysis,  
367 error reduction and prevention, and patient safety. In addition,  
368 the course approved by the Board of Medicine and the Board of  
369 Osteopathic Medicine must ~~shall~~ include information relating to  
370 the five most misdiagnosed conditions during the previous  
371 biennium, as determined by the board. If the course is being  
372 offered by a facility licensed under ~~pursuant to~~ chapter 395 for  
373 its employees, the board may approve up to 1 hour of the 2-hour  
374 course to be specifically related to error reduction and  
375 prevention methods used in that facility.

376 (b) As a condition of initial licensure and at each  
377 subsequent license renewal, the boards, or the department if

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378 there is no board, shall allow each practitioner licensed under  
379 chapter 458, chapter 459, chapter 461, chapter 465, or chapter  
380 466 whose lawful scope of practice authorizes the practitioner  
381 to prescribe, administer, or dispense controlled substances to  
382 complete a 1-hour continuing education course relating to the  
383 prescription drug monitoring program. The course must include,  
384 but need not be limited to:

385 1. The purpose of the prescription drug monitoring program.

386 2. The practitioners' capabilities for improving the  
387 standard of care for patients by using the prescription drug  
388 monitoring program.

389 3. How the prescription drug monitoring program can help  
390 practitioners detect doctor shopping.

391 4. The involvement of law enforcement personnel, the  
392 Attorney General's Medicaid Fraud Unit, and medical regulatory  
393 investigators with the prescription drug monitoring program.

394 5. The procedures for registering for access to the  
395 prescription drug monitoring program.

396  
397 The course hours may be included in the total number of hours of  
398 continuing education required by the profession and must be  
399 approved by the board or by the department if there is no board.  
400 The boards, or the department if there is no board, shall  
401 approve the course offered through a facility licensed under  
402 chapter 395 for its employees if the course is at least 3 hours  
403 and covers the education requirements.

404 (c) The course requirements in paragraph (b) apply to each  
405 licensee renewing his or her license on or after July 1, 2012,  
406 and to each applicant approved for licensure on or after January

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407 1, 2013.

408 (d) By October 1, 2011, the boards, or the department if  
 409 there is no board, shall adopt rules as necessary to administer  
 410 this subsection.

411 Section 3. Section 458.305, Florida Statutes, is amended to  
 412 read:

413 458.305 Definitions.—As used in this chapter:

414 (1) "Board" means the Board of Medicine.

415 (2) "Department" means the Department of Health.

416 (3) "Dispensing physician" means a physician who is  
 417 registered as a dispensing practitioner under s. 465.0276.

418 (4)~~(3)~~ "Practice of medicine" means the diagnosis,  
 419 treatment, operation, or prescription for any human disease,  
 420 pain, injury, deformity, or other physical or mental condition.

421 (5)~~(4)~~ "Physician" means a person who is licensed to  
 422 practice medicine in this state.

423 Section 4. Advertising of controlled substances by a  
 424 dispensing physician.—

425 (1) (a) Only a dispensing physician licensed under chapter  
 426 458 or chapter 459, Florida Statutes, may use the title  
 427 "dispensing physician" or "dispenser" or otherwise lead the  
 428 public to believe that he or she is engaged in the dispensing of  
 429 controlled substances.

430 (b) A person, other than an owner of a:

431 1. Pain-management clinic registered under chapter 458 or  
 432 chapter 459, Florida Statutes; or

433 2. Health clinic licensed under chapter 400, Florida  
 434 Statutes,

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436 may not display any sign or take any other action that would  
437 lead the public to believe that such person is engaged in the  
438 business of dispensing a controlled substance. Any advertisement  
439 that states "dispensing onsite" or "onsite pharmacy" violates  
440 this paragraph. This paragraph does not preclude a person who is  
441 not licensed as a medical practitioner from owning a pain-  
442 management clinic.

443 (c) A person, firm, or corporation, unless licensed under  
444 chapter 465, Florida Statutes, may not use in a trade name,  
445 sign, letter, or advertisement any term, including "drug,"  
446 "pharmacy," "onsite pharmacy," "dispensing," "dispensing  
447 onsite," "prescription drugs," "Rx," or "apothecary," which  
448 implies that the person, firm, or corporation is licensed or  
449 registered to dispense prescription drugs in this state.

450 (2) A person who violates paragraph (1)(a) or paragraph  
451 (1)(b) commits a misdemeanor of the first degree, punishable as  
452 provided in s. 775.082 or s. 775.083, Florida Statutes. A person  
453 who violates paragraph (1)(c) commits a felony of the third  
454 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
455 775.084, Florida Statutes. In any warrant, information, or  
456 indictment, it is not necessary to negate any exceptions, and  
457 the burden of any exception is upon the defendant.

458 Section 5. Paragraph (a) of subsection (1) of section  
459 458.3191, Florida Statutes, is amended to read:

460 458.3191 Physician survey.-

461 (1) Each person who applies for licensure renewal as a  
462 physician under this chapter or chapter 459 must, in conjunction  
463 with the renewal of such license under procedures adopted by the  
464 Department of Health and in addition to any other information



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465 that may be required from the applicant, furnish the following  
466 to the Department of Health in a physician survey:

467 (a) Licensee information, including, but not limited to:

468 1. Frequency and geographic location of practice within the  
469 state.

470 2. Practice setting.

471 3. Percentage of time spent in direct patient care.

472 4. Anticipated change to license or practice status.

473 5. Areas of specialty or certification.

474 6. Whether the department has ever approved or denied the  
475 physician's registration for access to a patient's information  
476 in the prescription drug monitoring program's database.

477 7. Whether the physician uses the prescription drug  
478 monitoring program with patients in his or her medical practice.

479 Section 6. Subsection (3) is added to section 458.3192,  
480 Florida Statutes, to read:

481 458.3192 Analysis of survey results; report.—

482 (3) By November 1 each year, the Department of Health shall  
483 provide nonidentifying information to the prescription drug  
484 monitoring program's Implementation and Oversight Task Force  
485 regarding the number of physicians who are registered with the  
486 prescription drug monitoring program and who also use the  
487 database from the prescription drug monitoring program for their  
488 patients in their medical practice.

489 Section 7. Paragraph (a) of subsection (1) and paragraphs  
490 (a) and (c) of subsection (2) of section 458.3265, Florida  
491 Statutes, are amended, and paragraphs (f) and (g) are added to  
492 subsection (5) of that section, to read:

493 458.3265 Pain-management clinics.—

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494 (1) REGISTRATION.—

495 (a) All privately owned pain-management clinics,  
496 facilities, or offices, hereinafter referred to as "clinics,"  
497 which advertise in any medium for any type of pain-management  
498 services, or employ a physician who is primarily engaged in the  
499 treatment of pain by prescribing or dispensing controlled  
500 substance medications, must register with the department unless:

501 1. That clinic is licensed as a facility pursuant to  
502 chapter 395;

503 2. The majority of the physicians who provide services in  
504 the clinic primarily provide surgical services or interventional  
505 pain procedures of the type routinely billed using surgical  
506 codes;

507 3. The clinic is owned by a publicly held corporation whose  
508 shares are traded on a national exchange or on the over-the-  
509 counter market and whose total assets at the end of the  
510 corporation's most recent fiscal quarter exceeded \$50 million;

511 4. The clinic is affiliated with an accredited medical  
512 school at which training is provided for medical students,  
513 residents, or fellows;

514 5. The clinic does not prescribe or dispense controlled  
515 substances for the treatment of pain; or

516 6. The clinic is owned by a corporate entity exempt from  
517 federal taxation under 26 U.S.C. s. 501(c)(3).

518 (2) PHYSICIAN RESPONSIBILITIES.—These responsibilities  
519 apply to any physician who provides professional services in a  
520 pain-management clinic that is required to be registered in  
521 subsection (1).

522 (a) A physician may not practice medicine in a pain-

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523 management clinic, as described in subsection (4), if~~+~~

524 ~~1. the pain-management clinic is not registered with the~~  
525 ~~department as required by this section.~~~~;~~ ~~or~~

526 ~~2. Effective July 1, 2012, the physician has not~~  
527 ~~successfully completed a pain-medicine fellowship that is~~  
528 ~~accredited by the Accreditation Council for Graduate Medical~~  
529 ~~Education or a pain-medicine residency that is accredited by the~~  
530 ~~Accreditation Council for Graduate Medical Education or, prior~~  
531 ~~to July 1, 2012, does not comply with rules adopted by the~~  
532 ~~board.~~

533

534 Any physician who qualifies to practice medicine in a pain-  
535 management clinic pursuant to rules adopted by the Board of  
536 Medicine as of July 1, 2012, may continue to practice medicine  
537 in a pain-management clinic as long as the physician continues  
538 to meet the qualifications set forth in the board rules. A  
539 physician who violates this paragraph is subject to disciplinary  
540 action by his or her appropriate medical regulatory board.

541 (c) A physician, an advanced registered nurse practitioner,  
542 or a physician assistant must perform an appropriate medical a  
543 ~~physical~~ examination of a patient on the same day that the  
544 physician ~~he or she~~ dispenses or prescribes a controlled  
545 substance to a patient at a pain-management clinic. If the  
546 physician prescribes or dispenses more than a 72-hour dose of  
547 controlled substances for the treatment of chronic nonmalignant  
548 pain, the physician must document in the patient's record the  
549 reason such dosage is within the standard of care. For the  
550 purpose of this paragraph, the standard of care is set forth in  
551 rule 64B8-9.013(3), Florida Administrative Code ~~for prescribing~~

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552 ~~or dispensing that quantity.~~

553 (5) PENALTIES; ENFORCEMENT.—

554 (f) A licensee or other person who serves as the designated  
555 physician of a pain-management clinic as defined in this section  
556 or s. 459.0137 and registers a pain-management clinic through  
557 misrepresentation or fraud or procures or attempts to procure  
558 the registration of a pain-management clinic for any other  
559 person by making or causing to be made any false or fraudulent  
560 representation commits a felony of the third degree, punishable  
561 as provided in s. 775.082, s. 775.083, or s. 775.084.

562 (g) Any person who registers a pain-management clinic  
563 through misrepresentation or fraud or who procures or attempts  
564 to procure the registration of a pain-management clinic for any  
565 other person by making or causing to be made any false or  
566 fraudulent representation, commits a felony of the third degree,  
567 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

568 Section 8. Paragraphs (f) and (g) are added to subsection  
569 (1), paragraphs (g) and (h) are added to subsection (2), and  
570 subsection (3) is added to section 458.327, Florida Statutes, to  
571 read:

572 458.327 Penalty for violations.—

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

576 (f) Failing to perform a physical examination of a patient  
577 by a physician or a licensed designee acting under the  
578 physician's supervision on the same day that the treating  
579 physician dispenses or prescribes a controlled substance to the  
580 patient at a pain-management clinic occurring three or more

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581 times within a 6-month period, or failing to perform a physical  
582 examination on three or more different patients on the same day  
583 that the treating physician dispenses or prescribes a controlled  
584 substance to each patient at a pain-management clinic within a  
585 6-month period.

586 (g) Prescribing or dispensing in excess of a 72-hour dose  
587 of controlled substances at a pain-management clinic for the  
588 treatment of chronic nonmalignant pain of a patient occurring  
589 three or more times within a 6-month period without documenting  
590 in the patient's record the reason that such dosage is within  
591 the standard of care. For the purpose of this paragraph, the  
592 standard of care is set forth in rule 64B8-9.013(3), Florida  
593 Administrative Code.

594 (2) Each of the following acts constitutes a misdemeanor of  
595 the first degree, punishable as provided in s. 775.082 or s.  
596 775.083:

597 (g) Failing to perform a physical examination of a patient  
598 on the same day that the treating physician dispenses or  
599 prescribes a controlled substance to the patient at a pain-  
600 management clinic two times in a 6-month period, or failing to  
601 perform a physical examination on two different patients on the  
602 same day that the treating physician dispenses or prescribes a  
603 controlled substance to each patient at a pain-management clinic  
604 within a 6-month period.

605 (h) Prescribing or dispensing in excess of a 72-hour dose  
606 of controlled substances at a pain-management clinic for the  
607 treatment of chronic nonmalignant pain of a patient occurring  
608 two times within a 6-month period without documenting in the  
609 patient's record the reason that such dosage is within the

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610 standard of care. For the purpose of this paragraph, the  
611 standard of care is set forth in rule 64B8-9.013(3), Florida  
612 Administrative Code.

613 (3) Each of the following acts constitutes a misdemeanor of  
614 the second degree, punishable as provided in s. 775.082 or s.  
615 775.083:

616 (a) A first offense of failing to perform a physical  
617 examination of a patient on the same day that the treating  
618 physician dispenses or prescribes a controlled substance to the  
619 patient at a pain-management clinic.

620 (b) A first offense of failing to document in a patient's  
621 record the reason that such dosage is within the standard of  
622 care for prescribing or dispensing in excess of a 72-hour dose  
623 of controlled substances at a pain-management clinic for the  
624 treatment of chronic nonmalignant pain.

625 Section 9. Subsection (11) is added to section 458.331,  
626 Florida Statutes, to read:

627 458.331 Grounds for disciplinary action; action by the  
628 board and department.—

629 (11) Notwithstanding subsection (2), upon finding that a  
630 physician has prescribed or dispensed, or caused to be  
631 prescribed or dispensed, a controlled substance in a pain-  
632 management clinic in a manner that violates the standard of  
633 practice as set forth in this chapter or rules adopted pursuant  
634 to this chapter, the board shall, at a minimum, suspend the  
635 physician's license for at least 6 months and impose a fine of  
636 at least \$10,000 per count. Repeated violations shall result in  
637 increased penalties.

638 Section 10. Present subsections (3), (4), and (5) of

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639 section 459.003, Florida Statutes, are redesignated as  
640 subsections (4), (5), and (6), respectively, and a new  
641 subsection (3) is added to that section, to read:

642 459.003 Definitions.—As used in this chapter:

643 (3) "Dispensing physician" means an osteopathic physician  
644 who is registered as a dispensing practitioner under s.  
645 465.0276.

646 Section 11. Paragraphs (f) and (g) are added to subsection  
647 (1), paragraphs (e) and (f) are added to subsection (2), and  
648 paragraphs (d) and (e) are added to subsection (3) of section  
649 459.013, Florida Statutes, to read:

650 459.013 Penalty for violations.—

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

654 (f) Failing to perform a physical examination of a patient  
655 on the same day that the osteopathic physician dispenses or  
656 prescribes a controlled substance to the patient at a pain-  
657 management clinic occurring three or more times within a 6-month  
658 period, or failing to perform a physical examination on three or  
659 more different patients on the same day that the osteopathic  
660 physician dispenses or prescribes a controlled substance to each  
661 patient at a pain-management clinic within a 6-month period.

662 (g) Prescribing or dispensing in excess of a 72-hour dose  
663 of controlled substances at a pain-management clinic for the  
664 treatment of chronic nonmalignant pain of a patient occurring  
665 three or more times within a 6-month period without documenting  
666 in the patient's record the reason that such dosage is within  
667 the standard of care. For the purpose of this paragraph, the

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668 standard of care is set forth in rule 64B8-9.013(3), Florida  
669 Administrative Code.

670 (2) Each of the following acts constitutes a misdemeanor of  
671 the first degree, punishable as provided in s. 775.082 or s.  
672 775.083:

673 (e) Failing to perform a physical examination of a patient  
674 on the same day that the osteopathic physician dispenses or  
675 prescribes a controlled substance to the patient at a pain-  
676 management clinic occurring two times within a 6-month period,  
677 or failing to perform a physical examination on two different  
678 patients on the same day that the osteopathic physician  
679 dispenses or prescribes a controlled substance to each patient  
680 at a pain-management clinic within a 6-month period.

681 (f) Prescribing or dispensing in excess of a 72-hour dose  
682 of controlled substances at a pain-management clinic for the  
683 treatment of chronic nonmalignant pain of a patient occurring  
684 two times within a 6-month period without documenting in the  
685 patient's record the reason that such dosage is within the  
686 standard of care. For the purpose of this paragraph, the  
687 standard of care is set forth in rule 64B8-9.013(3), Florida  
688 Administrative Code.

689 (3) Each of the following constitutes a misdemeanor of the  
690 second degree, punishable as provided in s. 775.082 or s.  
691 775.083:

692 (d) A first offense of failing to perform a physical  
693 examination of a patient on the same day that the osteopathic  
694 physician dispenses or prescribes a controlled substance to the  
695 patient at a pain-management clinic.

696 (e) A first offense of failing to document in a patient's



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697 record the reason that such dosage is within the standard of  
698 care for prescribing or dispensing in excess of a 72-hour dose  
699 of controlled substances at a pain-management clinic for the  
700 treatment of chronic nonmalignant pain. For the purpose of this  
701 paragraph, the standard of care is set forth in rule 64B8-  
702 9.013(3), Florida Administrative Code.

703 Section 12. Paragraph (a) of subsection (1) and paragraph  
704 (c) of subsection (2) of section 459.0137, Florida Statutes, are  
705 amended, and paragraphs (f) and (g) are added to subsection (5)  
706 of that section, to read:

707 459.0137 Pain-management clinics.—

708 (1) REGISTRATION.—

709 (a) All privately owned pain-management clinics,  
710 facilities, or offices, hereinafter referred to as "clinics,"  
711 which advertise in any medium for any type of pain-management  
712 services, or employ an osteopathic physician who is primarily  
713 engaged in the treatment of pain by prescribing or dispensing  
714 controlled substance medications, must register with the  
715 department unless:

716 1. That clinic is licensed as a facility pursuant to  
717 chapter 395;

718 2. The majority of the physicians who provide services in  
719 the clinic primarily provide surgical services or interventional  
720 pain procedures of the type routinely billed using surgical  
721 codes;

722 3. The clinic is owned by a publicly held corporation whose  
723 shares are traded on a national exchange or on the over-the-  
724 counter market and whose total assets at the end of the  
725 corporation's most recent fiscal quarter exceeded \$50 million;

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726 4. The clinic is affiliated with an accredited medical  
727 school at which training is provided for medical students,  
728 residents, or fellows;

729 5. The clinic does not prescribe or dispense controlled  
730 substances for the treatment of pain; or

731 6. The clinic is owned by a corporate entity exempt from  
732 federal taxation under 26 U.S.C. s. 501(c)(3).

733 (2) PHYSICIAN RESPONSIBILITIES.—These responsibilities  
734 apply to any osteopathic physician who provides professional  
735 services in a pain-management clinic that is required to be  
736 registered in subsection (1).

737 (c) An osteopathic physician, an advanced registered nurse  
738 practitioner, or a physician assistant must perform an  
739 appropriate medical ~~a physical~~ examination of a patient on the  
740 same day that the physician ~~he or she~~ dispenses or prescribes a  
741 controlled substance to a patient at a pain-management clinic.  
742 If the osteopathic physician prescribes or dispenses more than a  
743 72-hour dose of controlled substances for the treatment of  
744 chronic nonmalignant pain, the osteopathic physician must  
745 document in the patient's record the reason for which  
746 prescribing or dispensing a dosage in excess of a 72-hour dose  
747 of controlled substances for the treatment of chronic  
748 nonmalignant pain is within the standard of care ~~for prescribing~~  
749 ~~or dispensing that quantity.~~

750 (5) PENALTIES; ENFORCEMENT.—

751 (f) A licensee or other person who serves as the designated  
752 physician of a pain-management clinic as defined in s. 458.3265  
753 or s. 459.0137 and registers a pain-management clinic through  
754 intentional misrepresentation or fraud or procures or attempts

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755 to procure the registration of a pain-management clinic for any  
756 other person by making or causing to be made any false or  
757 fraudulent representation commits a felony of the third degree,  
758 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

759 (g) Any person who registers a pain-management clinic  
760 through misrepresentation or fraud or who procures or attempts  
761 to procure the registration of a pain-management clinic for any  
762 other person by making or causing to be made any false or  
763 fraudulent representation, commits a felony of the third degree,  
764 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

765 Section 13. Subsection (11) is added to section 459.015,  
766 Florida Statutes, to read:

767 459.015 Grounds for disciplinary action; action by the  
768 board and department.—

769 (11) Notwithstanding subsection (2), upon finding that an  
770 osteopathic physician has prescribed or dispensed, or caused to  
771 be prescribed or dispensed, a controlled substance in a pain-  
772 management clinic in a manner that violates the standard of  
773 practice as set forth in this chapter or rules adopted pursuant  
774 to this chapter, the board shall, at a minimum, suspend the  
775 osteopathic physician's license for at least 6 months and impose  
776 a fine of at least \$10,000 per count. Repeated violations shall  
777 result in increased penalties.

778 Section 14. Present subsections (3) and (4) of section  
779 465.015, Florida Statutes, are renumbered as subsections (4) and  
780 (5), respectively, and a new subsection (3) is added to that  
781 section, to read:

782 465.015 Violations and penalties.—

783 (3) (a) A licensed pharmacist, pharmacy technician, or any

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784 person working under the direction or supervision of a  
785 pharmacist or pharmacy technician, may not knowingly fail to  
786 timely report to the local county sheriff's office the name of  
787 any person who obtains or attempts to obtain a substance  
788 controlled by s. 893.03 which the pharmacist, pharmacy intern,  
789 or other person employed by or at a pharmacy knows or reasonably  
790 should have known was obtained or attempted to be obtained from  
791 the pharmacy through any fraudulent method or representation. A  
792 pharmacist, pharmacy intern, or other person employed by or at a  
793 pharmacy who fails to make such a report within 24 hours after  
794 learning of the fraud or attempted fraud commits a misdemeanor  
795 of the first degree, punishable as provided in s. 775.082 or s.  
796 775.083.

797 (b) A sufficient report of the fraudulent obtaining of or  
798 attempt to obtain a controlled substance under this section must  
799 contain, at a minimum, a copy of the prescription used or  
800 presented and a narrative, including all information available  
801 to the pharmacy regarding:

802 1. The transaction, such as the name and telephone number  
803 of the prescribing physician;

804 2. The name, description, and any personal identification  
805 information pertaining to the person presenting the  
806 prescription; and

807 3. All other material information, such as photographic or  
808 video surveillance of the transaction.

809  
810 A pharmacist, pharmacy intern, or other person employed by or at  
811 a pharmacy is not subject to disciplinary action for reporting  
812 under this subsection.

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813 Section 15. Subsection (6) is added to section 465.0276,  
814 Florida Statutes, to read:

815 465.0276 Dispensing practitioner.—

816 (6) In order to dispense a controlled substance listed in  
817 Schedule II, Schedule III, or Schedule IV in s. 893.03, a  
818 practitioner authorized by law to prescribe a controlled  
819 substance shall register with the Board of Pharmacy as a  
820 dispensing practitioner who dispenses controlled substances and  
821 pay a fee not to exceed \$100. The department shall adopt rules  
822 establishing procedures for renewal of the registration every 4  
823 years.

824 Section 16. Paragraph (a) of subsection (1) of section  
825 766.101, Florida Statutes, is amended to read:

826 766.101 Medical review committee, immunity from liability.—

827 (1) As used in this section:

828 (a) The term "medical review committee" or "committee"  
829 means:

830 1.a. A committee of a hospital or ambulatory surgical  
831 center licensed under chapter 395 or a health maintenance  
832 organization certificated under part I of chapter 641,

833 b. A committee of a physician-hospital organization, a  
834 provider-sponsored organization, or an integrated delivery  
835 system,

836 c. A committee of a state or local professional society of  
837 health care providers,

838 d. A committee of a medical staff of a licensed hospital or  
839 nursing home, provided the medical staff operates pursuant to  
840 written bylaws that have been approved by the governing board of  
841 the hospital or nursing home,

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842 e. A committee of the Department of Corrections or the  
843 Correctional Medical Authority as created under s. 945.602, or  
844 employees, agents, or consultants of either the department or  
845 the authority or both,

846 f. A committee of a professional service corporation formed  
847 under chapter 621 or a corporation organized under chapter 607  
848 or chapter 617, which is formed and operated for the practice of  
849 medicine as defined in s. 458.305(4) ~~s. 458.305(3)~~, and which  
850 has at least 25 health care providers who routinely provide  
851 health care services directly to patients,

852 g. A committee of the Department of Children and Family  
853 Services which includes employees, agents, or consultants to the  
854 department as deemed necessary to provide peer review,  
855 utilization review, and mortality review of treatment services  
856 provided pursuant to chapters 394, 397, and 916,

857 h. A committee of a mental health treatment facility  
858 licensed under chapter 394 or a community mental health center  
859 as defined in s. 394.907, provided the quality assurance program  
860 operates pursuant to the guidelines which have been approved by  
861 the governing board of the agency,

862 i. A committee of a substance abuse treatment and education  
863 prevention program licensed under chapter 397 provided the  
864 quality assurance program operates pursuant to the guidelines  
865 which have been approved by the governing board of the agency,

866 j. A peer review or utilization review committee organized  
867 under chapter 440,

868 k. A committee of the Department of Health, a county health  
869 department, healthy start coalition, or certified rural health  
870 network, when reviewing quality of care, or employees of these

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871 entities when reviewing mortality records, or

872 1. A continuous quality improvement committee of a pharmacy  
873 licensed pursuant to chapter 465,

874

875 which committee is formed to evaluate and improve the quality of  
876 health care rendered by providers of health service, to  
877 determine that health services rendered were professionally  
878 indicated or were performed in compliance with the applicable  
879 standard of care, or that the cost of health care rendered was  
880 considered reasonable by the providers of professional health  
881 services in the area; or

882 2. A committee of an insurer, self-insurer, or joint  
883 underwriting association of medical malpractice insurance, or  
884 other persons conducting review under s. 766.106.

885 Section 17. Subsection (3) of section 810.02, Florida  
886 Statutes, is amended to read:

887 810.02 Burglary.—

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

894 (a) Dwelling, and there is another person in the dwelling  
895 at the time the offender enters or remains;

896 (b) Dwelling, and there is not another person in the  
897 dwelling at the time the offender enters or remains;

898 (c) Structure, and there is another person in the structure  
899 at the time the offender enters or remains;

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900 (d) Conveyance, and there is another person in the  
901 conveyance at the time the offender enters or remains; ~~or~~

902 (e) Authorized emergency vehicle, as defined in s. 316.003;  
903 or-

904 (f) Structure or conveyance when the offense intended to be  
905 committed is theft of a substance controlled by s. 893.03.  
906 Notwithstanding any contrary provisions of law, separate  
907 judgments and sentences for burglary with the intent to commit  
908 theft of a controlled substance under this paragraph and for any  
909 applicable offense for possession of a controlled substance  
910 under s. 893.13, or an offense for trafficking in a controlled  
911 substance under s. 893.135, may be imposed if all such offenses  
912 involve the same amount or amounts of a controlled substance.

913  
914 However, if the burglary is committed within a county that is  
915 subject to a state of emergency declared by the Governor under  
916 chapter 252 after the declaration of emergency is made and the  
917 perpetration of the burglary is facilitated by conditions  
918 arising from the emergency, the burglary is a felony of the  
919 first degree, punishable as provided in s. 775.082, s. 775.083,  
920 or s. 775.084. As used in this subsection, the term "conditions  
921 arising from the emergency" means civil unrest, power outages,  
922 curfews, voluntary or mandatory evacuations, or a reduction in  
923 the presence of or response time for first responders or  
924 homeland security personnel. A person arrested for committing a  
925 burglary within a county that is subject to such a state of  
926 emergency may not be released until the person appears before a  
927 committing magistrate at a first appearance hearing. For  
928 purposes of sentencing under chapter 921, a felony offense that



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929 is reclassified under this subsection is ranked one level above  
930 the ranking under s. 921.0022 or s. 921.0023 of the offense  
931 committed.

932 Section 18. Paragraph (c) of subsection (2) of section  
933 812.014, Florida Statutes, is amended to read:

934 812.014 Theft.—

935 (2)

936 (c) It is grand theft of the third degree and a felony of  
937 the third degree, punishable as provided in s. 775.082, s.  
938 775.083, or s. 775.084, if the property stolen is:

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

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

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

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

943 5. A firearm.

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

945 7. Any commercially farmed animal, including any animal of  
946 the equine, bovine, or swine class, or other grazing animal, and  
947 including aquaculture species raised at a certified aquaculture  
948 facility. If the property stolen is aquaculture species raised  
949 at a certified aquaculture facility, then a \$10,000 fine shall  
950 be imposed.

951 8. Any fire extinguisher.

952 9. Any amount of citrus fruit consisting of 2,000 or more  
953 individual pieces of fruit.

954 10. Taken from a designated construction site identified by  
955 the posting of a sign as provided for in s. 810.09(2)(d).

956 11. Any stop sign.

957 12. Anhydrous ammonia.

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958       13. Any amount of a substance controlled by s. 893.03.  
959 Notwithstanding any contrary provisions of law, separate  
960 judgments and sentences for theft of a controlled substance  
961 under this subparagraph, and for any applicable offense for  
962 possession of a controlled substance under s. 893.13, or an  
963 offense for trafficking in a controlled substance under s.  
964 893.135 may be imposed if all such offenses involve the same  
965 amount or amounts of controlled substance.

966  
967 However, if the property is stolen within a county that is  
968 subject to a state of emergency declared by the Governor under  
969 chapter 252, the property is stolen after the declaration of  
970 emergency is made, and the perpetration of the theft is  
971 facilitated by conditions arising from the emergency, the  
972 offender commits a felony of the second degree, punishable as  
973 provided in s. 775.082, s. 775.083, or s. 775.084, if the  
974 property is valued at \$5,000 or more, but less than \$10,000, as  
975 provided under subparagraph 2., or if the property is valued at  
976 \$10,000 or more, but less than \$20,000, as provided under  
977 subparagraph 3. As used in this paragraph, the term "conditions  
978 arising from the emergency" means civil unrest, power outages,  
979 curfews, voluntary or mandatory evacuations, or a reduction in  
980 the presence of or the response time for first responders or  
981 homeland security personnel. For purposes of sentencing under  
982 chapter 921, a felony offense that is reclassified under this  
983 paragraph is ranked one level above the ranking under s.  
984 921.0022 or s. 921.0023 of the offense committed.

985       Section 19. Section 893.021, Florida Statutes, is created  
986 to read:

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987 893.021 Adulterated drug.-

988 (1) As used in this chapter, a drug is adulterated if it is  
989 a controlled substance that:

990 (a) Has been produced, prepared, packed, and marketed for  
991 oral consumption by the manufacturer; and

992 (b) Has had any change to its integrity or composition for  
993 use by means of inhalation, injection, or any other form of  
994 ingestion not in accordance with the manufacturer's recommended  
995 use, and such mode of use has not been previously directed and  
996 approved by the prescribing physician.

997 (2) A physician is not prevented from directing or  
998 prescribing a change to the recognized manufactured  
999 recommendations for use in a patient who presents a medical need  
1000 for such a requirement change of any controlled substance. The  
1001 prescribing physician shall clearly indicate any deviation of  
1002 the recognized manufacturer's recommended use of a controlled  
1003 substance on the original prescription, and the licensed  
1004 pharmacist shall clearly indicate such deviation on the label of  
1005 the prescription upon dispensing the controlled substance.

1006 Section 20. Paragraphs (c), (d), and (e) of subsection (1)  
1007 of section 893.04, Florida Statutes, are amended to read:

1008 893.04 Pharmacist and practitioner.-

1009 (1) A pharmacist, in good faith and in the course of  
1010 professional practice only, may dispense controlled substances  
1011 upon a written or oral prescription of a practitioner, under the  
1012 following conditions:

1013 (c) The following information must ~~There shall~~ appear on  
1014 the face of the prescription or written record of a ~~thereof for~~  
1015 the controlled substance ~~the following information:~~

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1016 1. The full name and address of the person for whom, or the  
1017 owner of the animal for which, the controlled substance is  
1018 dispensed.

1019 2. The full name and address of the prescribing  
1020 practitioner and the practitioner's federal controlled substance  
1021 registry number shall be printed thereon.

1022 3. If the prescription is for an animal, the species of  
1023 animal for which the controlled substance is prescribed.

1024 4. The name of the controlled substance prescribed and the  
1025 strength, quantity, and directions for use thereof. The  
1026 directions for use must specify the authorization by the  
1027 physician, any instructions requiring the adulteration of the  
1028 dispensed form of the medication, and the medical necessity for  
1029 the adulteration in accordance with s. 893.021.

1030 5. The number of the prescription, as recorded in the  
1031 prescription files of the pharmacy in which it is filled.

1032 6. The initials of the pharmacist filling the prescription  
1033 and the date filled.

1034 (d) The prescription must ~~shall~~ be retained on file by the  
1035 proprietor of the pharmacy in which it is filled for a period of  
1036 2 years.

1037 (e) A label bearing the following information must be  
1038 affixed to the original container in which a controlled  
1039 substance is delivered as upon a prescription or authorized  
1040 refill thereof, as hereinafter provided, there shall be a label  
1041 bearing the following information:

1042 1. The name and address of the pharmacy from which such  
1043 controlled substance was dispensed.

1044 2. The date on which the prescription for such controlled

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1045 substance was filled.

1046 3. The number of such prescription, as recorded in the  
1047 prescription files of the pharmacy in which it is filled.

1048 4. The name of the prescribing practitioner.

1049 5. The name of the patient for whom, or of the owner and  
1050 species of the animal for which, the controlled substance is  
1051 prescribed.

1052 6. The directions for the use of the controlled substance  
1053 prescribed in the prescription.

1054 7. A clear, concise warning that it is a crime to transfer  
1055 the controlled substance to any person other than the patient  
1056 for whom prescribed.

1057 Section 21. Section 893.055, Florida Statutes, is amended  
1058 to read:

1059 893.055 Prescription drug monitoring program.—

1060 (1) As used in this section, the term:

1061 (a) "Patient advisory report" or "advisory report" means  
1062 information provided by the department in writing, or as  
1063 determined by the department, to a prescriber, dispenser,  
1064 pharmacy, or patient concerning the dispensing of controlled  
1065 substances. All advisory reports are for informational purposes  
1066 only and impose no obligations of any nature or any legal duty  
1067 on a prescriber, dispenser, pharmacy, or patient. The patient  
1068 advisory report shall be provided in accordance with s.

1069 893.13(7)(a)8. The advisory reports issued by the department are  
1070 not subject to discovery or introduction into evidence in any  
1071 civil or administrative action against a prescriber, dispenser,  
1072 pharmacy, or patient arising out of matters that are the subject  
1073 of the report; and a person who participates in preparing,

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1074 reviewing, issuing, or any other activity related to an advisory  
1075 report may not be permitted or required to testify in any such  
1076 civil action as to any findings, recommendations, evaluations,  
1077 opinions, or other actions taken in connection with preparing,  
1078 reviewing, or issuing such a report.

1079 (b) "Controlled substance" means a controlled substance  
1080 listed in Schedule II, Schedule III, or Schedule IV in s.  
1081 893.03.

1082 (c) "Dispenser" means a pharmacy, dispensing pharmacist, or  
1083 dispensing health care practitioner.

1084 (d) "Health care practitioner" or "practitioner" means any  
1085 practitioner who is subject to licensure or regulation by the  
1086 department under chapter 458, chapter 459, chapter 461, chapter  
1087 462, chapter 464, chapter 465, or chapter 466.

1088 (e) "Health care regulatory board" means any board for a  
1089 practitioner or health care practitioner who is licensed or  
1090 regulated by the department.

1091 (f) "Pharmacy" means any pharmacy that is subject to  
1092 licensure or regulation by the department under chapter 465 and  
1093 that dispenses or delivers a controlled substance to an  
1094 individual or address in this state.

1095 (g) "Prescriber" means a prescribing physician, prescribing  
1096 practitioner, or other prescribing health care practitioner.

1097 (h) "Active investigation" means an investigation that is  
1098 being conducted with a reasonable, good faith belief that it  
1099 could lead to the filing of administrative, civil, or criminal  
1100 proceedings, or that is ongoing and continuing and for which  
1101 there is a reasonable, good faith anticipation of securing an  
1102 arrest or prosecution in the foreseeable future.

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1103 (i) "Law enforcement agency" means the Department of Law  
1104 Enforcement, a Florida sheriff's department, a Florida police  
1105 department, or a law enforcement agency of the Federal  
1106 Government which enforces the laws of this state or the United  
1107 States relating to controlled substances, and which its agents  
1108 and officers are empowered by law to conduct criminal  
1109 investigations and make arrests.

1110 (j) "Program manager" means an employee of or a person  
1111 contracted by the Department of Health who is designated to  
1112 ensure the integrity of the prescription drug monitoring program  
1113 in accordance with the requirements established in paragraphs  
1114 (2) (a) and (b).

1115 (2) (a) By December 1, 2010, the department shall design and  
1116 establish a comprehensive electronic database system that has  
1117 controlled substance prescriptions provided to it and that  
1118 provides prescription information to a patient's health care  
1119 practitioner and pharmacist who inform the department that they  
1120 wish the patient advisory report provided to them. Otherwise,  
1121 the patient advisory report will not be sent to the  
1122 practitioner, pharmacy, or pharmacist. The system shall be  
1123 designed to provide information regarding dispensed  
1124 prescriptions of controlled substances and shall not infringe  
1125 upon the legitimate prescribing or dispensing of a controlled  
1126 substance by a prescriber or dispenser acting in good faith and  
1127 in the course of professional practice. The system shall be  
1128 consistent with standards of the American Society for Automation  
1129 in Pharmacy (ASAP). The electronic system shall also comply with  
1130 the Health Insurance Portability and Accountability Act (HIPAA)  
1131 as it pertains to protected health information (PHI), electronic

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1132 protected health information (EPHI), the National All Schedules  
1133 Prescription Electronic Reporting (NASPER) Act's minimum  
1134 requirements for authentication of a practitioner who requests  
1135 information in the prescription drug monitoring program database  
1136 and certification of the purpose for which information is  
1137 requested, and all other relevant state and federal privacy and  
1138 security laws and regulations. The department shall establish  
1139 policies and procedures as appropriate regarding the reporting,  
1140 accessing the database, evaluation, management, development,  
1141 implementation, operation, storage, and security of information  
1142 within the system. The reporting of prescribed controlled  
1143 substances shall include a dispensing transaction with a  
1144 dispenser pursuant to chapter 465 or through a dispensing  
1145 transaction to an individual or address in this state with a  
1146 pharmacy that is not located in this state but that is otherwise  
1147 subject to the jurisdiction of this state as to that dispensing  
1148 transaction. The reporting of patient advisory reports refers  
1149 only to reports to patients, pharmacies, and practitioners.  
1150 Separate reports that contain patient prescription history  
1151 information and that are not patient advisory reports are  
1152 provided to persons and entities as authorized in paragraphs  
1153 (7) (b) and (c) and s. 893.0551.

1154 (b) The department, when the direct support organization  
1155 receives at least \$20,000 in nonstate moneys or the state  
1156 receives at least \$20,000 in federal grants for the prescription  
1157 drug monitoring program, and in consultation with the Office of  
1158 Drug Control, shall adopt rules as necessary concerning the  
1159 reporting, accessing the database, evaluation, management,  
1160 development, implementation, operation, security, and storage of



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1161 information within the system, including rules for when patient  
1162 advisory reports are provided to pharmacies and prescribers. The  
1163 patient advisory report shall be provided in accordance with s.  
1164 893.13(7)(a)8. The department shall work with the professional  
1165 health care licensure boards, such as the Board of Medicine, the  
1166 Board of Osteopathic Medicine, and the Board of Pharmacy; other  
1167 appropriate organizations, such as the Florida Pharmacy  
1168 Association, the Office of Drug Control, the Florida Medical  
1169 Association, the Florida Retail Federation, and the Florida  
1170 Osteopathic Medical Association, including those relating to  
1171 pain management; and the Attorney General, the Department of Law  
1172 Enforcement, and the Agency for Health Care Administration to  
1173 develop rules appropriate for the prescription drug monitoring  
1174 program.

1175 (c) All dispensers and prescribers subject to these  
1176 reporting requirements shall be notified by the department of  
1177 the implementation date for such reporting requirements.

1178 (d) The program manager shall work with professional health  
1179 care licensure boards and the stakeholders listed in paragraph  
1180 (b) to develop rules appropriate for identifying indicators of  
1181 controlled substance abuse.

1182 (e) The department shall establish a method to allow  
1183 corrections to the database when notified by a health care  
1184 practitioner or pharmacist.

1185 (3) The pharmacy dispensing the controlled substance and  
1186 each prescriber who directly dispenses a controlled substance  
1187 shall submit to the electronic system, by a procedure and in a  
1188 format established by the department and consistent with an  
1189 ASAP-approved format, the following information for inclusion in

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1190 the database:

1191 (a) The name of the prescribing practitioner, the  
1192 practitioner's federal Drug Enforcement Administration  
1193 registration number, the practitioner's National Provider  
1194 Identification (NPI) or other appropriate identifier, and the  
1195 date of the prescription.

1196 (b) The date the prescription was filled and the method of  
1197 payment, such as cash by an individual, insurance coverage  
1198 through a third party, or Medicaid payment. This paragraph does  
1199 not authorize the department to include individual credit card  
1200 numbers or other account numbers in the database.

1201 (c) The full name, address, and date of birth of the person  
1202 for whom the prescription was written.

1203 (d) The name, national drug code, quantity, and strength of  
1204 the controlled substance dispensed.

1205 (e) The full name, federal Drug Enforcement Administration  
1206 registration number, and address of the pharmacy or other  
1207 location from which the controlled substance was dispensed. If  
1208 the controlled substance was dispensed by a practitioner other  
1209 than a pharmacist, the practitioner's full name, federal Drug  
1210 Enforcement Administration registration number, and address.

1211 (f) The name of the pharmacy or practitioner, other than a  
1212 pharmacist, dispensing the controlled substance and the  
1213 practitioner's National Provider Identification (NPI).

1214 (g) Other appropriate identifying information as determined  
1215 by department rule.

1216 (h) The number of refills ordered and whether the drug was  
1217 dispensed as a refill of a prescription or was a first-time  
1218 request.

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1219 (4) Each time a controlled substance is dispensed to an  
1220 individual, the controlled substance shall be reported to the  
1221 department through the system as soon thereafter as possible,  
1222 but not more than 7 ~~15~~ days after the date the controlled  
1223 substance is dispensed unless an extension is approved by the  
1224 department for cause as determined by rule. A dispenser must  
1225 meet the reporting requirements of this section by providing the  
1226 required information concerning each controlled substance that  
1227 it dispensed in a department-approved, secure methodology and  
1228 format. Such approved formats may include, but are not limited  
1229 to, submission via the Internet, on a disc, or by use of regular  
1230 mail.

1231 (5) When the following acts of dispensing or administering  
1232 occur, the following are exempt from reporting under this  
1233 section for that specific act of dispensing or administration:

1234 (a) A health care practitioner when administering a  
1235 controlled substance directly to a patient if the amount of the  
1236 controlled substance is adequate to treat the patient during  
1237 that particular treatment session.

1238 (b) A pharmacist or health care practitioner when  
1239 administering a controlled substance to a patient or resident  
1240 receiving care as a patient at a hospital, nursing home,  
1241 ambulatory surgical center, hospice, or intermediate care  
1242 facility for the developmentally disabled which is licensed in  
1243 this state.

1244 ~~(c) A practitioner when administering or dispensing a~~  
1245 ~~controlled substance in the health care system of the Department~~  
1246 ~~of Corrections.~~

1247 (c) ~~(d)~~ A practitioner when administering a controlled

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1248 substance in the emergency room of a licensed hospital.

1249 (d)~~(e)~~ A health care practitioner when administering or  
1250 dispensing a controlled substance to a person under the age of  
1251 16 if the amount of the controlled substance is adequate to  
1252 treat the patient during that particular treatment session.

1253 (e)~~(f)~~ A pharmacist or a dispensing practitioner when  
1254 dispensing a one-time, 48-hour ~~72-hour~~ emergency resupply of a  
1255 controlled substance to a patient.

1256 (6) The department may establish when to suspend and when  
1257 to resume reporting information during a state-declared or  
1258 nationally declared disaster.

1259 (7) (a) A practitioner or pharmacist who dispenses a  
1260 controlled substance must submit the information required by  
1261 this section in an electronic or other method in an ASAP format  
1262 approved by rule of the department unless otherwise provided in  
1263 this section. The cost to the dispenser in submitting the  
1264 information required by this section may not be material or  
1265 extraordinary. Costs not considered to be material or  
1266 extraordinary include, but are not limited to, regular postage,  
1267 electronic media, regular electronic mail, and facsimile  
1268 charges.

1269 (b)1. In order for a pharmacy, prescriber, practitioner, or  
1270 dispenser to ~~shall~~ have access to information in the  
1271 prescription drug monitoring program's database which relates to  
1272 a patient of that pharmacy, prescriber, practitioner, or  
1273 dispenser, the pharmacy, prescriber, practitioner, or dispenser  
1274 shall register with the department by submitting a registering  
1275 document provided by the department. The document and validation  
1276 of that document shall be determined by the department. Before a

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1277 pharmacy, prescriber, practitioner, or dispenser is granted  
1278 access to information in the database from the prescription drug  
1279 monitoring program, the department shall approve the submitted  
1280 document. Upon approval, the department shall grant the  
1281 registrant access to the appropriate information in the  
1282 prescription drug monitoring program's database ~~in a manner~~  
1283 ~~established by the department as needed for the purpose of~~  
1284 ~~reviewing the patient's controlled substance prescription~~  
1285 ~~history.~~

1286       2. Other access to the program's database shall be limited  
1287 to the program's manager and to the designated program and  
1288 support staff, who may act only at the direction of the program  
1289 manager or, in the absence of the program manager, as  
1290 authorized. Access by the program manager or such designated  
1291 staff is for prescription drug program management only or for  
1292 management of the program's database and its system in support  
1293 of the requirements of this section and in furtherance of the  
1294 prescription drug monitoring program. Confidential and exempt  
1295 information in the database shall be released only as provided  
1296 in paragraph (c) and s. 893.0551. The program manager,  
1297 designated program and support staff who act at the direction of  
1298 or in the absence of the program manager, and any individual who  
1299 has similar access regarding the management of the database from  
1300 the prescription drug monitoring program shall submit  
1301 fingerprints to the department for background screening. The  
1302 department shall follow the procedure established by the  
1303 Department of Law Enforcement to request a statewide criminal  
1304 history record check and to request that the Department of Law  
1305 Enforcement forward the fingerprints to the Federal Bureau of

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1306 Investigation for a national criminal history record check.

1307 (c) The following entities may ~~shall~~ not have ~~be allowed~~  
1308 direct access to information in the prescription drug monitoring  
1309 program database but may request from the program manager and,  
1310 when authorized by the program manager, the program manager's  
1311 program and support staff, information that is confidential and  
1312 exempt under s. 893.0551. Prior to release, the request shall be  
1313 verified as authentic and authorized with the requesting  
1314 organization by the program manager, the program manager's  
1315 program and support staff, or as determined in rules by the  
1316 department as being authentic and as having been authorized by  
1317 the requesting entity:

1318 1. The department or its relevant health care regulatory  
1319 boards responsible for the licensure, regulation, or discipline  
1320 of practitioners, pharmacists, or other persons who are  
1321 authorized to prescribe, administer, or dispense controlled  
1322 substances and who are involved in a specific controlled  
1323 substance investigation involving a designated person for one or  
1324 more prescribed controlled substances.

1325 2. The Attorney General for Medicaid fraud cases or  
1326 Medicaid investigations involving prescribed controlled  
1327 substances.

1328 3. A law enforcement agency during active investigations  
1329 regarding potential criminal activity, fraud, or theft regarding  
1330 prescribed controlled substances.

1331 4. A patient or the legal guardian or designated health  
1332 care surrogate of an incapacitated patient as described in s.  
1333 893.0551 who, for the purpose of verifying the accuracy of the  
1334 database information, submits a written and notarized request

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1335 that includes the patient's full name, address, and date of  
1336 birth, and includes the same information if the legal guardian  
1337 or health care surrogate submits the request. The patient's  
1338 phone number, current address, and a copy of a government-issued  
1339 photo identification must be provided in person to the program  
1340 manager along with the notarized request. The request shall be  
1341 validated by the department to verify the identity of the  
1342 patient and the legal guardian or health care surrogate, if the  
1343 patient's legal guardian or health care surrogate is the  
1344 requestor. Such verification is also required for any request to  
1345 change a patient's prescription history or other information  
1346 related to his or her information in the electronic database.

1347 5. The Agency for Health Care Administration for Medicaid  
1348 fraud cases or Medicaid investigations involving prescribed  
1349 controlled substances.

1350  
1351 Information in the database for the electronic prescription drug  
1352 monitoring system is not discoverable or admissible in any civil  
1353 or administrative action, except in an investigation and  
1354 disciplinary proceeding by the department or the appropriate  
1355 regulatory board.

1356 (d) The following entities may ~~shall~~ not have ~~be allowed~~  
1357 direct access to information in the prescription drug monitoring  
1358 program database but may request from the program manager and,  
1359 when authorized by the program manager, the program manager's  
1360 program and support staff, information that contains no  
1361 identifying information of any patient, physician, health care  
1362 practitioner, prescriber, or dispenser and that is not  
1363 confidential and exempt:

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1364 1. Department staff for the purpose of calculating  
1365 performance measures pursuant to subsection (8).

1366 2. The Program Implementation and Oversight Task Force for  
1367 its reporting to the Governor, the President of the Senate, and  
1368 the Speaker of the House of Representatives regarding the  
1369 prescription drug monitoring program. This subparagraph expires  
1370 July 1, 2012.

1371 (e) All transmissions of data required by this section must  
1372 comply with relevant state and federal privacy and security laws  
1373 and regulations. However, any authorized agency or person under  
1374 s. 893.0551 receiving such information as allowed by s. 893.0551  
1375 may maintain the information received for up to 24 months before  
1376 purging it from his or her records or maintain it for longer  
1377 than 24 months if the information is pertinent to ongoing health  
1378 care or an active law enforcement investigation or prosecution.

1379 (f) The program manager, upon determining a pattern  
1380 consistent with the rules established under paragraph (2)(d) and  
1381 having cause to believe a violation of s. 893.13(7)(a)8.,  
1382 (8)(a), or (8)(b) has occurred, may provide relevant information  
1383 to the applicable law enforcement agency.

1384 (8) To assist in fulfilling program responsibilities,  
1385 performance measures shall be reported annually to the Governor,  
1386 the President of the Senate, and the Speaker of the House of  
1387 Representatives by the department each December 1, beginning in  
1388 2011. Data that does not contain patient, physician, health care  
1389 practitioner, prescriber, or dispenser identifying information  
1390 may be requested during the year by department employees so that  
1391 the department may undertake public health care and safety  
1392 initiatives that take advantage of observed trends. Performance



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1393 measures may include, but are not limited to, efforts to achieve  
1394 the following outcomes:

1395 (a) Reduction of the rate of inappropriate use of  
1396 prescription drugs through department education and safety  
1397 efforts.

1398 (b) Reduction of the quantity of pharmaceutical controlled  
1399 substances obtained by individuals attempting to engage in fraud  
1400 and deceit.

1401 (c) Increased coordination among partners participating in  
1402 the prescription drug monitoring program.

1403 (d) Involvement of stakeholders in achieving improved  
1404 patient health care and safety and reduction of prescription  
1405 drug abuse and prescription drug diversion.

1406 (9) Any person who willfully and knowingly fails to report  
1407 the dispensing of a controlled substance as required by this  
1408 section commits a misdemeanor of the first degree, punishable as  
1409 provided in s. 775.082 or s. 775.083.

1410 ~~(10) All costs incurred by the department in administering~~  
1411 ~~the prescription drug monitoring program shall be funded through~~  
1412 ~~federal grants or private funding applied for or received by the~~  
1413 ~~state. The department may not commit funds for the monitoring~~  
1414 ~~program without ensuring funding is available. The prescription~~  
1415 ~~drug monitoring program and the implementation thereof are~~  
1416 ~~contingent upon receipt of the nonstate funding. The department~~  
1417 ~~and state government shall cooperate with the direct-support~~  
1418 ~~organization established pursuant to subsection (11) in seeking~~  
1419 ~~federal grant funds, other nonstate grant funds, gifts,~~  
1420 ~~donations, or other private moneys for the department so long as~~  
1421 ~~the costs of doing so are not considered material. Nonmaterial~~

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1422 costs for this purpose include, but are not limited to, the  
1423 costs of mailing and personnel assigned to research or apply for  
1424 a grant. Notwithstanding the exemptions to competitive-  
1425 solicitation requirements under s. 287.057(3)(f), the department  
1426 shall comply with the competitive-solicitation requirements  
1427 under s. 287.057 for the procurement of any goods or services  
1428 required by this section.

1429 (11) The Office of Drug Control, in coordination with the  
1430 department, may establish a direct-support organization that has  
1431 a board consisting of at least five members to provide  
1432 assistance, funding, and promotional support for the activities  
1433 authorized for the prescription drug monitoring program.

1434 (a) As used in this subsection, the term "direct-support  
1435 organization" means an organization that is:

1436 1. A Florida corporation not for profit incorporated under  
1437 chapter 617, exempted from filing fees, and approved by the  
1438 Department of State.

1439 2. Organized and operated to conduct programs and  
1440 activities; raise funds; request and receive grants, gifts, and  
1441 bequests of money; acquire, receive, hold, and invest, in its  
1442 own name, securities, funds, objects of value, or other  
1443 property, either real or personal; and make expenditures or  
1444 provide funding to or for the direct or indirect benefit of the  
1445 department in the furtherance of the prescription drug  
1446 monitoring program.

1447 (b) The direct-support organization is not considered a  
1448 lobbying firm within the meaning of s. 11.045.

1449 (c) The director of the Office of Drug Control shall  
1450 appoint a board of directors for the direct-support

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1451 organization. The director may designate employees of the Office  
1452 of Drug Control, state employees other than state employees from  
1453 the department, and any other nonstate employees as appropriate,  
1454 to serve on the board. Members of the board shall serve at the  
1455 pleasure of the director of the Office of Drug Control. The  
1456 director shall provide guidance to members of the board to  
1457 ensure that moneys received by the direct-support organization  
1458 are not received from inappropriate sources. Inappropriate  
1459 sources include, but are not limited to, donors, grantors,  
1460 persons, or organizations that may monetarily or substantively  
1461 benefit from the purchase of goods or services by the department  
1462 in furtherance of the prescription drug monitoring program.

1463 (d) The direct-support organization shall operate under  
1464 written contract with the Office of Drug Control. The contract  
1465 must, at a minimum, provide for:

1466 1. Approval of the articles of incorporation and bylaws of  
1467 the direct-support organization by the Office of Drug Control.

1468 2. Submission of an annual budget for the approval of the  
1469 Office of Drug Control.

1470 3. Certification by the Office of Drug Control in  
1471 consultation with the department that the direct-support  
1472 organization is complying with the terms of the contract in a  
1473 manner consistent with and in furtherance of the goals and  
1474 purposes of the prescription drug monitoring program and in the  
1475 best interests of the state. Such certification must be made  
1476 annually and reported in the official minutes of a meeting of  
1477 the direct-support organization.

1478 4. The reversion, without penalty, to the Office of Drug  
1479 Control, or to the state if the Office of Drug Control ceases to

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1480 exist, of all moneys and property held in trust by the direct-  
1481 support organization for the benefit of the prescription drug  
1482 monitoring program if the direct-support organization ceases to  
1483 exist or if the contract is terminated.

1484         5. The fiscal year of the direct-support organization,  
1485 which must begin July 1 of each year and end June 30 of the  
1486 following year.

1487         6. The disclosure of the material provisions of the  
1488 contract to donors of gifts, contributions, or bequests,  
1489 including such disclosure on all promotional and fundraising  
1490 publications, and an explanation to such donors of the  
1491 distinction between the Office of Drug Control and the direct-  
1492 support organization.

1493         7. The direct-support organization's collecting, expending,  
1494 and providing of funds to the department for the development,  
1495 implementation, and operation of the prescription drug  
1496 monitoring program as described in this section and s. 2,  
1497 chapter 2009-198, Laws of Florida, as long as the task force is  
1498 authorized. The direct-support organization may collect and  
1499 expend funds to be used for the functions of the direct-support  
1500 organization's board of directors, as necessary and approved by  
1501 the director of the Office of Drug Control. In addition, the  
1502 direct-support organization may collect and provide funding to  
1503 the department in furtherance of the prescription drug  
1504 monitoring program by:

1505             a. Establishing and administering the prescription drug  
1506 monitoring program's electronic database, including hardware and  
1507 software.

1508             b. Conducting studies on the efficiency and effectiveness

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1509 of the program to include feasibility studies as described in  
1510 subsection (13).

1511 c. Providing funds for future enhancements of the program  
1512 within the intent of this section.

1513 d. Providing user training of the prescription drug  
1514 monitoring program, including distribution of materials to  
1515 promote public awareness and education and conducting workshops  
1516 or other meetings, for health care practitioners, pharmacists,  
1517 and others as appropriate.

1518 e. Providing funds for travel expenses.

1519 f. Providing funds for administrative costs, including  
1520 personnel, audits, facilities, and equipment.

1521 g. Fulfilling all other requirements necessary to implement  
1522 and operate the program as outlined in this section.

1523 (e) The activities of the direct-support organization must  
1524 be consistent with the goals and mission of the Office of Drug  
1525 Control, as determined by the office in consultation with the  
1526 department, and in the best interests of the state. The direct-  
1527 support organization must obtain a written approval from the  
1528 director of the Office of Drug Control for any activities in  
1529 support of the prescription drug monitoring program before  
1530 undertaking those activities.

1531 (f) The Office of Drug Control, in consultation with the  
1532 department, may permit, without charge, appropriate use of  
1533 administrative services, property, and facilities of the Office  
1534 of Drug Control and the department by the direct-support  
1535 organization, subject to this section. The use must be directly  
1536 in keeping with the approved purposes of the direct-support  
1537 organization and may not be made at times or places that would

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1538 unreasonably interfere with opportunities for the public to use  
1539 such facilities for established purposes. Any moneys received  
1540 from rentals of facilities and properties managed by the Office  
1541 of Drug Control and the department may be held by the Office of  
1542 Drug Control or in a separate depository account in the name of  
1543 the direct-support organization and subject to the provisions of  
1544 the letter of agreement with the Office of Drug Control. The  
1545 letter of agreement must provide that any funds held in the  
1546 separate depository account in the name of the direct-support  
1547 organization must revert to the Office of Drug Control if the  
1548 direct-support organization is no longer approved by the Office  
1549 of Drug Control to operate in the best interests of the state.

1550 (g) The Office of Drug Control, in consultation with the  
1551 department, may adopt rules under s. 120.54 to govern the use of  
1552 administrative services, property, or facilities of the  
1553 department or office by the direct-support organization.

1554 (h) The Office of Drug Control may not permit the use of  
1555 any administrative services, property, or facilities of the  
1556 state by a direct-support organization if that organization does  
1557 not provide equal membership and employment opportunities to all  
1558 persons regardless of race, color, religion, gender, age, or  
1559 national origin.

1560 (i) The direct-support organization shall provide for an  
1561 independent annual financial audit in accordance with s.  
1562 215.981. Copies of the audit shall be provided to the Office of  
1563 Drug Control and the Office of Policy and Budget in the  
1564 Executive Office of the Governor.

1565 (j) The direct-support organization may not exercise any  
1566 power under s. 617.0302(12) or (16).

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1567 (12) A prescriber or dispenser may have access to the  
1568 information under this section which relates to a patient of  
1569 that prescriber or dispenser as needed for the purpose of  
1570 reviewing the patient's controlled drug prescription history. A  
1571 prescriber or dispenser acting in good faith is immune from any  
1572 civil, criminal, or administrative liability that might  
1573 otherwise be incurred or imposed for receiving or using  
1574 information from the prescription drug monitoring program. This  
1575 subsection does not create a private cause of action, and a  
1576 person may not recover damages against a prescriber or dispenser  
1577 authorized to access information under this subsection for  
1578 accessing or failing to access such information.

1579 (13) To the extent that funding is provided for such  
1580 purpose through federal or private grants or gifts and other  
1581 types of available moneys, the department, in collaboration with  
1582 the Office of Drug Control, shall study the feasibility of  
1583 enhancing the prescription drug monitoring program for the  
1584 purposes of public health initiatives and statistical reporting  
1585 that respects the privacy of the patient, the prescriber, and  
1586 the dispenser. Such a study shall be conducted in order to  
1587 further improve the quality of health care services and safety  
1588 by improving the prescribing and dispensing practices for  
1589 prescription drugs, taking advantage of advances in technology,  
1590 reducing duplicative prescriptions and the overprescribing of  
1591 prescription drugs, and reducing drug abuse. The requirements of  
1592 the National All Schedules Prescription Electronic Reporting  
1593 (NASPER) Act are authorized in order to apply for federal NASPER  
1594 funding. In addition, the direct-support organization shall  
1595 provide funding for the department, in collaboration with the

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1596 Office of Drug Control, to conduct training for health care  
1597 practitioners and other appropriate persons in using the  
1598 monitoring program to support the program enhancements.

1599 (14) A pharmacist, pharmacy, or dispensing health care  
1600 practitioner or his or her agent, before releasing a controlled  
1601 substance to any person not known to such dispenser, shall  
1602 require the person purchasing, receiving, or otherwise acquiring  
1603 the controlled substance to present valid photographic  
1604 identification or other verification of his or her identity to  
1605 the dispenser. If the person does not have proper  
1606 identification, the dispenser may verify the validity of the  
1607 prescription and the identity of the patient with the prescriber  
1608 or his or her authorized agent. Verification of health plan  
1609 eligibility through a real-time inquiry or adjudication system  
1610 will be considered to be proper identification. This subsection  
1611 does not apply in an institutional setting or to a long-term  
1612 care facility, including, but not limited to, an assisted living  
1613 facility or a hospital to which patients are admitted. As used  
1614 in this subsection, the term "proper identification" means an  
1615 identification that is issued by a state or the Federal  
1616 Government containing the person's photograph, printed name, and  
1617 signature or a document considered acceptable under 8 C.F.R. s.  
1618 274a.2(b)(1)(v)(A) and (B).

1619 (15) The Agency for Health Care Administration shall  
1620 continue the promotion of electronic prescribing by health care  
1621 practitioners, health care facilities, and pharmacies under s.  
1622 408.0611.

1623 (16) By October 1, 2010, the department shall adopt rules  
1624 pursuant to ss. 120.536(1) and 120.54 to administer the



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1625 provisions of this section, which shall include as necessary the  
1626 reporting, accessing, evaluation, management, development,  
1627 implementation, operation, and storage of information within the  
1628 monitoring program's system.

1629 (17) After the prescription drug monitoring program has  
1630 been operational for 12 months, the State Surgeon General shall  
1631 enter into reciprocal agreements for the sharing of prescription  
1632 drug monitoring information with any other state that has a  
1633 compatible prescription drug monitoring program. If the State  
1634 Surgeon General evaluates the prescription drug monitoring  
1635 program of another state as authorized in this subsection,  
1636 priority shall be given to a state that is contiguous with the  
1637 borders of this state.

1638 (a) In determining compatibility, the State Surgeon General  
1639 shall consider:

1640 1. The essential purposes of the program and the success of  
1641 the program in fulfilling those purposes.

1642 2. The safeguards for privacy of patient records and the  
1643 success of the program in protecting patient privacy.

1644 3. The persons authorized to view the data collected by the  
1645 program. Comparable organizations and professions for  
1646 practitioners in other states, law enforcement agencies, the  
1647 Attorney General's Medicaid Fraud Unit, medical regulatory  
1648 boards, and, as needed, management staff who have similar duties  
1649 as management staff who work with the prescription drug  
1650 monitoring program as authorized in s. 893.0551 are authorized  
1651 access upon approval by the State Surgeon General.

1652 4. The schedules of the controlled substances that are  
1653 monitored.

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1654 5. The data required to be submitted for each prescription.

1655 6. Any implementing criteria deemed essential for a  
1656 thorough comparison.

1657 (b) The State Surgeon General shall annually review any  
1658 agreement to determine its continued compatibility with the  
1659 prescription drug monitoring program in this state.

1660 (c) Any agreement between the State Surgeon General and  
1661 another state shall prohibit the sharing of information  
1662 concerning a resident of this state or a practitioner,  
1663 pharmacist, or other prescriber for any purpose that is not  
1664 otherwise authorized by this section or s. 893.0551.

1665 Section 22. Present subsections (4), (5), (6), and (7) of  
1666 section 893.0551, Florida Statutes, are redesignated as  
1667 subsections (5), (6), (7), and (8), respectively, and a new  
1668 subsection (4) is added to that section, to read:

1669 893.0551 Public records exemption for the prescription drug  
1670 monitoring program.—

1671 (4) The department may disclose confidential and exempt  
1672 information contained in records held by the department under s.  
1673 893.055 if the State Surgeon General has entered into a  
1674 reciprocal agreement for the sharing of prescription drug  
1675 monitoring information with any other state that has a  
1676 compatible prescription drug monitoring program.

1677 (a) The reciprocal agreement may allow the following  
1678 persons from another state to receive information from the  
1679 prescription drug monitoring program if approved by the State  
1680 Surgeon General:

1681 1. A designated representative of a state professional  
1682 licensing, certification, or regulatory agency charged with

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1683 oversight of those persons authorized to prescribe or dispense  
1684 controlled substances for the purpose of a bona fide, specific  
1685 investigation of a prescription of a controlled substance which  
1686 involves a designated person. As required in s. 893.055, this  
1687 authorization does not preclude the requirement for the program  
1688 manager to review the request for information and validate it.

1689 2. A health care practitioner or pharmacist licensed in the  
1690 state from which the request originates. Such health care  
1691 practitioner or pharmacist shall certify that the requested  
1692 information is for the purpose of providing medical or  
1693 pharmaceutical treatment to a bona fide, current patient. The  
1694 health care practitioner or pharmacist shall follow all the  
1695 procedures required in s. 893.055 and rules established by the  
1696 department for a health care practitioner or pharmacist to  
1697 request information from the database.

1698 3. A law enforcement officer from another state:

1699 a. Who is a member of a sheriff's department or a police  
1700 department;

1701 b. Who is authorized by law to conduct criminal  
1702 investigations and make arrests;

1703 c. Whose duty it is to enforce the laws of his or her state  
1704 relating to controlled substances; and

1705 d. Who is engaged in a bona fide specific, active  
1706 investigation involving a designated person regarding  
1707 prescriptions for controlled substances.

1708  
1709 As required in s. 893.055, this authorization does not preclude  
1710 the requirement for the program manager to review the request  
1711 for information and validate it. This authorization also does

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1712 not preclude the ability to provide a report to a law  
1713 enforcement agency in another state under s. 893.055(7) or this  
1714 subsection.

1715 (b) Any agreement between the State Surgeon General and  
1716 another state shall prohibit the sharing of information  
1717 concerning a resident of this state, a patient whose information  
1718 is in the program's database, or a practitioner, pharmacy,  
1719 pharmacist, health care practitioner, or other prescriber for  
1720 any purpose that is not otherwise authorized by this section or  
1721 s. 893.055, and the information must be provided according to  
1722 the State Surgeon General's determination of compatibility as  
1723 described in s. 893.055(17).

1724 Section 23. Subsections (1), (4), and (5) of section  
1725 893.07, Florida Statutes, are amended, and subsection (6) is  
1726 added to that section, to read:

1727 893.07 Records.—

1728 (1) Notwithstanding any other provision of law and in  
1729 consonance with the authority of *State v. Carter*, 23 So. 3d 798  
1730 (Fla. 1st DCA 2009) and *State v. Tamulonis*, 39 So. 3d 524 (Fla.  
1731 2nd DCA 2010), every person who engages in the manufacture,  
1732 compounding, mixing, cultivating, growing, or by any other  
1733 process producing or preparing, or in the dispensing,  
1734 importation, or, as a wholesaler, distribution, of controlled  
1735 substances shall:

1736 (a) On January 1, 1974, or as soon thereafter as any person  
1737 first engages in such activity, and every second year  
1738 thereafter, make a complete and accurate record of all stocks of  
1739 controlled substances on hand. The inventory may be prepared on  
1740 the regular physical inventory date which is nearest to, and

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1741 does not vary by more than 6 months from, the biennial date that  
1742 would otherwise apply. As additional substances are designated  
1743 for control under this chapter, they shall be inventoried as  
1744 provided for in this subsection.

1745 (b) On and after January 1, 1974, maintain, on a current  
1746 basis, a complete and accurate record of each substance  
1747 manufactured, received, sold, delivered, or otherwise disposed  
1748 of by him or her, except that this subsection shall not require  
1749 the maintenance of a perpetual inventory.

1750

1751 Compliance with the provisions of federal law pertaining to the  
1752 keeping of records of controlled substances shall be deemed a  
1753 compliance with the requirements of this subsection.

1754 (4) Every inventory or record required by this chapter,  
1755 including prescription records, shall be maintained:

1756 (a) Separately from all other records of the registrant, or

1757 (b) Alternatively, in the case of Schedule III, IV, or V  
1758 controlled substances, in such form that information required by  
1759 this chapter is readily retrievable from the ordinary business  
1760 records of the registrant.

1761

1762 In either case, such records described in this subsection shall  
1763 be kept and made available for a period of at least 2 years for  
1764 inspection and copying by law enforcement officers whose duty it  
1765 is to enforce the laws of this state relating to controlled  
1766 substances. This subsection does not require a law enforcement  
1767 officer to obtain a subpoena, court order, or search warrant in  
1768 order to obtain access to or copies of such records.

1769 (5) Each person shall maintain a record that contains ~~which~~

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1770 ~~shall contain~~ a detailed list of controlled substances lost,  
1771 destroyed, or stolen, if any; the kind and quantity of such  
1772 controlled substances; and the date of the discovering of such  
1773 loss, destruction, or theft. If a person discovers the theft or  
1774 loss of a controlled substance, such person shall report the  
1775 theft or loss to a local county sheriff's office within 48 hours  
1776 after the discovery of such theft or loss. A person who fails to  
1777 report the theft or loss of a controlled substance under this  
1778 subsection commits a misdemeanor of the second degree,  
1779 punishable as provided in s. 775.082 or s. 775.083. However, a  
1780 person who fails to report the theft or loss of a Schedule II  
1781 controlled substance commits a misdemeanor of the first degree,  
1782 punishable as provided in s. 775.082 or s. 775.083.

1783 (6) The Legislature finds that the opinions rendered in  
1784 State v. Carter, 23 So. 3d 798 (Fla. 1st DCA 2009), and State v.  
1785 Tamulonis, 39 So. 3d 524 (Fla. 2nd DCA 2010), correctly construe  
1786 this Legislature's intent that the inspection powers previously  
1787 conferred upon law enforcement officers which allow such  
1788 officers to access and review pharmacy records concerning  
1789 controlled substances are to be exercised properly by such law  
1790 enforcement officers without the requirement of a subpoena or  
1791 search warrant being sought or issued to examine and copy such  
1792 records, and without the requirement that those persons to whom  
1793 particular pharmacy records refer be given notice of the  
1794 records' examination and copying under this section.

1795 Section 24. Subsections (7) and (8) of section 893.13,  
1796 Florida Statutes, are amended to read:

1797 893.13 Prohibited acts; penalties.—

1798 (7) (a) A ~~It is unlawful for any person may not:~~

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- 1799           1. ~~To~~ Distribute or dispense a controlled substance in  
1800 violation of this chapter.
- 1801           2. ~~To~~ Refuse or fail to make, keep, or furnish any record,  
1802 notification, order form, statement, invoice, or information  
1803 required under this chapter.
- 1804           3. ~~To~~ Refuse ~~an~~ entry into any premises for any inspection  
1805 or ~~to~~ refuse to allow any inspection authorized by this chapter.
- 1806           4. ~~To~~ Distribute a controlled substance named or described  
1807 in s. 893.03(1) or (2) except pursuant to an order form as  
1808 required by s. 893.06.
- 1809           5. ~~To~~ Keep or maintain any store, shop, warehouse,  
1810 dwelling, building, vehicle, boat, aircraft, or other structure  
1811 or place which is resorted to by persons using controlled  
1812 substances in violation of this chapter for the purpose of using  
1813 these substances, or which is used for keeping or selling them  
1814 in violation of this chapter.
- 1815           6. ~~To~~ Use to his or her own personal advantage, or ~~to~~  
1816 reveal, any information obtained in enforcement of this chapter  
1817 except in a prosecution or administrative hearing for a  
1818 violation of this chapter.
- 1819           7. ~~To~~ Possess a prescription form which has not been  
1820 completed and signed by the practitioner whose name appears  
1821 printed thereon, unless the person is that practitioner, is an  
1822 agent or employee of that practitioner, is a pharmacist, or is a  
1823 supplier of prescription forms who is authorized by that  
1824 practitioner to possess those forms.
- 1825           8. ~~To~~ Withhold information from a practitioner from whom  
1826 the person seeks to obtain a controlled substance or a  
1827 prescription for a controlled substance that the person making

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1828 the request has received a controlled substance or a  
1829 prescription for a controlled substance of like therapeutic use  
1830 from another practitioner within the previous 30 days.

1831 9. ~~9.~~ Acquire or obtain, or attempt to acquire or obtain,  
1832 possession of a controlled substance by misrepresentation,  
1833 fraud, forgery, deception, or subterfuge.

1834 10. ~~10.~~ Affix any false or forged label to a package or  
1835 receptacle containing a controlled substance.

1836 11. ~~11.~~ Furnish false or fraudulent material information in,  
1837 or omit any material information from, any report or other  
1838 document required to be kept or filed under this chapter or any  
1839 record required to be kept by this chapter.

1840 12. ~~12.~~ Store anhydrous ammonia in a container that is not  
1841 approved by the United States Department of Transportation to  
1842 hold anhydrous ammonia or is not constructed in accordance with  
1843 sound engineering, agricultural, or commercial practices.

1844 13. With the intent to obtain a controlled substance or  
1845 combination of controlled substances that are not medically  
1846 necessary for the person or an amount of a controlled substance  
1847 or substances that are not medically necessary for the person,  
1848 obtain or attempt to obtain from a practitioner a controlled  
1849 substance or a prescription for a controlled substance by  
1850 misrepresentation, fraud, forgery, deception, subterfuge, or  
1851 concealment of a material fact. For purposes of this  
1852 subparagraph, a material fact includes whether the person has an  
1853 existing prescription for a controlled substance issued for the  
1854 same period of time by another practitioner or as described in  
1855 subparagraph 8.

1856 (b) A health care practitioner, with the intent to provide



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1857 a controlled substance or combination of controlled substances  
1858 that are not medically necessary to his or her patient or an  
1859 amount of controlled substances that are not medically necessary  
1860 for his or her patient, may not provide a controlled substance  
1861 or a prescription for a controlled substance by  
1862 misrepresentation, fraud, forgery, deception, subterfuge, or  
1863 concealment of a material fact. For purposes of this paragraph,  
1864 a material fact includes whether the patient has an existing  
1865 prescription for a controlled substance issued for the same  
1866 period of time by another practitioner or as described in  
1867 subparagraph (a)8.

1868 (c) Any person who adulterates a controlled substance for  
1869 directed off-label use without authorization by a prescribing  
1870 physician violates the provisions of subparagraph (a)1. and  
1871 causes the issuance of the entire prescription for the  
1872 controlled substance to become invalid. A law enforcement  
1873 officer in the performance of his or her official duties may  
1874 seize the adulterated or off-label prescribed controlled  
1875 substance as evidence. The controlled substance may be returned  
1876 to the owner only with a notarized affidavit from the original  
1877 prescribing practitioner who has knowledge and gave  
1878 authorization and explicit directions for the adulteration or  
1879 off-label use of the controlled substance.

1880 (d) ~~(b)~~ Any person who violates the provisions of  
1881 subparagraphs (a)1.-7. commits a misdemeanor of the first  
1882 degree, punishable as provided in s. 775.082 or s. 775.083;  
1883 except that, upon a second or subsequent violation, the person  
1884 commits a felony of the third degree, punishable as provided in  
1885 s. 775.082, s. 775.083, or s. 775.084.

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1886 (e)~~(e)~~ Any person who violates the provisions of  
1887 subparagraphs (a)8.-12. commits a felony of the third degree,  
1888 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1889 (f) A person or health care practitioner who violates the  
1890 provisions of paragraph (b) or subparagraph (a)13. commits a  
1891 felony of the third degree, punishable as provided in s.  
1892 775.082, s. 775.083, or s. 775.084, if any controlled substance  
1893 that is the subject of the offense is listed in Schedule II,  
1894 Schedule III, or Schedule IV.

1895 (8) (a) Notwithstanding subsection (9), a prescribing  
1896 practitioner may not:

1897 1. Knowingly assist a patient, other person, or the owner  
1898 of an animal in obtaining a controlled substance through  
1899 deceptive, untrue, or fraudulent representations in or related  
1900 to the practice of the prescribing practitioner's professional  
1901 practice;

1902 2. Employ a trick or scheme in the practice of the  
1903 prescribing practitioner's professional practice to assist a  
1904 patient, other person, or the owner of an animal in obtaining a  
1905 controlled substance;

1906 3. Knowingly write a prescription for a controlled  
1907 substance for a fictitious person; ~~or~~

1908 4. Write a prescription for a controlled substance for a  
1909 patient, other person, or an animal if the sole purpose of  
1910 writing such prescription is to provide a monetary benefit to,  
1911 or obtain a monetary benefit for, the prescribing practitioner;  
1912 or-

1913 5. Write a prescription for a controlled substance for a  
1914 patient, other person, or an animal and authorize or direct the

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1915 adulteration of the dispensed form of the controlled substance  
1916 for the purpose of ingestion by means of inhalation, injection,  
1917 or any other means not medically necessary for the treatment of  
1918 the patient.

1919 (b) If the prescribing practitioner wrote a prescription or  
1920 multiple prescriptions for a controlled substance for the  
1921 patient, other person, or animal for which there was no medical  
1922 necessity, or which was in excess of what was medically  
1923 necessary to treat the patient, other person, or animal, that  
1924 fact does not give rise to any presumption that the prescribing  
1925 practitioner violated subparagraph (a)1., but may be considered  
1926 with other competent evidence in determining whether the  
1927 prescribing practitioner knowingly assisted a patient, other  
1928 person, or the owner of an animal to obtain a controlled  
1929 substance in violation of subparagraph (a)1.

1930 (c) A person who violates paragraph (a) commits a felony of  
1931 the third degree, punishable as provided in s. 775.082, s.  
1932 775.083, or s. 775.084.

1933 (d) Notwithstanding paragraph (c), if a prescribing  
1934 practitioner has violated paragraph (a) and received \$1,000 or  
1935 more in payment for writing one or more prescriptions or, in the  
1936 case of a prescription written for a controlled substance  
1937 described in s. 893.135, has written one or more prescriptions  
1938 for a quantity of a controlled substance which, individually or  
1939 in the aggregate, meets the threshold for the offense of  
1940 trafficking in a controlled substance under s. 893.15, the  
1941 violation is reclassified as a felony of the second degree and  
1942 ranked in level 4 of the Criminal Punishment Code.

1943 Section 25. Present subsections (3) through (10) of section

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1944 893.138, Florida Statutes, are redesignated as subsections (4)  
 1945 through (11), respectively, and a new subsection (3) is added to  
 1946 that section, to read:

1947 893.138 Local administrative action to abate drug-related,  
 1948 prostitution-related, or stolen-property-related public  
 1949 nuisances and criminal gang activity.—

1950 (3) Any pain-management clinic, as described in s. 458.3265  
 1951 or s. 459.0137, which has been used on more than two occasions  
 1952 within a 6-month period as the site of a violation of:

1953 (a) Section 784.011, s. 784.021, s. 784.03, or s. 784.045,  
 1954 relating to assault and battery;

1955 (b) Section 810.02, relating to burglary;

1956 (c) Section 812.014, relating to dealing in theft;

1957 (d) Section 812.131, relating to robbery by sudden  
 1958 snatching; or

1959 (e) Section 893.13, relating to the unlawful distribution  
 1960 of controlled substances,

1961  
 1962 may be declared to be a public nuisance, and such nuisance may  
 1963 be abated pursuant to the procedures provided in this section.

1964 Section 26. (1) DEFINITIONS.—As used in this section, the  
 1965 term:

1966 (a) "Interchange or substitution of an opioid analgesic  
 1967 drug" means the substitution of any opioid analgesic drug, brand  
 1968 or generic, for the opioid analgesic drug incorporating a  
 1969 tamper-resistance technology originally prescribed, irrespective  
 1970 of whether the substituted drug is rated as pharmaceutically and  
 1971 therapeutically equivalent by the United States Food and Drug  
 1972 Administration or the Board of Pharmacy or whether the opioid

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1973 analgesic drug with tamper-resistance technology bears a  
1974 labeling claim with respect to reduction of tampering, abuse, or  
1975 abuse potential.

1976 (b) "Opioid analgesic drug" means a drug in the opioid  
1977 analgesic drug class prescribed to treat moderate to severe pain  
1978 or other conditions, whether in immediate release or extended  
1979 release form and whether or not combined with other drug  
1980 substances to form a single tablet or other dosage form.

1981 (c) "Opioid analgesic drug incorporating a tamper-  
1982 resistance technology" means an opioid analgesic drug listed as  
1983 such by the Board of Pharmacy based on a submission of evidence  
1984 by the drug manufacturer or distributor that the drug:

1985 1. Incorporates a tamper-resistance technology; and  
1986 2. Has been approved by the United States Food and Drug  
1987 Administration pursuant to an application that includes at least  
1988 one study on human tampering or abuse potential or a laboratory  
1989 study comparing the tamper- or abuse-resistance properties of  
1990 the drug to one or more opioid analgesic drugs that:

1991 a. Have been approved by the United States Food and Drug  
1992 Administration; and

1993 b. Serve as a positive control.

1994 (d) "Pharmacist" means any person licensed under chapter  
1995 465, Florida Statutes, to practice the profession of pharmacy,  
1996 including, but not limited to, a community pharmacist and a  
1997 pharmacist in a hospital-based pharmacy, when filling  
1998 prescriptions for inpatient or outpatient care.

1999 (2) LIST OF OPIOID ANALGESIC DRUGS INCORPORATING A TAMPER-  
2000 RESISTANCE TECHNOLOGY.—The Board of Pharmacy shall create a list  
2001 of opioid analgesic drugs for which information has been

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2002 submitted consistent with paragraph (1)(c). Inclusion of a drug  
2003 on such list does not require that the drug bear a labeling  
2004 claim with respect to reduction of tampering, abuse, or abuse  
2005 potential at the time of listing. Such list must also include a  
2006 determination by the Board of Pharmacy as to which listed opioid  
2007 analgesic drugs incorporating tamper-resistance technologies  
2008 provide substantially similar tamper-resistance properties,  
2009 based solely on studies submitted by the drug manufacturer  
2010 consistent with paragraph (1)(c).

2011 (3) PROHIBITION.—Notwithstanding s. 465.025, Florida  
2012 Statutes, a pharmacist may not interchange or substitute an  
2013 opioid analgesic drug, brand or generic, for an opioid analgesic  
2014 drug incorporating a tamper-resistance technology which is  
2015 listed pursuant to subsection (2) without:

2016 (a) Verifying that the opioid analgesic drug has been  
2017 listed by the Board of Pharmacy under subsection (2) as  
2018 providing tamper-resistance properties substantially similar to  
2019 the prescribed opioid analgesic drug incorporating a tamper-  
2020 resistance technology; or

2021 (b) Obtaining written, signed consent from the prescribing  
2022 physician for such interchange or substitution.

2023 Section 27. This act shall take effect October 1, 2011.