

By the Committees on Criminal Justice; and Health Regulation;  
and Senator Fasano

591-02844-11

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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 licensed pharmacist or  
99 other person employed by or at a pharmacy is not  
100 subject to disciplinary action for reporting; amending  
101 s. 465.0276, F.S.; requiring a practitioner to  
102 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.; requiring the Department of Health to  
174 disclose confidential and exempt information

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175           pertaining to the prescription drug monitoring program  
176           to the Attorney General and designee when working on  
177           Medicaid fraud cases and Medicaid investigations  
178           involving prescribed controlled substances or when the  
179           Attorney General has initiated a review of specific  
180           identifiers that warrant a Medicaid investigation  
181           regarding prescribed controlled substances;  
182           prohibiting the Attorney General's Medicaid  
183           investigators from direct access to the prescription  
184           drug monitoring program's database; authorizing the  
185           Department of Health to disclose certain confidential  
186           and exempt information in the prescription drug  
187           monitoring program's database under certain  
188           circumstances involving reciprocal agreements with  
189           other states; prohibiting the sharing of information  
190           from the prescription drug monitoring program's  
191           database which is not for the purpose that is  
192           statutorily authorized or according to the State  
193           Surgeon General's determination of compatibility;  
194           amending s. 893.07, F.S.; requiring that a person  
195           report to the local sheriff's office the theft or loss  
196           of a controlled substance within a specified time;  
197           providing penalties; providing legislative intent;  
198           amending s. 893.13, F.S.; prohibiting a person from  
199           obtaining or attempting to obtain from a practitioner  
200           a controlled substance or a prescription for a  
201           controlled substance by misrepresentation, fraud,  
202           forgery, deception, subterfuge, or concealment of a  
203           material fact; prohibiting a health care provider from

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204 providing a controlled substance or a prescription for  
205 a controlled substance by misrepresentation, fraud,  
206 forgery, deception, subterfuge, or concealment of a  
207 material fact; prohibiting a person from adulterating  
208 a controlled substance for certain use without  
209 authorization by a prescribing physician; authorizing  
210 a law enforcement officer to seize as evidence the  
211 adulteration or off-label use of a prescribed  
212 controlled substance; providing that such adulterated  
213 or off-label use of the controlled substance may be  
214 returned to its owner only under certain conditions;  
215 providing penalties; prohibiting a prescribing  
216 practitioner from writing a prescription for a  
217 controlled substance and authorizing or directing the  
218 adulteration of the dispensed form of the controlled  
219 substance for the purpose of ingestion by means not  
220 medically necessary; amending s. 893.138, F.S.;

221 providing circumstances in which a pain-management  
222 clinic may be declared a public nuisance; providing  
223 definitions; requiring the Board of Pharmacy to create  
224 a list of opioid analgesic drugs; providing  
225 requirements for the list of opioid analgesic drugs;  
226 providing an effective date.

227

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

229

230 Section 1. Subsections (4) and (7) of section 400.9905,  
231 Florida Statutes, are amended to read:  
232 400.9905 Definitions.—



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

239 (a) Entities licensed or registered by the state under  
240 chapter 395; or entities licensed or registered by the state and  
241 providing only health care services within the scope of services  
242 authorized under their respective licenses granted under ss.  
243 383.30-383.335, chapter 390, chapter 394, chapter 397, this  
244 chapter except part X, chapter 429, chapter 463, chapter 465,  
245 chapter 466, chapter 478, part I of chapter 483, chapter 484, or  
246 chapter 651; end-stage renal disease providers authorized under  
247 42 C.F.R. part 405, subpart U; or providers certified under 42  
248 C.F.R. part 485, subpart B or subpart H; or any entity that  
249 provides neonatal or pediatric hospital-based health care  
250 services or other health care services by licensed practitioners  
251 solely within a hospital licensed under chapter 395.

252 (b) Entities that own, directly or indirectly, entities  
253 licensed or registered by the state pursuant to chapter 395; or  
254 entities that own, directly or indirectly, entities licensed or  
255 registered by the state and providing only health care services  
256 within the scope of services authorized pursuant to their  
257 respective licenses granted under ss. 383.30-383.335, chapter  
258 390, chapter 394, chapter 397, this chapter except part X,  
259 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,  
260 part I of chapter 483, chapter 484, chapter 651; end-stage renal  
261 disease providers authorized under 42 C.F.R. part 405, subpart

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262 U; or providers certified under 42 C.F.R. part 485, subpart B or  
263 subpart H; or any entity that provides neonatal or pediatric  
264 hospital-based health care services by licensed practitioners  
265 solely within a hospital licensed under chapter 395.

266 (c) Entities that are owned, directly or indirectly, by an  
267 entity licensed or registered by the state pursuant to chapter  
268 395; or entities that are owned, directly or indirectly, by an  
269 entity licensed or registered by the state and providing only  
270 health care services within the scope of services authorized  
271 pursuant to their respective licenses granted under ss. 383.30-  
272 383.335, chapter 390, chapter 394, chapter 397, this chapter  
273 except part X, chapter 429, chapter 463, chapter 465, chapter  
274 466, chapter 478, part I of chapter 483, chapter 484, or chapter  
275 651; end-stage renal disease providers authorized under 42  
276 C.F.R. part 405, subpart U; or providers certified under 42  
277 C.F.R. part 485, subpart B or subpart H; or any entity that  
278 provides neonatal or pediatric hospital-based health care  
279 services by licensed practitioners solely within a hospital  
280 under chapter 395.

281 (d) Entities that are under common ownership, directly or  
282 indirectly, with an entity licensed or registered by the state  
283 pursuant to chapter 395; or entities that are under common  
284 ownership, directly or indirectly, with an entity licensed or  
285 registered by the state and providing only health care services  
286 within the scope of services authorized pursuant to their  
287 respective licenses granted under ss. 383.30-383.335, chapter  
288 390, chapter 394, chapter 397, this chapter except part X,  
289 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,  
290 part I of chapter 483, chapter 484, or chapter 651; end-stage

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291 renal disease providers authorized under 42 C.F.R. part 405,  
292 subpart U; or providers certified under 42 C.F.R. part 485,  
293 subpart B or subpart H; or any entity that provides neonatal or  
294 pediatric hospital-based health care services by licensed  
295 practitioners solely within a hospital licensed under chapter  
296 395.

297 (e) An entity that is exempt from federal taxation under 26  
298 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan  
299 under 26 U.S.C. s. 409 that has a board of trustees not less  
300 than two-thirds of which are Florida-licensed health care  
301 practitioners and provides only physical therapy services under  
302 physician orders, any community college or university clinic,  
303 and any entity owned or operated by the federal or state  
304 government, including agencies, subdivisions, or municipalities  
305 thereof.

306 (f) A sole proprietorship, group practice, partnership, or  
307 corporation that provides health care services by physicians  
308 covered by s. 627.419, that is directly supervised by one or  
309 more of such physicians, and that is wholly owned by one or more  
310 of those physicians or by a physician and the spouse, parent,  
311 child, or sibling of that physician.

312 (g) A sole proprietorship, group practice, partnership, or  
313 corporation that provides health care services by licensed  
314 health care practitioners under chapter 457, chapter 458,  
315 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,  
316 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,  
317 chapter 490, chapter 491, or part I, part III, part X, part  
318 XIII, or part XIV of chapter 468, or s. 464.012, which are  
319 wholly owned by one or more licensed health care practitioners,

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320 or the licensed health care practitioners set forth in this  
321 paragraph and the spouse, parent, child, or sibling of a  
322 licensed health care practitioner, so long as one of the owners  
323 who is a licensed health care practitioner is supervising the  
324 business activities and is legally responsible for the entity's  
325 compliance with all federal and state laws. However, a health  
326 care practitioner may not supervise services beyond the scope of  
327 the practitioner's license, except that, for the purposes of  
328 this part, a clinic owned by a licensee in s. 456.053(3)(b) that  
329 provides only services authorized pursuant to s. 456.053(3)(b)  
330 may be supervised by a licensee specified in s. 456.053(3)(b).

331 (h) Clinical facilities affiliated with an accredited  
332 medical school at which training is provided for medical  
333 students, residents, or fellows.

334 (i) Entities that provide only oncology or radiation  
335 therapy services by physicians licensed under chapter 458 or  
336 chapter 459 or entities that provide oncology or radiation  
337 therapy services by physicians licensed under chapter 458 or  
338 chapter 459 which are owned by a corporation whose shares are  
339 publicly traded on a recognized stock exchange.

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

343 (k) Entities that provide licensed practitioners to staff  
344 emergency departments or to deliver anesthesia services in  
345 facilities licensed under chapter 395 and that derive at least  
346 90 percent of their gross annual revenues from the provision of  
347 such services. Entities claiming an exemption from licensure  
348 under this paragraph must provide documentation demonstrating

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349 compliance.

350 (1) Orthotic or prosthetic clinical facilities that are a  
351 publicly traded corporation or that are wholly owned, directly  
352 or indirectly, by a publicly traded corporation. As used in this  
353 paragraph, a publicly traded corporation is a corporation that  
354 issues securities traded on an exchange registered with the  
355 United States Securities and Exchange Commission as a national  
356 securities exchange.

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

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

365 456.013 Department; general licensing provisions.—

366 (7) (a) The boards, or the department when there is no  
367 board, shall require the completion of a 2-hour course relating  
368 to prevention of medical errors as part of the licensure and  
369 renewal process. The 2-hour course counts ~~shall count~~ towards  
370 the total number of continuing education hours required for the  
371 profession. The board or department shall approve the course  
372 ~~shall be approved by the board or department,~~ as appropriate,  
373 which must and shall include a study of root-cause analysis,  
374 error reduction and prevention, and patient safety. In addition,  
375 the course approved by the Board of Medicine and the Board of  
376 Osteopathic Medicine must ~~shall~~ include information relating to  
377 the five most misdiagnosed conditions during the previous

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378 biennium, as determined by the board. If the course is being  
379 offered by a facility licensed under ~~pursuant to~~ chapter 395 for  
380 its employees, the board may approve up to 1 hour of the 2-hour  
381 course to be specifically related to error reduction and  
382 prevention methods used in that facility.

383 (b) As a condition of initial licensure and at each  
384 subsequent license renewal, the boards, or the department if  
385 there is no board, shall allow each practitioner licensed under  
386 chapter 458, chapter 459, chapter 461, chapter 465, or chapter  
387 466 whose lawful scope of practice authorizes the practitioner  
388 to prescribe, administer, or dispense controlled substances to  
389 complete a 1-hour continuing education course relating to the  
390 prescription drug monitoring program. The course must include,  
391 but need not be limited to:

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

393 2. The practitioners' capabilities for improving the  
394 standard of care for patients by using the prescription drug  
395 monitoring program.

396 3. How the prescription drug monitoring program can help  
397 practitioners detect doctor shopping.

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

401 5. The procedures for registering for access to the  
402 prescription drug monitoring program.

403  
404 The course hours may be included in the total number of hours of  
405 continuing education required by the profession and must be  
406 approved by the board or by the department if there is no board.

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407 The boards, or the department if there is no board, shall  
408 approve the course offered through a facility licensed under  
409 chapter 395 for its employees if the course is at least 3 hours  
410 and covers the education requirements.

411 (c) The course requirements in paragraph (b) apply to each  
412 licensee renewing his or her license on or after July 1, 2012,  
413 and to each applicant approved for licensure on or after January  
414 1, 2013.

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

418 Section 3. Section 458.305, Florida Statutes, is amended to  
419 read:

420 458.305 Definitions.—As used in this chapter:

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

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

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

425 (4)~~(3)~~ "Practice of medicine" means the diagnosis,  
426 treatment, operation, or prescription for any human disease,  
427 pain, injury, deformity, or other physical or mental condition.

428 (5)~~(4)~~ "Physician" means a person who is licensed to  
429 practice medicine in this state.

430 Section 4. Advertising of controlled substances by a  
431 dispensing physician.—

432 (1) (a) Only a dispensing physician licensed under chapter  
433 458 or chapter 459, Florida Statutes, may use the title  
434 "dispensing physician" or "dispenser" or otherwise lead the  
435 public to believe that he or she is engaged in the dispensing of

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436 controlled substances.

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

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

440 2. Health clinic licensed under chapter 400, Florida  
441 Statutes,

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

450 (c) A person, firm, or corporation, unless licensed under  
451 chapter 465, Florida Statutes, may not use in a trade name,  
452 sign, letter, or advertisement any term, including "drug,"  
453 "pharmacy," "onsite pharmacy," "dispensing," "dispensing  
454 onsite," "prescription drugs," "Rx," or "apothecary," which  
455 implies that the person, firm, or corporation is licensed or  
456 registered to dispense prescription drugs in this state.

457 (2) A person who violates paragraph (1)(a) or paragraph  
458 (1)(b) commits a misdemeanor of the first degree, punishable as  
459 provided in s. 775.082 or s. 775.083, Florida Statutes. A person  
460 who violates paragraph (1)(c) commits a felony of the third  
461 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
462 775.084, Florida Statutes. In any warrant, information, or  
463 indictment, it is not necessary to negate any exceptions, and  
464 the burden of any exception is upon the defendant.



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465 Section 5. Paragraph (a) of subsection (1) of section  
466 458.3191, Florida Statutes, is amended to read:

467 458.3191 Physician survey.—

468 (1) Each person who applies for licensure renewal as a  
469 physician under this chapter or chapter 459 must, in conjunction  
470 with the renewal of such license under procedures adopted by the  
471 Department of Health and in addition to any other information  
472 that may be required from the applicant, furnish the following  
473 to the Department of Health in a physician survey:

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

475 1. Frequency and geographic location of practice within the  
476 state.

477 2. Practice setting.

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

479 4. Anticipated change to license or practice status.

480 5. Areas of specialty or certification.

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

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

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

488 458.3192 Analysis of survey results; report.—

489 (3) By November 1 each year, the Department of Health shall  
490 provide nonidentifying information to the prescription drug  
491 monitoring program's Implementation and Oversight Task Force  
492 regarding the number of physicians who are registered with the  
493 prescription drug monitoring program and who also use the

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494 database from the prescription drug monitoring program for their  
495 patients in their medical practice.

496 Section 7. Paragraph (a) of subsection (1) and paragraphs  
497 (a) and (c) of subsection (2) of section 458.3265, Florida  
498 Statutes, are amended, and paragraphs (f) and (g) are added to  
499 subsection (5) of that section, to read:

500 458.3265 Pain-management clinics.—

501 (1) REGISTRATION.—

502 (a) All privately owned pain-management clinics,  
503 facilities, or offices, hereinafter referred to as “clinics,”  
504 which advertise in any medium for any type of pain-management  
505 services, or employ a physician who is primarily engaged in the  
506 treatment of pain by prescribing or dispensing controlled  
507 substance medications, must register with the department unless:

508 1. That clinic is licensed as a facility pursuant to  
509 chapter 395;

510 2. The majority of the physicians who provide services in  
511 the clinic primarily provide surgical services or interventional  
512 pain procedures of the type routinely billed using surgical  
513 codes;

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

518 4. The clinic is affiliated with an accredited medical  
519 school at which training is provided for medical students,  
520 residents, or fellows;

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

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

525           (2) PHYSICIAN RESPONSIBILITIES.—These responsibilities  
526 apply to any physician who provides professional services in a  
527 pain-management clinic that is required to be registered in  
528 subsection (1).

529           (a) A physician may not practice medicine in a pain-  
530 management clinic, as described in subsection (4), if:

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

533           ~~2. Effective July 1, 2012, the physician has not~~  
534 ~~successfully completed a pain medicine fellowship that is~~  
535 ~~accredited by the Accreditation Council for Graduate Medical~~  
536 ~~Education or a pain medicine residency that is accredited by the~~  
537 ~~Accreditation Council for Graduate Medical Education or, prior~~  
538 ~~to July 1, 2012, does not comply with rules adopted by the~~  
539 ~~board.~~

540  
541 Any physician who qualifies to practice medicine in a pain-  
542 management clinic pursuant to rules adopted by the Board of  
543 Medicine as of July 1, 2012, may continue to practice medicine  
544 in a pain-management clinic as long as the physician continues  
545 to meet the qualifications set forth in the board rules. A  
546 physician who violates this paragraph is subject to disciplinary  
547 action by his or her appropriate medical regulatory board.

548           (c) A physician, an advanced registered nurse practitioner,  
549 or a physician assistant must perform an appropriate medical a  
550 ~~physical~~ examination of a patient on the same day that the  
551 physician ~~he or she~~ dispenses or prescribes a controlled

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552 substance to a patient at a pain-management clinic. If the  
553 physician prescribes or dispenses more than a 72-hour dose of  
554 controlled substances for the treatment of chronic nonmalignant  
555 pain, the physician must document in the patient's record the  
556 reason such dosage is within the standard of care. For the  
557 purpose of this paragraph, the standard of care is set forth in  
558 rule 64B8-9.013(3), Florida Administrative Code ~~for prescribing~~  
559 ~~or dispensing that quantity.~~

560 (5) PENALTIES; ENFORCEMENT.—

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

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

575 Section 8. Paragraphs (f) and (g) are added to subsection  
576 (1), paragraphs (g) and (h) are added to subsection (2), and  
577 subsection (3) is added to section 458.327, Florida Statutes, to  
578 read:

579 458.327 Penalty for violations.—

580 (1) Each of the following acts constitutes a felony of the

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581 third degree, punishable as provided in s. 775.082, s. 775.083,  
582 or s. 775.084:

583 (f) Failing to perform a physical examination of a patient  
584 by a physician or a licensed designee acting under the  
585 physician's supervision on the same day that the treating  
586 physician dispenses or prescribes a controlled substance to the  
587 patient at a pain-management clinic occurring three or more  
588 times within a 6-month period, or failing to perform a physical  
589 examination on three or more different patients on the same day  
590 that the treating physician dispenses or prescribes a controlled  
591 substance to each patient at a pain-management clinic within a  
592 6-month period.

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

601 (2) Each of the following acts constitutes a misdemeanor of  
602 the first degree, punishable as provided in s. 775.082 or s.  
603 775.083:

604 (g) Failing to perform a physical examination of a patient  
605 on the same day that the treating physician dispenses or  
606 prescribes a controlled substance to the patient at a pain-  
607 management clinic two times in a 6-month period, or failing to  
608 perform a physical examination on two different patients on the  
609 same day that the treating physician dispenses or prescribes a

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610 controlled substance to each patient at a pain-management clinic  
611 within a 6-month period.

612 (h) Prescribing or dispensing in excess of a 72-hour dose  
613 of controlled substances at a pain-management clinic for the  
614 treatment of chronic nonmalignant pain of a patient occurring  
615 two times within a 6-month period without documenting in the  
616 patient's record the reason that such dosage is within the  
617 standard of care. For the purpose of this paragraph, the  
618 standard of care is set forth in rule 64B8-9.013(3), Florida  
619 Administrative Code.

620 (3) Each of the following acts constitutes a misdemeanor of  
621 the second degree, punishable as provided in s. 775.082 or s.  
622 775.083:

623 (a) A first offense of failing to perform a physical  
624 examination of a patient on the same day that the treating  
625 physician dispenses or prescribes a controlled substance to the  
626 patient at a pain-management clinic.

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

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

634 458.331 Grounds for disciplinary action; action by the  
635 board and department.—

636 (11) Notwithstanding subsection (2), upon finding that a  
637 physician has prescribed or dispensed, or caused to be  
638 prescribed or dispensed, a controlled substance in a pain-

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639 management clinic in a manner that violates the standard of  
640 practice as set forth in this chapter or rules adopted pursuant  
641 to this chapter, the board shall, at a minimum, suspend the  
642 physician's license for at least 6 months and impose a fine of  
643 at least \$10,000 per count. Repeated violations shall result in  
644 increased penalties.

645 Section 10. Present subsections (3), (4), and (5) of  
646 section 459.003, Florida Statutes, are redesignated as  
647 subsections (4), (5), and (6), respectively, and a new  
648 subsection (3) is added to that section, to read:

649 459.003 Definitions.—As used in this chapter:

650 (3) "Dispensing physician" means an osteopathic physician  
651 who is registered as a dispensing practitioner under s.  
652 465.0276.

653 Section 11. Paragraphs (f) and (g) are added to subsection  
654 (1), paragraphs (e) and (f) are added to subsection (2), and  
655 paragraphs (d) and (e) are added to subsection (3) of section  
656 459.013, Florida Statutes, to read:

657 459.013 Penalty for violations.—

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

661 (f) Failing to perform a physical examination of a patient  
662 on the same day that the osteopathic physician dispenses or  
663 prescribes a controlled substance to the patient at a pain-  
664 management clinic occurring three or more times within a 6-month  
665 period, or failing to perform a physical examination on three or  
666 more different patients on the same day that the osteopathic  
667 physician dispenses or prescribes a controlled substance to each

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668 patient at a pain-management clinic within a 6-month period.

669 (g) Prescribing or dispensing in excess of a 72-hour dose  
670 of controlled substances at a pain-management clinic for the  
671 treatment of chronic nonmalignant pain of a patient occurring  
672 three or more times within a 6-month period without documenting  
673 in the patient's record the reason that such dosage is within  
674 the standard of care. For the purpose of this paragraph, the  
675 standard of care is set forth in rule 64B8-9.013(3), Florida  
676 Administrative Code.

677 (2) Each of the following acts constitutes a misdemeanor of  
678 the first degree, punishable as provided in s. 775.082 or s.  
679 775.083:

680 (e) Failing to perform a physical examination of a patient  
681 on the same day that the osteopathic physician dispenses or  
682 prescribes a controlled substance to the patient at a pain-  
683 management clinic occurring two times within a 6-month period,  
684 or failing to perform a physical examination on two different  
685 patients on the same day that the osteopathic physician  
686 dispenses or prescribes a controlled substance to each patient  
687 at a pain-management clinic within a 6-month period.

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

696 (3) Each of the following constitutes a misdemeanor of the



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697 second degree, punishable as provided in s. 775.082 or s.  
698 775.083:

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

703 (e) A first offense of failing to document in a patient's  
704 record the reason that such dosage is within the standard of  
705 care for prescribing or dispensing in excess of a 72-hour dose  
706 of controlled substances at a pain-management clinic for the  
707 treatment of chronic nonmalignant pain. For the purpose of this  
708 paragraph, the standard of care is set forth in rule 64B8-  
709 9.013(3), Florida Administrative Code.

710 Section 12. Paragraph (a) of subsection (1) and paragraph  
711 (c) of subsection (2) of section 459.0137, Florida Statutes, are  
712 amended, and paragraphs (f) and (g) are added to subsection (5)  
713 of that section, to read:

714 459.0137 Pain-management clinics.—

715 (1) REGISTRATION.—

716 (a) All privately owned pain-management clinics,  
717 facilities, or offices, hereinafter referred to as "clinics,"  
718 which advertise in any medium for any type of pain-management  
719 services, or employ an osteopathic physician who is primarily  
720 engaged in the treatment of pain by prescribing or dispensing  
721 controlled substance medications, must register with the  
722 department unless:

723 1. That clinic is licensed as a facility pursuant to  
724 chapter 395;

725 2. The majority of the physicians who provide services in

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726 the clinic primarily provide surgical services or interventional  
727 pain procedures of the type routinely billed using surgical  
728 codes;

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

733 4. The clinic is affiliated with an accredited medical  
734 school at which training is provided for medical students,  
735 residents, or fellows;

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

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

740 (2) PHYSICIAN RESPONSIBILITIES.—These responsibilities  
741 apply to any osteopathic physician who provides professional  
742 services in a pain-management clinic that is required to be  
743 registered in subsection (1).

744 (c) An osteopathic physician, an advanced registered nurse  
745 practitioner, or a physician assistant must perform an  
746 appropriate medical ~~a physical~~ examination of a patient on the  
747 same day that the physician ~~he or she~~ dispenses or prescribes a  
748 controlled substance to a patient at a pain-management clinic.  
749 If the osteopathic physician prescribes or dispenses more than a  
750 72-hour dose of controlled substances for the treatment of  
751 chronic nonmalignant pain, the osteopathic physician must  
752 document in the patient's record the reason for which  
753 prescribing or dispensing a dosage in excess of a 72-hour dose  
754 of controlled substances for the treatment of chronic

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755 nonmalignant pain is within the standard of care for prescribing  
756 or dispensing that quantity.

757 (5) PENALTIES; ENFORCEMENT.—

758 (f) A licensee or other person who serves as the designated  
759 physician of a pain-management clinic as defined in s. 458.3265  
760 or s. 459.0137 and registers a pain-management clinic through  
761 intentional misrepresentation or fraud or procures or attempts  
762 to procure the registration of a pain-management clinic for any  
763 other person by making or causing to be made any false or  
764 fraudulent representation commits a felony of the third degree,  
765 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

774 459.015 Grounds for disciplinary action; action by the  
775 board and department.—

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

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784 result in increased penalties.

785 Section 14. Present subsections (3) and (4) of section  
786 465.015, Florida Statutes, are renumbered as subsections (4) and  
787 (5), respectively, and a new subsection (3) is added to that  
788 section, to read:

789 465.015 Violations and penalties.—

790 (3) (a) A licensed pharmacist or other person employed by or  
791 at a pharmacy may not knowingly fail to timely report to the  
792 local county sheriff's office the name of any person who obtains  
793 or attempts to obtain a substance controlled by s. 893.03 which  
794 the licensed pharmacist or other person employed by or at the  
795 pharmacy knows or reasonably should have known was obtained or  
796 attempted to be obtained from the pharmacy through any  
797 fraudulent method or representation. A licensed pharmacist or  
798 other person employed by or at a pharmacy who fails to make such  
799 a report within 24 hours after learning of the fraud or  
800 attempted fraud commits a misdemeanor of the first degree,  
801 punishable as provided in s. 775.082 or s. 775.083.

802 (b) A sufficient report of the fraudulent obtaining of or  
803 attempt to obtain a controlled substance under this subsection  
804 must contain, at a minimum, a copy of the prescription used or  
805 presented and a narrative, including all information available  
806 to the pharmacy regarding:

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

809 2. The name, description, and any personal identification  
810 information pertaining to the person presenting the  
811 prescription; and

812 3. All other material information, such as photographic or

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813 video surveillance of the transaction.

814

815 A licensed pharmacist or other person employed by or at a  
816 pharmacy is not subject to disciplinary action for reporting  
817 under this subsection.

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

820 465.0276 Dispensing practitioner.-

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

829 Section 16. Paragraph (a) of subsection (1) of section  
830 766.101, Florida Statutes, is amended to read:

831 766.101 Medical review committee, immunity from liability.-

832 (1) As used in this section:

833 (a) The term "medical review committee" or "committee"  
834 means:

835 1.a. A committee of a hospital or ambulatory surgical  
836 center licensed under chapter 395 or a health maintenance  
837 organization certificated under part I of chapter 641,

838 b. A committee of a physician-hospital organization, a  
839 provider-sponsored organization, or an integrated delivery  
840 system,

841 c. A committee of a state or local professional society of

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842 health care providers,

843 d. A committee of a medical staff of a licensed hospital or  
844 nursing home, provided the medical staff operates pursuant to  
845 written bylaws that have been approved by the governing board of  
846 the hospital or nursing home,

847 e. A committee of the Department of Corrections or the  
848 Correctional Medical Authority as created under s. 945.602, or  
849 employees, agents, or consultants of either the department or  
850 the authority or both,

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

857 g. A committee of the Department of Children and Family  
858 Services which includes employees, agents, or consultants to the  
859 department as deemed necessary to provide peer review,  
860 utilization review, and mortality review of treatment services  
861 provided pursuant to chapters 394, 397, and 916,

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

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

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871 j. A peer review or utilization review committee organized  
872 under chapter 440,

873 k. A committee of the Department of Health, a county health  
874 department, healthy start coalition, or certified rural health  
875 network, when reviewing quality of care, or employees of these  
876 entities when reviewing mortality records, or

877 l. A continuous quality improvement committee of a pharmacy  
878 licensed pursuant to chapter 465,

879

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

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

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

892 810.02 Burglary.—

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

899 (a) Dwelling, and there is another person in the dwelling

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900 at the time the offender enters or remains;

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

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

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

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

909 (f) Structure or conveyance when the offense intended to be  
910 committed is theft of a substance controlled by s. 893.03.

911 Notwithstanding any contrary provisions of law, separate  
912 judgments and sentences for burglary with the intent to commit  
913 theft of a controlled substance under this paragraph and for any  
914 applicable offense for possession of a controlled substance  
915 under s. 893.13, or an offense for trafficking in a controlled  
916 substance under s. 893.135, may be imposed if all such offenses  
917 involve the same amount or amounts of a controlled substance.

918  
919 However, if the burglary is committed within a county that is  
920 subject to a state of emergency declared by the Governor under  
921 chapter 252 after the declaration of emergency is made and the  
922 perpetration of the burglary is facilitated by conditions  
923 arising from the emergency, the burglary is a felony of the  
924 first degree, punishable as provided in s. 775.082, s. 775.083,  
925 or s. 775.084. As used in this subsection, the term "conditions  
926 arising from the emergency" means civil unrest, power outages,  
927 curfews, voluntary or mandatory evacuations, or a reduction in  
928 the presence of or response time for first responders or



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929 homeland security personnel. A person arrested for committing a  
930 burglary within a county that is subject to such a state of  
931 emergency may not be released until the person appears before a  
932 committing magistrate at a first appearance hearing. For  
933 purposes of sentencing under chapter 921, a felony offense that  
934 is reclassified under this subsection is ranked one level above  
935 the ranking under s. 921.0022 or s. 921.0023 of the offense  
936 committed.

937 Section 18. Paragraph (c) of subsection (2) of section  
938 812.014, Florida Statutes, is amended to read:

939 812.014 Theft.—

940 (2)

941 (c) It is grand theft of the third degree and a felony of  
942 the third degree, punishable as provided in s. 775.082, s.  
943 775.083, or s. 775.084, if the property stolen is:

- 944 1. Valued at \$300 or more, but less than \$5,000.
- 945 2. Valued at \$5,000 or more, but less than \$10,000.
- 946 3. Valued at \$10,000 or more, but less than \$20,000.
- 947 4. A will, codicil, or other testamentary instrument.
- 948 5. A firearm.
- 949 6. A motor vehicle, except as provided in paragraph (a).
- 950 7. Any commercially farmed animal, including any animal of  
951 the equine, bovine, or swine class, or other grazing animal, and  
952 including aquaculture species raised at a certified aquaculture  
953 facility. If the property stolen is aquaculture species raised  
954 at a certified aquaculture facility, then a \$10,000 fine shall  
955 be imposed.
- 956 8. Any fire extinguisher.
- 957 9. Any amount of citrus fruit consisting of 2,000 or more

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958 individual pieces of fruit.

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

961 11. Any stop sign.

962 12. Anhydrous ammonia.

963 13. Any amount of a substance controlled by s. 893.03.

964 Notwithstanding any contrary provisions of law, separate  
965 judgments and sentences for theft of a controlled substance  
966 under this subparagraph, and for any applicable offense for  
967 possession of a controlled substance under s. 893.13, or an  
968 offense for trafficking in a controlled substance under s.  
969 893.135 may be imposed if all such offenses involve the same  
970 amount or amounts of controlled substance.

971

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

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987 chapter 921, a felony offense that is reclassified under this  
988 paragraph is ranked one level above the ranking under s.  
989 921.0022 or s. 921.0023 of the offense committed.

990 Section 19. Section 893.021, Florida Statutes, is created  
991 to read:

992 893.021 Adulterated drug.—

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

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

997 (b) Has had any change to its integrity or composition for  
998 use by means of inhalation, injection, or any other form of  
999 ingestion not in accordance with the manufacturer's recommended  
1000 use, and such mode of use has not been previously directed and  
1001 approved by the prescribing physician.

1002 (2) A physician is not prevented from directing or  
1003 prescribing a change to the recognized manufactured  
1004 recommendations for use in a patient who presents a medical need  
1005 for such a requirement change of any controlled substance. The  
1006 prescribing physician shall clearly indicate any deviation of  
1007 the recognized manufacturer's recommended use of a controlled  
1008 substance on the original prescription, and the licensed  
1009 pharmacist shall clearly indicate such deviation on the label of  
1010 the prescription upon dispensing the controlled substance.

1011 Section 20. Paragraphs (c), (d), and (e) of subsection (1)  
1012 of section 893.04, Florida Statutes, are amended to read:

1013 893.04 Pharmacist and practitioner.—

1014 (1) A pharmacist, in good faith and in the course of  
1015 professional practice only, may dispense controlled substances

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1016 upon a written or oral prescription of a practitioner, under the  
1017 following conditions:

1018 (c) The following information must ~~There shall~~ appear on  
1019 the face of the prescription or written record of a ~~thereof for~~  
1020 ~~the controlled substance the following information:~~

1021 1. The full name and address of the person for whom, or the  
1022 owner of the animal for which, the controlled substance is  
1023 dispensed.

1024 2. The full name and address of the prescribing  
1025 practitioner and the practitioner's federal controlled substance  
1026 registry number shall be printed thereon.

1027 3. If the prescription is for an animal, the species of  
1028 animal for which the controlled substance is prescribed.

1029 4. The name of the controlled substance prescribed and the  
1030 strength, quantity, and directions for use thereof. The  
1031 directions for use must specify the authorization by the  
1032 physician, any instructions requiring the adulteration of the  
1033 dispensed form of the medication, and the medical necessity for  
1034 the adulteration in accordance with s. 893.021.

1035 5. The number of the prescription, as recorded in the  
1036 prescription files of the pharmacy in which it is filled.

1037 6. The initials of the pharmacist filling the prescription  
1038 and the date filled.

1039 (d) The prescription must ~~shall~~ be retained on file by the  
1040 proprietor of the pharmacy in which it is filled for a period of  
1041 2 years.

1042 (e) A label bearing the following information must be  
1043 affixed to the original container in which a controlled  
1044 substance is delivered ~~as upon~~ a prescription or authorized

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1045 ~~refill thereof, as hereinafter provided, there shall be a label~~  
1046 ~~bearing the following information:~~

1047 1. The name and address of the pharmacy from which such  
1048 controlled substance was dispensed.

1049 2. The date on which the prescription for such controlled  
1050 substance was filled.

1051 3. The number of such prescription, as recorded in the  
1052 prescription files of the pharmacy in which it is filled.

1053 4. The name of the prescribing practitioner.

1054 5. The name of the patient for whom, or of the owner and  
1055 species of the animal for which, the controlled substance is  
1056 prescribed.

1057 6. The directions for the use of the controlled substance  
1058 prescribed in the prescription.

1059 7. A clear, concise warning that it is a crime to transfer  
1060 the controlled substance to any person other than the patient  
1061 for whom prescribed.

1062 Section 21. Section 893.055, Florida Statutes, is amended  
1063 to read:

1064 893.055 Prescription drug monitoring program.—

1065 (1) As used in this section, the term:

1066 (a) "Patient advisory report" or "advisory report" means  
1067 information provided by the department in writing, or as  
1068 determined by the department, to a prescriber, dispenser,  
1069 pharmacy, or patient concerning the dispensing of controlled  
1070 substances. All advisory reports are for informational purposes  
1071 only and impose no obligations of any nature or any legal duty  
1072 on a prescriber, dispenser, pharmacy, or patient. The patient  
1073 advisory report shall be provided in accordance with s.

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1074 893.13(7)(a)8. The advisory reports issued by the department are  
1075 not subject to discovery or introduction into evidence in any  
1076 civil or administrative action against a prescriber, dispenser,  
1077 pharmacy, or patient arising out of matters that are the subject  
1078 of the report; and a person who participates in preparing,  
1079 reviewing, issuing, or any other activity related to an advisory  
1080 report may not be permitted or required to testify in any such  
1081 civil action as to any findings, recommendations, evaluations,  
1082 opinions, or other actions taken in connection with preparing,  
1083 reviewing, or issuing such a report.

1084 (b) "Controlled substance" means a controlled substance  
1085 listed in Schedule II, Schedule III, or Schedule IV in s.  
1086 893.03.

1087 (c) "Dispenser" means a pharmacy, dispensing pharmacist, or  
1088 dispensing health care practitioner.

1089 (d) "Health care practitioner" or "practitioner" means any  
1090 practitioner who is subject to licensure or regulation by the  
1091 department under chapter 458, chapter 459, chapter 461, chapter  
1092 462, chapter 464, chapter 465, or chapter 466.

1093 (e) "Health care regulatory board" means any board for a  
1094 practitioner or health care practitioner who is licensed or  
1095 regulated by the department.

1096 (f) "Pharmacy" means any pharmacy that is subject to  
1097 licensure or regulation by the department under chapter 465 and  
1098 that dispenses or delivers a controlled substance to an  
1099 individual or address in this state.

1100 (g) "Prescriber" means a prescribing physician, prescribing  
1101 practitioner, or other prescribing health care practitioner.

1102 (h) "Active investigation" means an investigation that is

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1103 being conducted with a reasonable, good faith belief that it  
1104 could lead to the filing of administrative, civil, or criminal  
1105 proceedings, or that is ongoing and continuing and for which  
1106 there is a reasonable, good faith anticipation of securing an  
1107 arrest or prosecution in the foreseeable future.

1108 (i) "Law enforcement agency" means the Department of Law  
1109 Enforcement, a Florida sheriff's department, a Florida police  
1110 department, or a law enforcement agency of the Federal  
1111 Government which enforces the laws of this state or the United  
1112 States relating to controlled substances, and which its agents  
1113 and officers are empowered by law to conduct criminal  
1114 investigations and make arrests.

1115 (j) "Program manager" means an employee of or a person  
1116 contracted by the Department of Health who is designated to  
1117 ensure the integrity of the prescription drug monitoring program  
1118 in accordance with the requirements established in paragraphs  
1119 (2) (a) and (b).

1120 (2) (a) By December 1, 2010, the department shall design and  
1121 establish a comprehensive electronic database system that has  
1122 controlled substance prescriptions provided to it and that  
1123 provides prescription information to a patient's health care  
1124 practitioner and pharmacist who inform the department that they  
1125 wish the patient advisory report provided to them. Otherwise,  
1126 the patient advisory report will not be sent to the  
1127 practitioner, pharmacy, or pharmacist. The system shall be  
1128 designed to provide information regarding dispensed  
1129 prescriptions of controlled substances and shall not infringe  
1130 upon the legitimate prescribing or dispensing of a controlled  
1131 substance by a prescriber or dispenser acting in good faith and

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1132 in the course of professional practice. The system shall be  
1133 consistent with standards of the American Society for Automation  
1134 in Pharmacy (ASAP). The electronic system shall also comply with  
1135 the Health Insurance Portability and Accountability Act (HIPAA)  
1136 as it pertains to protected health information (PHI), electronic  
1137 protected health information (EPHI), the National All Schedules  
1138 Prescription Electronic Reporting (NASPER) Act's minimum  
1139 requirements for authentication of a practitioner who requests  
1140 information in the prescription drug monitoring program database  
1141 and certification of the purpose for which information is  
1142 requested, and all other relevant state and federal privacy and  
1143 security laws and regulations. The department shall establish  
1144 policies and procedures as appropriate regarding the reporting,  
1145 accessing the database, evaluation, management, development,  
1146 implementation, operation, storage, and security of information  
1147 within the system. The reporting of prescribed controlled  
1148 substances shall include a dispensing transaction with a  
1149 dispenser pursuant to chapter 465 or through a dispensing  
1150 transaction to an individual or address in this state with a  
1151 pharmacy that is not located in this state but that is otherwise  
1152 subject to the jurisdiction of this state as to that dispensing  
1153 transaction. The reporting of patient advisory reports refers  
1154 only to reports to patients, pharmacies, and practitioners.  
1155 Separate reports that contain patient prescription history  
1156 information and that are not patient advisory reports are  
1157 provided to persons and entities as authorized in paragraphs  
1158 (7) (b) and (c) and s. 893.0551.

1159 (b) The department, when the direct support organization  
1160 receives at least \$20,000 in nonstate moneys or the state



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1161 receives at least \$20,000 in federal grants for the prescription  
1162 drug monitoring program, and in consultation with the Office of  
1163 Drug Control, shall adopt rules as necessary concerning the  
1164 reporting, accessing the database, evaluation, management,  
1165 development, implementation, operation, security, and storage of  
1166 information within the system, including rules for when patient  
1167 advisory reports are provided to pharmacies and prescribers. The  
1168 patient advisory report shall be provided in accordance with s.  
1169 893.13(7)(a)8. The department shall work with the professional  
1170 health care licensure boards, such as the Board of Medicine, the  
1171 Board of Osteopathic Medicine, and the Board of Pharmacy; other  
1172 appropriate organizations, such as the Florida Pharmacy  
1173 Association, the Office of Drug Control, the Florida Medical  
1174 Association, the Florida Retail Federation, and the Florida  
1175 Osteopathic Medical Association, including those relating to  
1176 pain management; and the Attorney General, the Department of Law  
1177 Enforcement, and the Agency for Health Care Administration to  
1178 develop rules appropriate for the prescription drug monitoring  
1179 program.

1180 (c) All dispensers and prescribers subject to these  
1181 reporting requirements shall be notified by the department of  
1182 the implementation date for such reporting requirements.

1183 (d) The program manager shall work with professional health  
1184 care licensure boards and the stakeholders listed in paragraph  
1185 (b) to develop rules appropriate for identifying indicators of  
1186 controlled substance abuse.

1187 (e) The department shall establish a method to allow  
1188 corrections to the database when notified by a health care  
1189 practitioner or pharmacist.

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1190 (3) The pharmacy dispensing the controlled substance and  
1191 each prescriber who directly dispenses a controlled substance  
1192 shall submit to the electronic system, by a procedure and in a  
1193 format established by the department and consistent with an  
1194 ASAP-approved format, the following information for inclusion in  
1195 the database:

1196 (a) The name of the prescribing practitioner, the  
1197 practitioner's federal Drug Enforcement Administration  
1198 registration number, the practitioner's National Provider  
1199 Identification (NPI) or other appropriate identifier, and the  
1200 date of the prescription.

1201 (b) The date the prescription was filled and the method of  
1202 payment, such as cash by an individual, insurance coverage  
1203 through a third party, or Medicaid payment. This paragraph does  
1204 not authorize the department to include individual credit card  
1205 numbers or other account numbers in the database.

1206 (c) The full name, address, and date of birth of the person  
1207 for whom the prescription was written.

1208 (d) The name, national drug code, quantity, and strength of  
1209 the controlled substance dispensed.

1210 (e) The full name, federal Drug Enforcement Administration  
1211 registration number, and address of the pharmacy or other  
1212 location from which the controlled substance was dispensed. If  
1213 the controlled substance was dispensed by a practitioner other  
1214 than a pharmacist, the practitioner's full name, federal Drug  
1215 Enforcement Administration registration number, and address.

1216 (f) The name of the pharmacy or practitioner, other than a  
1217 pharmacist, dispensing the controlled substance and the  
1218 practitioner's National Provider Identification (NPI).

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1219 (g) Other appropriate identifying information as determined  
1220 by department rule.

1221 (h) The number of refills ordered and whether the drug was  
1222 dispensed as a refill of a prescription or was a first-time  
1223 request.

1224 (4) Each time a controlled substance is dispensed to an  
1225 individual, the controlled substance shall be reported to the  
1226 department through the system as soon thereafter as possible,  
1227 but not more than 7 ~~15~~ days after the date the controlled  
1228 substance is dispensed unless an extension is approved by the  
1229 department for cause as determined by rule. A dispenser must  
1230 meet the reporting requirements of this section by providing the  
1231 required information concerning each controlled substance that  
1232 it dispensed in a department-approved, secure methodology and  
1233 format. Such approved formats may include, but are not limited  
1234 to, submission via the Internet, on a disc, or by use of regular  
1235 mail.

1236 (5) When the following acts of dispensing or administering  
1237 occur, the following are exempt from reporting under this  
1238 section for that specific act of dispensing or administration:

1239 (a) A health care practitioner when administering a  
1240 controlled substance directly to a patient if the amount of the  
1241 controlled substance is adequate to treat the patient during  
1242 that particular treatment session.

1243 (b) A pharmacist or health care practitioner when  
1244 administering a controlled substance to a patient or resident  
1245 receiving care as a patient at a hospital, nursing home,  
1246 ambulatory surgical center, hospice, or intermediate care  
1247 facility for the developmentally disabled which is licensed in

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1248 this state.

1249 ~~(c) A practitioner when administering or dispensing a~~  
1250 ~~controlled substance in the health care system of the Department~~  
1251 ~~of Corrections.~~

1252 (c) ~~(d)~~ A practitioner when administering a controlled  
1253 substance in the emergency room of a licensed hospital.

1254 (d) ~~(e)~~ A health care practitioner when administering or  
1255 dispensing a controlled substance to a person under the age of  
1256 16 if the amount of the controlled substance is adequate to  
1257 treat the patient during that particular treatment session.

1258 (e) ~~(f)~~ A pharmacist or a dispensing practitioner when  
1259 dispensing a one-time, 48-hour ~~72-hour~~ emergency resupply of a  
1260 controlled substance to a patient.

1261 (6) The department may establish when to suspend and when  
1262 to resume reporting information during a state-declared or  
1263 nationally declared disaster.

1264 (7) (a) A practitioner or pharmacist who dispenses a  
1265 controlled substance must submit the information required by  
1266 this section in an electronic or other method in an ASAP format  
1267 approved by rule of the department unless otherwise provided in  
1268 this section. The cost to the dispenser in submitting the  
1269 information required by this section may not be material or  
1270 extraordinary. Costs not considered to be material or  
1271 extraordinary include, but are not limited to, regular postage,  
1272 electronic media, regular electronic mail, and facsimile  
1273 charges.

1274 (b)1. In order for a pharmacy, prescriber, practitioner, or  
1275 dispenser to ~~shall~~ have access to information in the  
1276 prescription drug monitoring program's database which relates to

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1277 a patient of that pharmacy, prescriber, practitioner, or  
1278 dispenser, the pharmacy, prescriber, practitioner, or dispenser  
1279 shall register with the department by submitting a registering  
1280 document provided by the department. The document and validation  
1281 of that document shall be determined by the department. Before a  
1282 pharmacy, prescriber, practitioner, or dispenser is granted  
1283 access to information in the database from the prescription drug  
1284 monitoring program, the department shall approve the submitted  
1285 document. Upon approval, the department shall grant the  
1286 registrant access to the appropriate information in the  
1287 prescription drug monitoring program's database ~~in a manner~~  
1288 ~~established by the department as needed for the purpose of~~  
1289 ~~reviewing the patient's controlled substance prescription~~  
1290 ~~history.~~

1291       2. Other access to the program's database shall be limited  
1292 to the program's manager and to the designated program and  
1293 support staff, who may act only at the direction of the program  
1294 manager or, in the absence of the program manager, as  
1295 authorized. Access by the program manager or such designated  
1296 staff is for prescription drug program management only or for  
1297 management of the program's database and its system in support  
1298 of the requirements of this section and in furtherance of the  
1299 prescription drug monitoring program. Confidential and exempt  
1300 information in the database shall be released only as provided  
1301 in paragraph (c) and s. 893.0551. The program manager,  
1302 designated program and support staff who act at the direction of  
1303 or in the absence of the program manager, and any individual who  
1304 has similar access regarding the management of the database from  
1305 the prescription drug monitoring program shall submit

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1306 fingerprints to the department for background screening. The  
1307 department shall follow the procedure established by the  
1308 Department of Law Enforcement to request a statewide criminal  
1309 history record check and to request that the Department of Law  
1310 Enforcement forward the fingerprints to the Federal Bureau of  
1311 Investigation for a national criminal history record check.

1312 (c) The following entities may ~~shall~~ not have ~~be allowed~~  
1313 direct access to information in the prescription drug monitoring  
1314 program database but may request from the program manager and,  
1315 when authorized by the program manager, the program manager's  
1316 program and support staff, information that is confidential and  
1317 exempt under s. 893.0551. Prior to release, the request shall be  
1318 verified as authentic and authorized with the requesting  
1319 organization by the program manager, the program manager's  
1320 program and support staff, or as determined in rules by the  
1321 department as being authentic and as having been authorized by  
1322 the requesting entity:

1323 1. The department or its relevant health care regulatory  
1324 boards responsible for the licensure, regulation, or discipline  
1325 of practitioners, pharmacists, or other persons who are  
1326 authorized to prescribe, administer, or dispense controlled  
1327 substances and who are involved in a specific controlled  
1328 substance investigation involving a designated person for one or  
1329 more prescribed controlled substances.

1330 2. The Attorney General for Medicaid fraud cases or  
1331 Medicaid investigations involving prescribed controlled  
1332 substances.

1333 3. A law enforcement agency during active investigations  
1334 regarding potential criminal activity, fraud, or theft regarding

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1335 prescribed controlled substances.

1336 4. A patient or the legal guardian or designated health  
1337 care surrogate of an incapacitated patient as described in s.  
1338 893.0551 who, for the purpose of verifying the accuracy of the  
1339 database information, submits a written and notarized request  
1340 that includes the patient's full name, address, and date of  
1341 birth, and includes the same information if the legal guardian  
1342 or health care surrogate submits the request. The patient's  
1343 phone number, current address, and a copy of a government-issued  
1344 photo identification must be provided in person to the program  
1345 manager along with the notarized request. The request shall be  
1346 validated by the department to verify the identity of the  
1347 patient and the legal guardian or health care surrogate, if the  
1348 patient's legal guardian or health care surrogate is the  
1349 requestor. Such verification is also required for any request to  
1350 change a patient's prescription history or other information  
1351 related to his or her information in the electronic database.

1352 5. The Agency for Health Care Administration for Medicaid  
1353 fraud cases or Medicaid investigations involving prescribed  
1354 controlled substances.

1355  
1356 Information in the database for the electronic prescription drug  
1357 monitoring system is not discoverable or admissible in any civil  
1358 or administrative action, except in an investigation and  
1359 disciplinary proceeding by the department or the appropriate  
1360 regulatory board.

1361 (d) The following entities may ~~shall~~ not have ~~be allowed~~  
1362 direct access to information in the prescription drug monitoring  
1363 program database but may request from the program manager and,

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1364 when authorized by the program manager, the program manager's  
1365 program and support staff, information that contains no  
1366 identifying information of any patient, physician, health care  
1367 practitioner, prescriber, or dispenser and that is not  
1368 confidential and exempt:

1369 1. Department staff for the purpose of calculating  
1370 performance measures pursuant to subsection (8).

1371 2. The Program Implementation and Oversight Task Force for  
1372 its reporting to the Governor, the President of the Senate, and  
1373 the Speaker of the House of Representatives regarding the  
1374 prescription drug monitoring program. This subparagraph expires  
1375 July 1, 2012.

1376 (e) All transmissions of data required by this section must  
1377 comply with relevant state and federal privacy and security laws  
1378 and regulations. However, any authorized agency or person under  
1379 s. 893.0551 receiving such information as allowed by s. 893.0551  
1380 may maintain the information received for up to 24 months before  
1381 purging it from his or her records or maintain it for longer  
1382 than 24 months if the information is pertinent to ongoing health  
1383 care or an active law enforcement investigation or prosecution.

1384 (f) The program manager, upon determining a pattern  
1385 consistent with the rules established under paragraph (2)(d) and  
1386 having cause to believe a violation of s. 893.13(7)(a)8.,  
1387 (8)(a), or (8)(b) has occurred, may provide relevant information  
1388 to the applicable law enforcement agency.

1389 (8) To assist in fulfilling program responsibilities,  
1390 performance measures shall be reported annually to the Governor,  
1391 the President of the Senate, and the Speaker of the House of  
1392 Representatives by the department each December 1, beginning in



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1393 2011. Data that does not contain patient, physician, health care  
1394 practitioner, prescriber, or dispenser identifying information  
1395 may be requested during the year by department employees so that  
1396 the department may undertake public health care and safety  
1397 initiatives that take advantage of observed trends. Performance  
1398 measures may include, but are not limited to, efforts to achieve  
1399 the following outcomes:

1400 (a) Reduction of the rate of inappropriate use of  
1401 prescription drugs through department education and safety  
1402 efforts.

1403 (b) Reduction of the quantity of pharmaceutical controlled  
1404 substances obtained by individuals attempting to engage in fraud  
1405 and deceit.

1406 (c) Increased coordination among partners participating in  
1407 the prescription drug monitoring program.

1408 (d) Involvement of stakeholders in achieving improved  
1409 patient health care and safety and reduction of prescription  
1410 drug abuse and prescription drug diversion.

1411 (9) Any person who willfully and knowingly fails to report  
1412 the dispensing of a controlled substance as required by this  
1413 section commits a misdemeanor of the first degree, punishable as  
1414 provided in s. 775.082 or s. 775.083.

1415 ~~(10) All costs incurred by the department in administering~~  
1416 ~~the prescription drug monitoring program shall be funded through~~  
1417 ~~federal grants or private funding applied for or received by the~~  
1418 ~~state. The department may not commit funds for the monitoring~~  
1419 ~~program without ensuring funding is available. The prescription~~  
1420 ~~drug monitoring program and the implementation thereof are~~  
1421 ~~contingent upon receipt of the nonstate funding. The department~~

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1422 and state government shall cooperate with the direct-support  
1423 organization established pursuant to subsection (11) in seeking  
1424 federal grant funds, other nonstate grant funds, gifts,  
1425 donations, or other private moneys for the department so long as  
1426 the costs of doing so are not considered material. Nonmaterial  
1427 costs for this purpose include, but are not limited to, the  
1428 costs of mailing and personnel assigned to research or apply for  
1429 a grant. Notwithstanding the exemptions to competitive-  
1430 solicitation requirements under s. 287.057(3)(f), the department  
1431 shall comply with the competitive-solicitation requirements  
1432 under s. 287.057 for the procurement of any goods or services  
1433 required by this section.

1434 (11) The Office of Drug Control, in coordination with the  
1435 department, may establish a direct-support organization that has  
1436 a board consisting of at least five members to provide  
1437 assistance, funding, and promotional support for the activities  
1438 authorized for the prescription drug monitoring program.

1439 (a) As used in this subsection, the term "direct-support  
1440 organization" means an organization that is:

1441 1. A Florida corporation not for profit incorporated under  
1442 chapter 617, exempted from filing fees, and approved by the  
1443 Department of State.

1444 2. Organized and operated to conduct programs and  
1445 activities; raise funds; request and receive grants, gifts, and  
1446 bequests of money; acquire, receive, hold, and invest, in its  
1447 own name, securities, funds, objects of value, or other  
1448 property, either real or personal; and make expenditures or  
1449 provide funding to or for the direct or indirect benefit of the  
1450 department in the furtherance of the prescription drug

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1451 monitoring program.

1452 (b) The direct-support organization is not considered a  
1453 lobbying firm within the meaning of s. 11.045.

1454 (c) The director of the Office of Drug Control shall  
1455 appoint a board of directors for the direct-support  
1456 organization. The director may designate employees of the Office  
1457 of Drug Control, state employees other than state employees from  
1458 the department, and any other nonstate employees as appropriate,  
1459 to serve on the board. Members of the board shall serve at the  
1460 pleasure of the director of the Office of Drug Control. The  
1461 director shall provide guidance to members of the board to  
1462 ensure that moneys received by the direct-support organization  
1463 are not received from inappropriate sources. Inappropriate  
1464 sources include, but are not limited to, donors, grantors,  
1465 persons, or organizations that may monetarily or substantively  
1466 benefit from the purchase of goods or services by the department  
1467 in furtherance of the prescription drug monitoring program.

1468 (d) The direct-support organization shall operate under  
1469 written contract with the Office of Drug Control. The contract  
1470 must, at a minimum, provide for:

1471 1. Approval of the articles of incorporation and bylaws of  
1472 the direct-support organization by the Office of Drug Control.

1473 2. Submission of an annual budget for the approval of the  
1474 Office of Drug Control.

1475 3. Certification by the Office of Drug Control in  
1476 consultation with the department that the direct-support  
1477 organization is complying with the terms of the contract in a  
1478 manner consistent with and in furtherance of the goals and  
1479 purposes of the prescription drug monitoring program and in the

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1480 best interests of the state. Such certification must be made  
1481 annually and reported in the official minutes of a meeting of  
1482 the direct-support organization.

1483 4. The reversion, without penalty, to the Office of Drug  
1484 Control, or to the state if the Office of Drug Control ceases to  
1485 exist, of all moneys and property held in trust by the direct-  
1486 support organization for the benefit of the prescription drug  
1487 monitoring program if the direct-support organization ceases to  
1488 exist or if the contract is terminated.

1489 5. The fiscal year of the direct-support organization,  
1490 which must begin July 1 of each year and end June 30 of the  
1491 following year.

1492 6. The disclosure of the material provisions of the  
1493 contract to donors of gifts, contributions, or bequests,  
1494 including such disclosure on all promotional and fundraising  
1495 publications, and an explanation to such donors of the  
1496 distinction between the Office of Drug Control and the direct-  
1497 support organization.

1498 7. The direct-support organization's collecting, expending,  
1499 and providing of funds to the department for the development,  
1500 implementation, and operation of the prescription drug  
1501 monitoring program as described in this section and s. 2,  
1502 chapter 2009-198, Laws of Florida, as long as the task force is  
1503 authorized. The direct-support organization may collect and  
1504 expend funds to be used for the functions of the direct-support  
1505 organization's board of directors, as necessary and approved by  
1506 the director of the Office of Drug Control. In addition, the  
1507 direct-support organization may collect and provide funding to  
1508 the department in furtherance of the prescription drug

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1509 monitoring program by:

1510 a. Establishing and administering the prescription drug  
1511 monitoring program's electronic database, including hardware and  
1512 software.

1513 b. Conducting studies on the efficiency and effectiveness  
1514 of the program to include feasibility studies as described in  
1515 subsection (13).

1516 c. Providing funds for future enhancements of the program  
1517 within the intent of this section.

1518 d. Providing user training of the prescription drug  
1519 monitoring program, including distribution of materials to  
1520 promote public awareness and education and conducting workshops  
1521 or other meetings, for health care practitioners, pharmacists,  
1522 and others as appropriate.

1523 e. Providing funds for travel expenses.

1524 f. Providing funds for administrative costs, including  
1525 personnel, audits, facilities, and equipment.

1526 g. Fulfilling all other requirements necessary to implement  
1527 and operate the program as outlined in this section.

1528 (e) The activities of the direct-support organization must  
1529 be consistent with the goals and mission of the Office of Drug  
1530 Control, as determined by the office in consultation with the  
1531 department, and in the best interests of the state. The direct-  
1532 support organization must obtain a written approval from the  
1533 director of the Office of Drug Control for any activities in  
1534 support of the prescription drug monitoring program before  
1535 undertaking those activities.

1536 (f) The Office of Drug Control, in consultation with the  
1537 department, may permit, without charge, appropriate use of

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1538 administrative services, property, and facilities of the Office  
1539 of Drug Control and the department by the direct-support  
1540 organization, subject to this section. The use must be directly  
1541 in keeping with the approved purposes of the direct-support  
1542 organization and may not be made at times or places that would  
1543 unreasonably interfere with opportunities for the public to use  
1544 such facilities for established purposes. Any moneys received  
1545 from rentals of facilities and properties managed by the Office  
1546 of Drug Control and the department may be held by the Office of  
1547 Drug Control or in a separate depository account in the name of  
1548 the direct-support organization and subject to the provisions of  
1549 the letter of agreement with the Office of Drug Control. The  
1550 letter of agreement must provide that any funds held in the  
1551 separate depository account in the name of the direct-support  
1552 organization must revert to the Office of Drug Control if the  
1553 direct-support organization is no longer approved by the Office  
1554 of Drug Control to operate in the best interests of the state.

1555 (g) The Office of Drug Control, in consultation with the  
1556 department, may adopt rules under s. 120.54 to govern the use of  
1557 administrative services, property, or facilities of the  
1558 department or office by the direct-support organization.

1559 (h) The Office of Drug Control may not permit the use of  
1560 any administrative services, property, or facilities of the  
1561 state by a direct-support organization if that organization does  
1562 not provide equal membership and employment opportunities to all  
1563 persons regardless of race, color, religion, gender, age, or  
1564 national origin.

1565 (i) The direct-support organization shall provide for an  
1566 independent annual financial audit in accordance with s.

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1567 215.981. Copies of the audit shall be provided to the Office of  
1568 Drug Control and the Office of Policy and Budget in the  
1569 Executive Office of the Governor.

1570 (j) The direct-support organization may not exercise any  
1571 power under s. 617.0302(12) or (16).

1572 (12) A prescriber or dispenser may have access to the  
1573 information under this section which relates to a patient of  
1574 that prescriber or dispenser as needed for the purpose of  
1575 reviewing the patient's controlled drug prescription history. A  
1576 prescriber or dispenser acting in good faith is immune from any  
1577 civil, criminal, or administrative liability that might  
1578 otherwise be incurred or imposed for receiving or using  
1579 information from the prescription drug monitoring program. This  
1580 subsection does not create a private cause of action, and a  
1581 person may not recover damages against a prescriber or dispenser  
1582 authorized to access information under this subsection for  
1583 accessing or failing to access such information.

1584 (13) To the extent that funding is provided for such  
1585 purpose through federal or private grants or gifts and other  
1586 types of available moneys, the department, in collaboration with  
1587 the Office of Drug Control, shall study the feasibility of  
1588 enhancing the prescription drug monitoring program for the  
1589 purposes of public health initiatives and statistical reporting  
1590 that respects the privacy of the patient, the prescriber, and  
1591 the dispenser. Such a study shall be conducted in order to  
1592 further improve the quality of health care services and safety  
1593 by improving the prescribing and dispensing practices for  
1594 prescription drugs, taking advantage of advances in technology,  
1595 reducing duplicative prescriptions and the overprescribing of

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1596 prescription drugs, and reducing drug abuse. The requirements of  
1597 the National All Schedules Prescription Electronic Reporting  
1598 (NASPER) Act are authorized in order to apply for federal NASPER  
1599 funding. In addition, the direct-support organization shall  
1600 provide funding for the department, in collaboration with the  
1601 Office of Drug Control, to conduct training for health care  
1602 practitioners and other appropriate persons in using the  
1603 monitoring program to support the program enhancements.

1604 (14) A pharmacist, pharmacy, or dispensing health care  
1605 practitioner or his or her agent, before releasing a controlled  
1606 substance to any person not known to such dispenser, shall  
1607 require the person purchasing, receiving, or otherwise acquiring  
1608 the controlled substance to present valid photographic  
1609 identification or other verification of his or her identity to  
1610 the dispenser. If the person does not have proper  
1611 identification, the dispenser may verify the validity of the  
1612 prescription and the identity of the patient with the prescriber  
1613 or his or her authorized agent. Verification of health plan  
1614 eligibility through a real-time inquiry or adjudication system  
1615 will be considered to be proper identification. This subsection  
1616 does not apply in an institutional setting or to a long-term  
1617 care facility, including, but not limited to, an assisted living  
1618 facility or a hospital to which patients are admitted. As used  
1619 in this subsection, the term "proper identification" means an  
1620 identification that is issued by a state or the Federal  
1621 Government containing the person's photograph, printed name, and  
1622 signature or a document considered acceptable under 8 C.F.R. s.  
1623 274a.2(b)(1)(v)(A) and (B).

1624 (15) The Agency for Health Care Administration shall



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1625 continue the promotion of electronic prescribing by health care  
1626 practitioners, health care facilities, and pharmacies under s.  
1627 408.0611.

1628 (16) By October 1, 2010, the department shall adopt rules  
1629 pursuant to ss. 120.536(1) and 120.54 to administer the  
1630 provisions of this section, which shall include as necessary the  
1631 reporting, accessing, evaluation, management, development,  
1632 implementation, operation, and storage of information within the  
1633 monitoring program's system.

1634 (17) After the prescription drug monitoring program's  
1635 database has been operational for 12 months, the State Surgeon  
1636 General shall enter into reciprocal agreements for the sharing  
1637 of prescription drug monitoring information with any other state  
1638 that has a compatible prescription drug monitoring program. If  
1639 the State Surgeon General evaluates the prescription drug  
1640 monitoring program of another state as authorized in this  
1641 subsection, priority shall be given to a state that is  
1642 contiguous with the borders of this state.

1643 (a) In determining compatibility, the State Surgeon General  
1644 shall consider:

1645 1. The essential purposes of the program and the success of  
1646 the program in fulfilling those purposes.

1647 2. The safeguards for privacy of patient records and the  
1648 success of the program in protecting patient privacy.

1649 3. The persons authorized to view the data collected by the  
1650 program. Comparable organizations and professions for  
1651 practitioners in other states, law enforcement agencies, the  
1652 Attorney General's Medicaid Fraud Unit, medical regulatory  
1653 boards, and, as needed, management staff who have similar duties

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1654 as management staff who work with the prescription drug  
1655 monitoring program as authorized in s. 893.0551 are authorized  
1656 access upon approval by the State Surgeon General.

1657 4. The schedules of the controlled substances that are  
1658 monitored.

1659 5. The data required to be submitted for each prescription.

1660 6. Any implementing criteria deemed essential for a  
1661 thorough comparison.

1662 (b) The State Surgeon General shall annually review any  
1663 agreement to determine its continued compatibility with the  
1664 prescription drug monitoring program in this state.

1665 (c) Any agreement between the State Surgeon General and  
1666 another state shall prohibit the sharing of information  
1667 concerning a resident of this state or a practitioner,  
1668 pharmacist, or other prescriber for any purpose that is not  
1669 otherwise authorized by this section or s. 893.0551.

1670 Section 22. Paragraph (a) of subsection (3) of section  
1671 893.0551, Florida Statutes, is amended, present subsections (4),  
1672 (5), (6), and (7) of that section are redesignated as  
1673 subsections (5), (6), (7), and (8), respectively, and a new  
1674 subsection (4) is added to that section, to read:

1675 893.0551 Public records exemption for the prescription drug  
1676 monitoring program.—

1677 (3) The department shall disclose such confidential and  
1678 exempt information to the following entities after using a  
1679 verification process to ensure the legitimacy of that person's  
1680 or entity's request for the information:

1681 (a) The Attorney General and his or her designee when  
1682 working on Medicaid fraud cases and Medicaid investigations

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1683 involving prescribed controlled substances ~~prescription drugs~~ or  
1684 when the Attorney General has initiated a review of specific  
1685 identifiers of Medicaid fraud or specific identifiers that  
1686 warrant a Medicaid investigation regarding prescribed controlled  
1687 substances ~~prescription drugs~~. The Attorney General or his or  
1688 her designee may disclose the confidential and exempt  
1689 information received from the department to a criminal justice  
1690 agency as defined in s. 119.011 as part of an active  
1691 investigation that is specific to a violation of prescription  
1692 drug abuse or prescription drug diversion law as it relates to  
1693 controlled substances. The Attorney General's Medicaid fraud  
1694 investigators and Medicaid investigators may not have direct  
1695 access to the department's database.

1696 (4) The department may disclose confidential and exempt  
1697 information contained in records held by the department under s.  
1698 893.055 if the State Surgeon General has entered into a  
1699 reciprocal agreement for the sharing of prescription drug  
1700 monitoring information with any other state that has a  
1701 compatible prescription drug monitoring program.

1702 (a) The reciprocal agreement may allow the following  
1703 persons from another state to receive information from the  
1704 prescription drug monitoring program if approved by the State  
1705 Surgeon General:

1706 1. A designated representative of a state professional  
1707 licensing, certification, or regulatory agency charged with  
1708 oversight of those persons authorized to prescribe or dispense  
1709 controlled substances for the purpose of a bona fide, specific  
1710 investigation of a prescription of a controlled substance which  
1711 involves a designated person. As required in s. 893.055, this

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1712 authorization does not preclude the requirement for the program  
1713 manager to review the request for information and validate it.

1714 2. A health care practitioner or pharmacist licensed in the  
1715 state from which the request originates. Such health care  
1716 practitioner or pharmacist shall certify that the requested  
1717 information is for the purpose of providing medical or  
1718 pharmaceutical treatment to a bona fide, current patient. The  
1719 health care practitioner or pharmacist shall follow all the  
1720 procedures required in s. 893.055 and rules established by the  
1721 department for a health care practitioner or pharmacist to  
1722 request information from the database.

1723 3. A law enforcement officer from another state:

1724 a. Who is a member of a sheriff's department or a police  
1725 department;

1726 b. Who is authorized by law to conduct criminal  
1727 investigations and make arrests;

1728 c. Whose duty it is to enforce the laws of his or her state  
1729 relating to controlled substances; and

1730 d. Who is engaged in a bona fide specific, active  
1731 investigation involving a designated person regarding  
1732 prescriptions for controlled substances.

1733  
1734 As required in s. 893.055, this authorization does not preclude  
1735 the requirement for the program manager to review the request  
1736 for information and validate it. This authorization also does  
1737 not preclude the ability to provide a report to a law  
1738 enforcement agency in another state under s. 893.055(7) or this  
1739 subsection.

1740 (b) Any agreement between the State Surgeon General and

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1741 another state shall prohibit the sharing of information  
1742 concerning a resident of this state, a patient whose information  
1743 is in the program's database, or a practitioner, pharmacy,  
1744 pharmacist, health care practitioner, or other prescriber for  
1745 any purpose that is not otherwise authorized by this section or  
1746 s. 893.055, and the information must be provided according to  
1747 the State Surgeon General's determination of compatibility as  
1748 described in s. 893.055(17).

1749 Section 23. Subsections (1), (4), and (5) of section  
1750 893.07, Florida Statutes, are amended, and subsection (6) is  
1751 added to that section, to read:

1752 893.07 Records.—

1753 (1) Notwithstanding any other provision of law and in  
1754 consonance with the authority of *State v. Carter*, 23 So. 3d 798  
1755 (Fla. 1st DCA 2009) and *State v. Tamulonis*, 39 So. 3d 524 (Fla.  
1756 2nd DCA 2010), every person who engages in the manufacture,  
1757 compounding, mixing, cultivating, growing, or by any other  
1758 process producing or preparing, or in the dispensing,  
1759 importation, or, as a wholesaler, distribution, of controlled  
1760 substances shall:

1761 (a) On January 1, 1974, or as soon thereafter as any person  
1762 first engages in such activity, and every second year  
1763 thereafter, make a complete and accurate record of all stocks of  
1764 controlled substances on hand. The inventory may be prepared on  
1765 the regular physical inventory date which is nearest to, and  
1766 does not vary by more than 6 months from, the biennial date that  
1767 would otherwise apply. As additional substances are designated  
1768 for control under this chapter, they shall be inventoried as  
1769 provided for in this subsection.

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1770 (b) On and after January 1, 1974, maintain, on a current  
1771 basis, a complete and accurate record of each substance  
1772 manufactured, received, sold, delivered, or otherwise disposed  
1773 of by him or her, except that this subsection shall not require  
1774 the maintenance of a perpetual inventory.

1775  
1776 Compliance with the provisions of federal law pertaining to the  
1777 keeping of records of controlled substances shall be deemed a  
1778 compliance with the requirements of this subsection.

1779 (4) Every inventory or record required by this chapter,  
1780 including prescription records, shall be maintained:

1781 (a) Separately from all other records of the registrant, or

1782 (b) Alternatively, in the case of Schedule III, IV, or V  
1783 controlled substances, in such form that information required by  
1784 this chapter is readily retrievable from the ordinary business  
1785 records of the registrant.

1786  
1787 In either case, such records described in this subsection shall  
1788 be kept and made available for a period of at least 2 years for  
1789 inspection and copying by law enforcement officers whose duty it  
1790 is to enforce the laws of this state relating to controlled  
1791 substances. This subsection does not require a law enforcement  
1792 officer to obtain a subpoena, court order, or search warrant in  
1793 order to obtain access to or copies of such records.

1794 (5) Each person shall maintain a record that contains ~~which~~  
1795 ~~shall contain~~ a detailed list of controlled substances lost,  
1796 destroyed, or stolen, if any; the kind and quantity of such  
1797 controlled substances; and the date of the discovering of such  
1798 loss, destruction, or theft. If a person discovers the theft or

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1799 loss of a controlled substance, such person shall report the  
 1800 theft or loss to a local county sheriff's office within 48 hours  
 1801 after the discovery of such theft or loss. A person who fails to  
 1802 report the theft or loss of a controlled substance under this  
 1803 subsection commits a misdemeanor of the second degree,  
 1804 punishable as provided in s. 775.082 or s. 775.083. However, a  
 1805 person who fails to report the theft or loss of a Schedule II  
 1806 controlled substance commits a misdemeanor of the first degree,  
 1807 punishable as provided in s. 775.082 or s. 775.083.

1808 (6) The Legislature finds that the opinions rendered in  
 1809 State v. Carter, 23 So. 3d 798 (Fla. 1st DCA 2009), and State v.  
 1810 Tamulonis, 39 So. 3d 524 (Fla. 2nd DCA 2010), correctly construe  
 1811 this Legislature's intent that the inspection powers previously  
 1812 conferred upon law enforcement officers which allow such  
 1813 officers to access and review pharmacy records concerning  
 1814 controlled substances are to be exercised properly by such law  
 1815 enforcement officers without the requirement of a subpoena or  
 1816 search warrant being sought or issued to examine and copy such  
 1817 records, and without the requirement that those persons to whom  
 1818 particular pharmacy records refer be given notice of the  
 1819 records' examination and copying under this section.

1820 Section 24. Subsections (7) and (8) of section 893.13,  
 1821 Florida Statutes, are amended to read:

1822 893.13 Prohibited acts; penalties.—

1823 (7) (a) A ~~It is unlawful for any person may not:~~

1824 1. ~~To~~ Distribute or dispense a controlled substance in  
 1825 violation of this chapter.

1826 2. ~~To~~ Refuse or fail to make, keep, or furnish any record,  
 1827 notification, order form, statement, invoice, or information

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1828 required under this chapter.

1829       3. ~~To~~ Refuse ~~an~~ entry into any premises for any inspection  
1830 or ~~to~~ refuse to allow any inspection authorized by this chapter.

1831       4. ~~To~~ Distribute a controlled substance named or described  
1832 in s. 893.03(1) or (2) except pursuant to an order form as  
1833 required by s. 893.06.

1834       5. ~~To~~ Keep or maintain any store, shop, warehouse,  
1835 dwelling, building, vehicle, boat, aircraft, or other structure  
1836 or place which is resorted to by persons using controlled  
1837 substances in violation of this chapter for the purpose of using  
1838 these substances, or which is used for keeping or selling them  
1839 in violation of this chapter.

1840       6. ~~To~~ Use to his or her own personal advantage, or ~~to~~  
1841 reveal, any information obtained in enforcement of this chapter  
1842 except in a prosecution or administrative hearing for a  
1843 violation of this chapter.

1844       7. ~~To~~ Possess a prescription form which has not been  
1845 completed and signed by the practitioner whose name appears  
1846 printed thereon, unless the person is that practitioner, is an  
1847 agent or employee of that practitioner, is a pharmacist, or is a  
1848 supplier of prescription forms who is authorized by that  
1849 practitioner to possess those forms.

1850       8. ~~To~~ Withhold information from a practitioner from whom  
1851 the person seeks to obtain a controlled substance or a  
1852 prescription for a controlled substance that the person making  
1853 the request has received a controlled substance or a  
1854 prescription for a controlled substance of like therapeutic use  
1855 from another practitioner within the previous 30 days.

1856       9. ~~To~~ Acquire or obtain, or attempt to acquire or obtain,



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1857 possession of a controlled substance by misrepresentation,  
1858 fraud, forgery, deception, or subterfuge.

1859 10. ~~To~~ Affix any false or forged label to a package or  
1860 receptacle containing a controlled substance.

1861 11. ~~To~~ Furnish false or fraudulent material information in,  
1862 or omit any material information from, any report or other  
1863 document required to be kept or filed under this chapter or any  
1864 record required to be kept by this chapter.

1865 12. ~~To~~ Store anhydrous ammonia in a container that is not  
1866 approved by the United States Department of Transportation to  
1867 hold anhydrous ammonia or is not constructed in accordance with  
1868 sound engineering, agricultural, or commercial practices.

1869 13. With the intent to obtain a controlled substance or  
1870 combination of controlled substances that are not medically  
1871 necessary for the person or an amount of a controlled substance  
1872 or substances that are not medically necessary for the person,  
1873 obtain or attempt to obtain from a practitioner a controlled  
1874 substance or a prescription for a controlled substance by  
1875 misrepresentation, fraud, forgery, deception, subterfuge, or  
1876 concealment of a material fact. For purposes of this  
1877 subparagraph, a material fact includes whether the person has an  
1878 existing prescription for a controlled substance issued for the  
1879 same period of time by another practitioner or as described in  
1880 subparagraph 8.

1881 (b) A health care practitioner, with the intent to provide  
1882 a controlled substance or combination of controlled substances  
1883 that are not medically necessary to his or her patient or an  
1884 amount of controlled substances that are not medically necessary  
1885 for his or her patient, may not provide a controlled substance

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1886 or a prescription for a controlled substance by  
1887 misrepresentation, fraud, forgery, deception, subterfuge, or  
1888 concealment of a material fact. For purposes of this paragraph,  
1889 a material fact includes whether the patient has an existing  
1890 prescription for a controlled substance issued for the same  
1891 period of time by another practitioner or as described in  
1892 subparagraph (a)8.

1893 (c) Any person who adulterates a controlled substance for  
1894 directed off-label use without authorization by a prescribing  
1895 physician violates the provisions of subparagraph (a)1. and  
1896 causes the issuance of the entire prescription for the  
1897 controlled substance to become invalid. A law enforcement  
1898 officer in the performance of his or her official duties may  
1899 seize the adulterated or off-label prescribed controlled  
1900 substance as evidence. The controlled substance may be returned  
1901 to the owner only with a notarized affidavit from the original  
1902 prescribing practitioner who has knowledge and gave  
1903 authorization and explicit directions for the adulteration or  
1904 off-label use of the controlled substance.

1905 (d)~~(b)~~ Any person who violates the provisions of  
1906 subparagraphs (a)1.-7. commits a misdemeanor of the first  
1907 degree, punishable as provided in s. 775.082 or s. 775.083;  
1908 except that, upon a second or subsequent violation, the person  
1909 commits a felony of the third degree, punishable as provided in  
1910 s. 775.082, s. 775.083, or s. 775.084.

1911 (e)~~(c)~~ Any person who violates the provisions of  
1912 subparagraphs (a)8.-12. commits a felony of the third degree,  
1913 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1914 (f) A person or health care practitioner who violates the

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1915 provisions of paragraph (b) or subparagraph (a)13. commits a  
1916 felony of the third degree, punishable as provided in s.  
1917 775.082, s. 775.083, or s. 775.084, if any controlled substance  
1918 that is the subject of the offense is listed in Schedule II,  
1919 Schedule III, or Schedule IV.

1920 (8) (a) Notwithstanding subsection (9), a prescribing  
1921 practitioner may not:

1922 1. Knowingly assist a patient, other person, or the owner  
1923 of an animal in obtaining a controlled substance through  
1924 deceptive, untrue, or fraudulent representations in or related  
1925 to the practice of the prescribing practitioner's professional  
1926 practice;

1927 2. Employ a trick or scheme in the practice of the  
1928 prescribing practitioner's professional practice to assist a  
1929 patient, other person, or the owner of an animal in obtaining a  
1930 controlled substance;

1931 3. Knowingly write a prescription for a controlled  
1932 substance for a fictitious person; ~~or~~

1933 4. Write a prescription for a controlled substance for a  
1934 patient, other person, or an animal if the sole purpose of  
1935 writing such prescription is to provide a monetary benefit to,  
1936 or obtain a monetary benefit for, the prescribing practitioner;  
1937 or-

1938 5. Write a prescription for a controlled substance for a  
1939 patient, other person, or an animal and authorize or direct the  
1940 adulteration of the dispensed form of the controlled substance  
1941 for the purpose of ingestion by means of inhalation, injection,  
1942 or any other means not medically necessary for the treatment of  
1943 the patient.

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1944 (b) If the prescribing practitioner wrote a prescription or  
1945 multiple prescriptions for a controlled substance for the  
1946 patient, other person, or animal for which there was no medical  
1947 necessity, or which was in excess of what was medically  
1948 necessary to treat the patient, other person, or animal, that  
1949 fact does not give rise to any presumption that the prescribing  
1950 practitioner violated subparagraph (a)1., but may be considered  
1951 with other competent evidence in determining whether the  
1952 prescribing practitioner knowingly assisted a patient, other  
1953 person, or the owner of an animal to obtain a controlled  
1954 substance in violation of subparagraph (a)1.

1955 (c) A person who violates paragraph (a) commits a felony of  
1956 the third degree, punishable as provided in s. 775.082, s.  
1957 775.083, or s. 775.084.

1958 (d) Notwithstanding paragraph (c), if a prescribing  
1959 practitioner has violated paragraph (a) and received \$1,000 or  
1960 more in payment for writing one or more prescriptions or, in the  
1961 case of a prescription written for a controlled substance  
1962 described in s. 893.135, has written one or more prescriptions  
1963 for a quantity of a controlled substance which, individually or  
1964 in the aggregate, meets the threshold for the offense of  
1965 trafficking in a controlled substance under s. 893.15, the  
1966 violation is reclassified as a felony of the second degree and  
1967 ranked in level 4 of the Criminal Punishment Code.

1968 Section 25. Present subsections (3) through (10) of section  
1969 893.138, Florida Statutes, are redesignated as subsections (4)  
1970 through (11), respectively, and a new subsection (3) is added to  
1971 that section, to read:

1972 893.138 Local administrative action to abate drug-related,

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1973 prostitution-related, or stolen-property-related public  
 1974 nuisances and criminal gang activity.-

1975 (3) Any pain-management clinic, as described in s. 458.3265  
 1976 or s. 459.0137, which has been used on more than two occasions  
 1977 within a 6-month period as the site of a violation of:

1978 (a) Section 784.011, s. 784.021, s. 784.03, or s. 784.045,  
 1979 relating to assault and battery;

1980 (b) Section 810.02, relating to burglary;

1981 (c) Section 812.014, relating to dealing in theft;

1982 (d) Section 812.131, relating to robbery by sudden  
 1983 snatching; or

1984 (e) Section 893.13, relating to the unlawful distribution  
 1985 of controlled substances,

1986  
 1987 may be declared to be a public nuisance, and such nuisance may  
 1988 be abated pursuant to the procedures provided in this section.

1989 Section 26. (1) DEFINITIONS.-As used in this section, the  
 1990 term:

1991 (a) "Interchange or substitution of an opioid analgesic  
 1992 drug" means the substitution of any opioid analgesic drug, brand  
 1993 or generic, for the opioid analgesic drug incorporating a  
 1994 tamper-resistance technology originally prescribed, irrespective  
 1995 of whether the substituted drug is rated as pharmaceutically and  
 1996 therapeutically equivalent by the United States Food and Drug  
 1997 Administration or the Board of Pharmacy or whether the opioid  
 1998 analgesic drug with tamper-resistance technology bears a  
 1999 labeling claim with respect to reduction of tampering, abuse, or  
 2000 abuse potential.

2001 (b) "Opioid analgesic drug" means a drug in the opioid

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2002 analgesic drug class prescribed to treat moderate to severe pain  
2003 or other conditions, whether in immediate release or extended  
2004 release form and whether or not combined with other drug  
2005 substances to form a single tablet or other dosage form.

2006 (c) "Opioid analgesic drug incorporating a tamper-  
2007 resistance technology" means an opioid analgesic drug listed as  
2008 such by the Board of Pharmacy based on a submission of evidence  
2009 by the drug manufacturer or distributor that the drug:

2010 1. Incorporates a tamper-resistance technology; and

2011 2. Has been approved by the United States Food and Drug  
2012 Administration pursuant to an application that includes at least  
2013 one study on human tampering or abuse potential or a laboratory  
2014 study comparing the tamper- or abuse-resistance properties of  
2015 the drug to one or more opioid analgesic drugs that:

2016 a. Have been approved by the United States Food and Drug  
2017 Administration; and

2018 b. Serve as a positive control.

2019 (d) "Pharmacist" means any person licensed under chapter  
2020 465, Florida Statutes, to practice the profession of pharmacy,  
2021 including, but not limited to, a community pharmacist and a  
2022 pharmacist in a hospital-based pharmacy, when filling  
2023 prescriptions for inpatient or outpatient care.

2024 (2) LIST OF OPIOID ANALGESIC DRUGS INCORPORATING A TAMPER-  
2025 RESISTANCE TECHNOLOGY.—The Board of Pharmacy shall create a list  
2026 of opioid analgesic drugs for which information has been  
2027 submitted consistent with paragraph (1) (c). Inclusion of a drug  
2028 on such list does not require that the drug bear a labeling  
2029 claim with respect to reduction of tampering, abuse, or abuse  
2030 potential at the time of listing. Such list must also include a

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2031 determination by the Board of Pharmacy as to which listed opioid  
2032 analgesic drugs incorporating tamper-resistance technologies  
2033 provide substantially similar tamper-resistance properties,  
2034 based solely on studies submitted by the drug manufacturer  
2035 consistent with paragraph (1)(c).

2036 Section 27. This act shall take effect October 1, 2011.