

By Senator Rodriguez

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1                                   A bill to be entitled  
2       An act relating to prescription drug price  
3       transparency; providing a short title; amending s.  
4       465.003, F.S.; defining the terms "pharmacy benefit  
5       manager" and "pharmacy benefit management services";  
6       creating s. 465.203, F.S.; defining terms; authorizing  
7       specified pharmacies and pharmacists to contract with  
8       pharmacy benefit managers; prohibiting pharmacy  
9       benefit managers from engaging in certain practices;  
10      requiring pharmacy benefit managers to allow payors  
11      access to specified records, data, and information;  
12      requiring pharmacy benefit managers to disclose and  
13      report specified information to the payor; requiring  
14      certain income and financial benefits to be passed  
15      through to payors; requiring pharmacy benefit managers  
16      to allow the Department of Financial Services access  
17      to specified records, data, and information; requiring  
18      the department to investigate certain violations;  
19      providing penalties; providing that specified  
20      violations are subject to the Florida Deceptive and  
21      Unfair Trade Practices Act; providing applicability;  
22      creating s. 499.0284, F.S.; defining terms; requiring  
23      prescription drug manufacturers to annually report  
24      certain information to the Department of Business and  
25      Professional Regulation by a specified date; requiring  
26      the department to publish the reported information on  
27      its website; specifying circumstances under which  
28      prescription drug manufacturers are required to report  
29      certain information to the department; prescribing the

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30 contents of such reports; requiring the department to  
31 publish the reports on its website within a specified  
32 timeframe; authorizing the department to adopt rules;  
33 amending s. 624.490, F.S.; conforming provisions to  
34 changes made by the act; creating s. 624.491, F.S.;  
35 defining terms; requiring pharmacy benefit managers to  
36 submit annual reports to the Office of Insurance  
37 Regulation by a specified date; prescribing the  
38 contents of such reports; prohibiting the annual  
39 reports from disclosing certain information; requiring  
40 the office to publish the data from the annual reports  
41 on its website by a specified date; prohibiting the  
42 office from publishing the data in a manner that may  
43 disclose certain information; authorizing the  
44 Financial Services Commission to adopt rules; creating  
45 s. 627.42385, F.S.; defining terms; requiring group  
46 health plans, health insurers, and certain pharmacy  
47 benefit managers to base plan beneficiaries' and  
48 insureds' coinsurance obligations for certain  
49 prescription drugs on specified drug prices; providing  
50 applicability; prohibiting such group health plans,  
51 health insurers, and pharmacy benefit managers from  
52 revealing specified information; requiring such  
53 entities to protect such information and impose the  
54 confidentiality protections on other entities;  
55 providing penalties; requiring the department to  
56 investigate certain violations; providing  
57 construction; amending ss. 627.64741, 627.6572, and  
58 641.314, F.S.; conforming provisions to changes made

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59 by the act; providing requirements for contracts;  
60 requiring pharmacy benefit managers to allow insurers,  
61 health maintenance organizations, and payors access to  
62 specified records, data, and information; requiring  
63 pharmacy benefit managers to disclose and report  
64 specified information to the insurer, health  
65 maintenance organization, or payor; requiring the  
66 department to investigate certain violations;  
67 providing penalties; providing applicability; creating  
68 ss. 627.64745, 627.65725, and 641.262, F.S.; defining  
69 the terms "specialty drug" and "utilization  
70 management"; requiring insurers issuing individual and  
71 group health insurance policies, and health  
72 maintenance organizations, respectively, to annually  
73 submit reports to the office by a specified date;  
74 prescribing the contents of such reports; prohibiting  
75 such reports from disclosing certain information;  
76 requiring the office to publish data from the reports  
77 on its website by a specified date; prohibiting the  
78 office from publishing the data in a manner that may  
79 disclose certain information; authorizing the  
80 commission to adopt rules; amending ss. 409.9201,  
81 458.331, 459.015, 465.014, 465.015, 465.0156, 465.016,  
82 465.0197, 465.022, 465.023, 465.1901, 499.003, and  
83 893.02, F.S.; conforming cross-references; providing  
84 an effective date.

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

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88           Section 1. This act may be cited as the "Prescription Drug  
89 Price Transparency Act."

90           Section 2. Section 465.003, Florida Statutes, is amended to  
91 read:

92           465.003 Definitions.—As used in this chapter, the term:

93           (1) "Administration" means the obtaining and giving of a  
94 single dose of medicinal drugs by a legally authorized person to  
95 a patient for her or his consumption.

96           (3)~~(2)~~ "Board" means the Board of Pharmacy.

97           (9)~~(3)~~ "Consultant pharmacist" means a pharmacist licensed  
98 by the department and certified as a consultant pharmacist  
99 pursuant to s. 465.0125.

100           (10)~~(4)~~ "Data communication device" means an electronic  
101 device that receives electronic information from one source and  
102 transmits or routes it to another, including, but not limited  
103 to, any such bridge, router, switch, or gateway.

104           (11)~~(5)~~ "Department" means the Department of Health.

105           (12)~~(6)~~ "Dispense" means the transfer of possession of one  
106 or more doses of a medicinal drug by a pharmacist to the  
107 ultimate consumer or her or his agent. As an element of  
108 dispensing, the pharmacist shall, prior to the actual physical  
109 transfer, interpret and assess the prescription order for  
110 potential adverse reactions, interactions, and dosage regimen  
111 she or he deems appropriate in the exercise of her or his  
112 professional judgment, and the pharmacist shall certify that the  
113 medicinal drug called for by the prescription is ready for  
114 transfer. The pharmacist shall also provide counseling on proper  
115 drug usage, either orally or in writing, if in the exercise of  
116 her or his professional judgment counseling is necessary. The

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117 actual sales transaction and delivery of such drug shall not be  
118 considered dispensing. The administration shall not be  
119 considered dispensing.

120 (13)~~(7)~~ "Institutional formulary system" means a method  
121 whereby the medical staff evaluates, appraises, and selects  
122 those medicinal drugs or proprietary preparations which in the  
123 medical staff's clinical judgment are most useful in patient  
124 care, and which are available for dispensing by a practicing  
125 pharmacist in a Class II or Class III institutional pharmacy.

126 (14)~~(8)~~ "Medicinal drugs" or "drugs" means those substances  
127 or preparations commonly known as "prescription" or "legend"  
128 drugs which are required by federal or state law to be dispensed  
129 only on a prescription, but shall not include patents or  
130 proprietary preparations as hereafter defined.

131 (17)~~(9)~~ "Patent or proprietary preparation" means a  
132 medicine in its unbroken, original package which is sold to the  
133 public by, or under the authority of, the manufacturer or  
134 primary distributor thereof and which is not misbranded under  
135 the provisions of the Florida Drug and Cosmetic Act.

136 (18)~~(10)~~ "Pharmacist" means any person licensed pursuant to  
137 this chapter to practice the profession of pharmacy.

138 (19)~~(11)~~(a) "Pharmacy" includes a community pharmacy, an  
139 institutional pharmacy, a nuclear pharmacy, a special pharmacy,  
140 and an Internet pharmacy.

141 1. The term "community pharmacy" includes every location  
142 where medicinal drugs are compounded, dispensed, stored, or sold  
143 or where prescriptions are filled or dispensed on an outpatient  
144 basis.

145 2. The term "institutional pharmacy" includes every

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146 location in a hospital, clinic, nursing home, dispensary,  
147 sanitarium, extended care facility, or other facility,  
148 hereinafter referred to as "health care institutions," where  
149 medicinal drugs are compounded, dispensed, stored, or sold.

150 3. The term "nuclear pharmacy" includes every location  
151 where radioactive drugs and chemicals within the classification  
152 of medicinal drugs are compounded, dispensed, stored, or sold.  
153 The term "nuclear pharmacy" does not include hospitals licensed  
154 under chapter 395 or the nuclear medicine facilities of such  
155 hospitals.

156 4. The term "special pharmacy" includes every location  
157 where medicinal drugs are compounded, dispensed, stored, or sold  
158 if such locations are not otherwise defined in this subsection.

159 5. The term "Internet pharmacy" includes locations not  
160 otherwise licensed or issued a permit under this chapter, within  
161 or outside this state, which use the Internet to communicate  
162 with or obtain information from consumers in this state and use  
163 such communication or information to fill or refill  
164 prescriptions or to dispense, distribute, or otherwise engage in  
165 the practice of pharmacy in this state. Any act described in  
166 this definition constitutes the practice of pharmacy as defined  
167 in subsection (23) ~~(13)~~.

168 (b) The pharmacy department of any permittee shall be  
169 considered closed whenever a Florida licensed pharmacist is not  
170 present and on duty. The term "not present and on duty" shall  
171 not be construed to prevent a pharmacist from exiting the  
172 prescription department for the purposes of consulting or  
173 responding to inquiries or providing assistance to patients or  
174 customers, attending to personal hygiene needs, or performing

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175 any other function for which the pharmacist is responsible,  
176 provided that such activities are conducted in a manner  
177 consistent with the pharmacist's responsibility to provide  
178 pharmacy services.

179 (20) "Pharmacy benefit manager" means an entity that  
180 performs pharmacy benefit management services for a health plan,  
181 a health plan sponsor, a health plan provider, a health insurer,  
182 or any other payor. The term does not include a provider as  
183 defined in s. 641.19, a physician as defined in s. 458.305, or  
184 an osteopathic physician as defined in s. 459.003.

185 (21) "Pharmacy benefit management services" means services  
186 that:

187 (a) Are provided, directly or through another entity, to a  
188 health plan, a health plan sponsor, a health plan provider, a  
189 health insurer, or any other payor, regardless of whether the  
190 services provider and the health plan, health plan sponsor,  
191 health plan provider, health insurer, or other payor are related  
192 or associated by ownership, common ownership, organization, or  
193 otherwise.

194 (b) Include the procurement of prescription drugs to be  
195 dispensed to patients and the administration or management of  
196 prescription drug benefits, including, but not limited to, any  
197 of the following:

- 198 1. A mail service pharmacy or a specialty pharmacy.
- 199 2. Claims processing, retail network management, or payment  
200 of claims to pharmacies for dispensing drugs.
- 201 3. Clinical or other formulary or preferred-drug-list  
202 development or management.
- 203 4. Negotiation, administration, or receipt of rebates,

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204 discounts, payment differentials, or other incentives, to  
205 include particular drugs in a particular category or to promote  
206 the purchase of particular drugs.

207 5. Patients' compliance, therapeutic intervention, or  
208 generic substitution programs.

209 6. Disease management.

210 7. Drug use review, step-therapy protocol, or prior  
211 authorization.

212 8. Adjudication of appeals or grievances related to  
213 prescription drug coverage.

214 9. Contracts with network pharmacies.

215 10. Control of the cost of covered prescription drugs.

216 ~~(22)~~~~(12)~~ "Pharmacy intern" means a person who is currently  
217 registered in, and attending, a duly accredited college or  
218 school of pharmacy, or who is a graduate of such a school or  
219 college of pharmacy, and who is duly and properly registered  
220 with the department as provided for under its rules.

221 ~~(23)~~~~(13)~~ "Practice of the profession of pharmacy" includes  
222 compounding, dispensing, and consulting concerning contents,  
223 therapeutic values, and uses of any medicinal drug; consulting  
224 concerning therapeutic values and interactions of patent or  
225 proprietary preparations, whether pursuant to prescriptions or  
226 in the absence and entirely independent of such prescriptions or  
227 orders; and conducting other pharmaceutical services. For  
228 purposes of this subsection, "other pharmaceutical services"  
229 means the monitoring of the patient's drug therapy and assisting  
230 the patient in the management of his or her drug therapy, and  
231 includes review of the patient's drug therapy and communication  
232 with the patient's prescribing health care provider as licensed



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233 under chapter 458, chapter 459, chapter 461, or chapter 466, or  
234 similar statutory provision in another jurisdiction, or such  
235 provider's agent or such other persons as specifically  
236 authorized by the patient, regarding the drug therapy. However,  
237 nothing in this subsection may be interpreted to permit an  
238 alteration of a prescriber's directions, the diagnosis or  
239 treatment of any disease, the initiation of any drug therapy,  
240 the practice of medicine, or the practice of osteopathic  
241 medicine, unless otherwise permitted by law. "Practice of the  
242 profession of pharmacy" also includes any other act, service,  
243 operation, research, or transaction incidental to, or forming a  
244 part of, any of the foregoing acts, requiring, involving, or  
245 employing the science or art of any branch of the pharmaceutical  
246 profession, study, or training, and shall expressly permit a  
247 pharmacist to transmit information from persons authorized to  
248 prescribe medicinal drugs to their patients. The practice of the  
249 profession of pharmacy also includes the administration of  
250 vaccines to adults pursuant to s. 465.189 and the preparation of  
251 prepackaged drug products in facilities holding Class III  
252 institutional pharmacy permits.

253 (24)~~(14)~~ "Prescription" includes any order for drugs or  
254 medicinal supplies written or transmitted by any means of  
255 communication by a duly licensed practitioner authorized by the  
256 laws of the state to prescribe such drugs or medicinal supplies  
257 and intended to be dispensed by a pharmacist. The term also  
258 includes an orally transmitted order by the lawfully designated  
259 agent of such practitioner. The term also includes an order  
260 written or transmitted by a practitioner licensed to practice in  
261 a jurisdiction other than this state, but only if the pharmacist

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262 called upon to dispense such order determines, in the exercise  
263 of her or his professional judgment, that the order is valid and  
264 necessary for the treatment of a chronic or recurrent illness.  
265 The term "prescription" also includes a pharmacist's order for a  
266 product selected from the formulary created pursuant to s.  
267 465.186. Prescriptions may be retained in written form or the  
268 pharmacist may cause them to be recorded in a data processing  
269 system, provided that such order can be produced in printed form  
270 upon lawful request.

271 (15) "Nuclear pharmacist" means a pharmacist licensed by  
272 the department and certified as a nuclear pharmacist pursuant to  
273 s. 465.0126.

274 (5)~~(16)~~ "Centralized prescription filling" means the  
275 filling of a prescription by one pharmacy upon request by  
276 another pharmacy to fill or refill the prescription. The term  
277 includes the performance by one pharmacy for another pharmacy of  
278 other pharmacy duties such as drug utilization review,  
279 therapeutic drug utilization review, claims adjudication, and  
280 the obtaining of refill authorizations.

281 (2)~~(17)~~ "Automated pharmacy system" means a mechanical  
282 system that delivers prescription drugs received from a Florida  
283 licensed pharmacy and maintains related transaction information.

284 (8)~~(18)~~ "Compounding" means combining, mixing, or altering  
285 the ingredients of one or more drugs or products to create  
286 another drug or product.

287 (16)~~(19)~~ "Outsourcing facility" means a single physical  
288 location registered as an outsourcing facility under the federal  
289 Drug Quality and Security Act, Pub. L. No. 113-54, at which  
290 sterile compounding of a drug or product is conducted.

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291 (7)~~(20)~~ "Compounded sterile product" means a drug that is  
 292 intended for parenteral administration, an ophthalmic or oral  
 293 inhalation drug in aqueous format, or a drug or product that is  
 294 required to be sterile under federal or state law or rule, which  
 295 is produced through compounding, but is not approved by the  
 296 United States Food and Drug Administration.

297 (4)~~(21)~~ "Central distribution facility" means a facility  
 298 under common control with a hospital holding a Class III  
 299 institutional pharmacy permit that may dispense, distribute,  
 300 compound, or fill prescriptions for medicinal drugs; prepare  
 301 prepackaged drug products; and conduct other pharmaceutical  
 302 services.

303 (6)~~(22)~~ "Common control" means the power to direct or cause  
 304 the direction of the management and policies of a person or an  
 305 organization, whether by ownership of stock, voting rights,  
 306 contract, or otherwise.

307 Section 3. Section 465.203, Florida Statutes, is created to  
 308 read:

309 465.203 Pharmacy benefit managers.-

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

311 (a) "Affiliate" means a pharmacy:

312 1. In which a pharmacy benefit manager, directly or  
 313 indirectly, has an investment, financial interest, or ownership  
 314 interest; or

315 2. The ownership of which is shared, directly or  
 316 indirectly, with a pharmacy benefit manager.

317 (b) "Covered individual" means a member, participant,  
 318 enrollee, contract holder, policyholder, or beneficiary of a  
 319 payor.

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- 320       (c) "Make a referral" means any of the following:
- 321       1. To order, direct, or influence, orally or in writing, a
- 322 covered individual to use an affiliate, including by sending
- 323 messages to the covered individual through electronic mail, a
- 324 cellular telephone, or a facsimile machine, or by making
- 325 telephone calls.
- 326       2. To offer or implement plan designs that require a
- 327 covered individual to use an affiliate.
- 328       3. To target a covered individual or a prospective patient
- 329 with advertisement, marketing, or promotion of an affiliate,
- 330 including by placing a specific pharmacy name on an insurance
- 331 card or health plan card supplied to the covered individual.
- 332       (d) "Maximum allowable cost" means the per-unit amount that
- 333 a pharmacy benefit manager reimburses a pharmacy or pharmacist
- 334 for a generic drug, brand name drug, specialty drug, biological
- 335 product, or other prescription drug, excluding dispensing fees,
- 336 before the application of copayments, coinsurance, and other
- 337 cost-sharing charges, if any.
- 338       (e) "Maximum allowable cost list" means a listing of
- 339 generic drugs, brand name drugs, specialty drugs, biological
- 340 products, or other prescription drugs or other methodology used
- 341 directly or indirectly by a pharmacy benefit manager to set the
- 342 maximum allowable costs for the drugs.
- 343       (f) "Payor" means a health plan, a health plan sponsor, a
- 344 health plan provider, a health insurer, or any other payor that
- 345 uses pharmacy benefit management services in this state.
- 346       (g) "Spread pricing" means the practice by a pharmacy
- 347 benefit manager of charging or claiming from a payor an amount
- 348 that is more than the amount the pharmacy benefit manager paid

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349 to the pharmacy or pharmacist who filled the prescription or who  
350 provided the pharmacy services.

351 (2) A pharmacy or pharmacist licensed or registered under  
352 this chapter who has a pharmacy permit and is in good standing  
353 with the Board of Pharmacy may contract directly or indirectly  
354 with a pharmacy benefit manager within 30 days after filing an  
355 application with the pharmacy benefit manager, without a  
356 probation period, an exclusion period, or minimum inventory  
357 requirements.

358 (3) A pharmacy benefit manager may not do any of the  
359 following:

360 (a) Conduct or participate in spread pricing in this state.

361 (b) Charge a pharmacy or pharmacist a fee related to the  
362 adjudication of a claim, including, without limitation, a fee  
363 for:

364 1. The submission of a claim;

365 2. The enrollment or participation in a retail pharmacy  
366 network; or

367 3. The development or management of claims processing  
368 services or claims payment services related to participation in  
369 a retail pharmacy network.

370 (c) Prohibit a pharmacy or pharmacist from providing to a  
371 covered individual or a covered individual's caregiver  
372 information regarding the pricing of a prescription drug and  
373 whether the cost-sharing obligation to the covered individual  
374 exceeds the retail price of the prescription in the absence of  
375 prescription drug coverage or from selling to a covered  
376 individual or a covered individual's caregiver a more affordable  
377 alternative drug.

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378 (d) Penalize or remove from a pharmacy network or plan a  
379 pharmacy or pharmacist for providing to a covered individual or  
380 a covered individual's caregiver information regarding the  
381 pricing of a prescription drug and whether the cost-sharing  
382 obligation to the covered individual exceeds the retail price of  
383 the prescription in the absence of prescription drug coverage or  
384 for selling to a covered individual or a covered individual's  
385 caregiver a more affordable alternative drug.

386 (e) Deny a pharmacy or pharmacist the opportunity to  
387 participate in a pharmacy network at the preferred participation  
388 status even though the pharmacy or pharmacist is willing to  
389 accept, as a condition of the preferred participation status,  
390 the terms and conditions that the pharmacy benefit manager has  
391 established for other pharmacies that are in a pharmacy network  
392 at the preferred participation status and that are not owned in  
393 whole or in part by the pharmacy benefit manager.

394 (f) Impose registration or permit requirements for a  
395 pharmacy or accreditation standards or recertification  
396 requirements for a pharmacist which are inconsistent with, more  
397 stringent than, or in addition to federal and state requirements  
398 for licensure as a pharmacy or pharmacist in this state.

399 (g) Pay or reimburse a pharmacy or pharmacist an amount for  
400 a drug, product, or pharmacy service in the state which is:

401 1. Less than the amount the pharmacy benefit manager  
402 reimburses a pharmacy benefit manager affiliate for providing  
403 the same drug, product, or pharmacy service in this state;

404 2. Less than the actual cost incurred by the pharmacy or  
405 pharmacist for providing the drug, product, or pharmacy service  
406 in this state; or

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407 3. Different from the combined maximum allowable cost and  
408 dispensing fees for a drug. The dispensing fees must be at least  
409 equal to the fees for service set by the Agency for Health Care  
410 Administration.

411 (h) Retroactively deny, hold back, or reduce reimbursement  
412 for a covered service claim after paying a claim, unless the  
413 original claim was submitted fraudulently.

414 (i) Prohibit a pharmacy or pharmacist from providing  
415 information regarding drug pricing, contract terms, or drug  
416 reimbursement rates to a member of the Legislature.

417 (j) Remove a pharmacy or pharmacist from a pharmacy network  
418 or plan or otherwise engage in any action to retaliate against a  
419 pharmacy or pharmacist for providing information regarding drug  
420 pricing, contract terms, or drug reimbursement rates to a member  
421 of the Legislature.

422 (k) Engage in the practice of the profession of pharmacy.

423 (l) Engage in the practice of medicine as defined s.  
424 458.305 or the practice of osteopathic medicine as defined in s.  
425 459.003.

426 (m) Make a referral.

427 (n) Publish or otherwise reveal information regarding the  
428 actual amount of rebates, discounts, payment differentials,  
429 concessions, reductions, or any other incentives that the  
430 pharmacy benefit plan receives on a product-, manufacturer-, or  
431 pharmacy-specific basis. The pharmacy benefit manager shall  
432 protect such information as a trade secret and shall impose the  
433 confidentiality protections on any vendor or third-party entity  
434 performing services on behalf of the pharmacy benefit manager  
435 that has access to rebate, discount, payment differential,

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436 concession, reduction, or any other incentive information.

437 (4) A payor shall have access to all financial and  
438 utilization records, data, and information used by the pharmacy  
439 benefit manager in relation to the pharmacy benefit management  
440 services provided to the payor.

441 (5) A pharmacy benefit manager shall:

442 (a) Disclose in writing to the payor any activity, policy,  
443 practice, contract, or arrangement of the pharmacy benefit  
444 manager which directly or indirectly presents conflicts of  
445 interest with the pharmacy benefit manager's relationship with,  
446 or fiduciary duty or obligation to, the covered individuals and  
447 the payor.

448 (b) Report quarterly to the payor any income resulting from  
449 pricing discounts, rebates of any kind, inflationary payments,  
450 credits, clawbacks, fees, grants, chargebacks, reimbursements,  
451 or other financial benefits received by the pharmacy benefit  
452 manager from any person or entity. The pharmacy benefit manager  
453 shall ensure that such income and financial benefits are passed  
454 through in full, at least quarterly, to the payor to reduce the  
455 cost of prescription drugs and pharmacy services to covered  
456 individuals.

457 (6) The Department of Financial Services shall have access  
458 to all financial and utilization records, data, and information  
459 used by pharmacy benefit managers in relation to pharmacy  
460 benefit management services provided to payors in this state.  
461 The department shall investigate any alleged violation of this  
462 section.

463 (7) (a) A pharmacy benefit manager that violates this  
464 section is liable for a civil fine of \$10,000 for each violation



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465 and may have its registration revoked by the Department of  
466 Financial Services.

467 (b) A violation of this section which is committed or  
468 performed with such frequency as to indicate a general business  
469 practice is subject to the Florida Deceptive and Unfair Trade  
470 Practices Act under part II of chapter 501.

471 (8) This section applies to contracts entered into or  
472 renewed on or after January 1, 2021.

473 Section 4. Section 499.0284, Florida Statutes, is created  
474 to read:

475 499.0284 Prescription drug manufacturers; disclosure of  
476 drug pricing information; reports.—

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

478 (a) "Prescription drug" has the same meaning as defined in  
479 this part, but is limited to prescription drugs intended for  
480 human use.

481 (b) "Prescription drug manufacturer" means a person or  
482 entity permitted under this part to manufacture or distribute  
483 prescription drugs in this state.

484 (c) "Prompt pay" means a discount offered in exchange for  
485 early payment of an invoice.

486 (d) "Wholesale acquisition cost" means the list price of  
487 the prescription drug which the manufacturer charged to  
488 wholesalers or direct purchasers in the United States, not  
489 including prompt pay or other discounts, rebates, or reductions  
490 in price, for the most recent month for which the information is  
491 available, as reported in wholesale price guides or other drug  
492 pricing data sources.

493 (2) (a) By January 15 of each year, each prescription drug

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494 manufacturer manufacturing or distributing prescription drugs in  
495 this state shall submit to the department a report of its  
496 wholesale acquisition cost information for all United States  
497 Food and Drug Administration-approved drugs the manufacturer  
498 sold in or into this state during the previous calendar year.

499 (b) The department shall publish on its website the  
500 wholesale acquisition cost information it receives pursuant to  
501 paragraph (a). The link to this information must be prominently  
502 displayed and easily accessible on the home page of the  
503 department's website.

504 (c) A prescription drug manufacturer shall report to the  
505 department when the price of a drug it manufactures increases by  
506 40 percent or more during the preceding 3 years or by 15 percent  
507 in the preceding calendar year, if the wholesale acquisition  
508 cost of the drug was at least \$100 for a 30-day supply before  
509 the effective date of the increase. The manufacturer shall  
510 submit such report to the department within 30 days after the  
511 effective date of the increase. The report must include all of  
512 the following:

513 1. The name of the drug.

514 2. Whether the drug is a brand name or generic equivalent.

515 3. The effective date of the change in wholesale  
516 acquisition cost.

517 4. Aggregate, company-level research and development costs  
518 for the most recent year for which final audit data is  
519 available.

520 5. The name of each of the manufacturer's prescription  
521 drugs approved by the United States Food and Drug Administration  
522 in the previous 3 calendar years.

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523 6. The name of each of the manufacturer's prescription  
524 drugs that lost patent exclusivity in the United States in the  
525 previous 3 calendar years.

526 7. A statement regarding the factors, if any, that caused  
527 the increase in the wholesale acquisition cost and an  
528 explanation of each factor's impact on the cost.

529 (d) The quality and types of information and data which a  
530 prescription drug manufacturer submits to the department under  
531 paragraph (c) must be consistent with the quality and types of  
532 information and data which the manufacturer includes in the  
533 manufacturer's annual consolidated report to the United States  
534 Securities and Exchange Commission or in any other public  
535 disclosure.

536 (e) The department shall publish on its website a report  
537 provided under paragraph (c) within 60 days after receiving it.

538 (f) The department may adopt rules to implement this  
539 section.

540 Section 5. Subsection (1) of section 624.490, Florida  
541 Statutes, is amended to read:

542 624.490 Registration of pharmacy benefit managers.—

543 (1) As used in this section, the term "pharmacy benefit  
544 manager" means an a person or entity that performs pharmacy  
545 benefit management services for a health plan, a health plan  
546 sponsor, a health plan provider, a health insurer, or any other  
547 payor that uses pharmacy benefit management services doing  
548 business in this state which contracts to administer  
549 prescription drug benefits on behalf of a health insurer or a  
550 health maintenance organization to residents of this state. The  
551 term does not include a provider as defined in s. 641.19, a

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552 physician as defined in s. 458.305, or an osteopathic physician  
553 as defined in s. 459.003. As used in this subsection, the term  
554 "pharmacy benefit management services" means services that:

555 (a) Are provided, directly or through another entity, to a  
556 health plan, a health plan sponsor, a health plan provider, a  
557 health insurer, or any other payor, regardless of whether the  
558 services provider and the health plan, health plan sponsor,  
559 health plan provider, health insurer, or other payor are related  
560 or associated by ownership, common ownership, organization, or  
561 otherwise.

562 (b) Include the procurement of prescription drugs to be  
563 dispensed to patients and the administration or management of  
564 prescription drug benefits, including, but not limited to, any  
565 of the following:

566 1. A mail service pharmacy or a specialty pharmacy.

567 2. Claims processing, retail network management, or payment  
568 of claims to pharmacies for dispensing drugs.

569 3. Clinical or other formulary or preferred-drug-list  
570 development or management.

571 4. Negotiation, administration, or receipt of rebates,  
572 discounts, payment differentials, or other incentives, to  
573 include particular drugs in a particular category or to promote  
574 the purchase of particular drugs.

575 5. Patients' compliance, therapeutic intervention, or  
576 generic substitution programs.

577 6. Disease management.

578 7. Drug use review, step-therapy protocol, or prior  
579 authorization.

580 8. Adjudication of appeals or grievances related to

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581 prescription drug coverage.

582 9. Contracts with network pharmacies.

583 10. Control of the cost of covered prescription drugs.

584 Section 6. Section 624.491, Florida Statutes, is created to  
585 read:

586 624.491 Pharmacy benefit managers; reports.—

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

588 (a) "Enrollee" means an individual insured under an  
589 individual or group health insurance policy or a subscriber as  
590 defined in s. 641.19.

591 (b) "Health insurance" has the same meaning as in s.  
592 624.603.

593 (c) "Health insurer" means an authorized insurer as defined  
594 in s. 624.03 providing health insurance or a health maintenance  
595 organization as defined in s. 641.19.

596 (d) "Pharmacy benefit manager" means a person or entity  
597 registered with the office under s. 624.490 to contract on  
598 behalf of a health insurer to administer prescription drug  
599 benefits to residents of this state.

600 (e) "Prescription drug" has the same meaning as in s.  
601 499.003, but is limited to prescription drugs intended for human  
602 use.

603 (f) "Prescription drug manufacturer" means a person or  
604 entity permitted under part I of chapter 499 to manufacture or  
605 distribute prescription drugs in this state.

606 (2) By February 1 of each year, each pharmacy benefit  
607 manager shall submit a report to the office including all of the  
608 following information for the previous calendar year:

609 (a) The aggregated rebates, fees, price protection

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610 payments, and any other payments collected from prescription  
611 drug manufacturers; and

612 (b) The aggregated dollar amount of rebates, fees, price  
613 protection payments, and any other payments collected from  
614 prescription drug manufacturers which were:

615 1. Passed on to the health insurers or the enrollees, at  
616 the point of sale of the prescription drug; or

617 2. Retained by the pharmacy benefit manager as revenue.

618 (3) A report submitted under this section must not disclose  
619 the identity of a specific health insurer or enrollee, the price  
620 charged for a specific prescription drug or class of  
621 prescription drugs, or the amount of any rebate or fee provided  
622 for a specific prescription drug or class of prescription drugs.

623 (4) By May 1 of each year, the office shall publish on its  
624 website the combined aggregated data from all reports it  
625 received under this section for that year. The data from the  
626 reports may not be published in a manner that would disclose or  
627 tend to disclose any health insurer's proprietary or  
628 confidential information.

629 (5) The commission may adopt rules to implement this  
630 section.

631 Section 7. Section 627.42385, Florida Statutes, is created  
632 to read:

633 627.42385 Coinsurance obligations for prescription drugs.-

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

635 (a) "Coinsurance" means, with respect to prescription drug  
636 coverage under a group health plan or health insurance coverage,  
637 a payment obligation of a plan beneficiary or an insured that is  
638 based on a percentage of the specified cost of a prescription

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639 drug, which may be up to 100 percent of that cost.

640 (b) "Deductible" means the payment obligation of a group  
641 health plan beneficiary or a health insurance coverage insured  
642 before the plan or coverage will pay any portion of the cost of  
643 prescription drug coverage.

644 (c) "Health insurer" has the same meaning as provided in s.  
645 627.42392.

646 (d) "List price" means the manufacturer's price for a drug  
647 for wholesalers or direct purchasers in this country, not  
648 including any rebate, discount, payment differential,  
649 concession, or reduction in price, for the most recent month for  
650 which the information is available, as reported in wholesale  
651 price guides or other publications of drug or biological pricing  
652 data.

653 (e) "Net price" means the price of a drug paid by a group  
654 health plan or a health insurer, or a pharmacy benefit manager  
655 performing pharmacy benefit management services for a group  
656 health plan or a health insurer, after all rebates, discounts,  
657 payment differentials, concessions, and reductions in price have  
658 been applied to the list price.

659 (f) "Pharmacy benefit manager" has the same meaning as  
660 provided in s. 465.003.

661 (g) "Pharmacy benefit management services" has the same  
662 meaning as provided in s. 465.003.

663 (h) "Prescription drug" has the same meaning as provided in  
664 s. 409.9201.

665 (2) Unless otherwise expressly provided in this section, a  
666 group health plan or a health insurer offering group or  
667 individual health insurance coverage, or a pharmacy benefit

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668 manager performing pharmacy benefit management services for a  
669 group health plan or a health insurer, shall base a plan  
670 beneficiary's or an insured's coinsurance obligation for a  
671 prescription drug covered by the plan or coverage on the net  
672 price, and not the list price, of the drug.

673 (3) (a) Subsection (2) applies to a prescription drug  
674 benefit if a plan beneficiary or an insured is required to pay a  
675 deductible with respect to such benefit and if the plan  
676 beneficiary or insured:

677 1. Has not yet satisfied the deductible under the plan or  
678 coverage; or

679 2. Has another coinsurance obligation with respect to such  
680 benefit under the plan or coverage.

681 (b) Subsection (2) does not apply if, with respect to the  
682 dispensed quantity of a prescription drug, the net price and  
683 list price of the drug are different by not more than 1 percent.

684 (4) In complying with this section, a group health plan or  
685 a health insurer, or a pharmacy benefit manager performing  
686 pharmacy benefit management services for a group health plan or  
687 a health insurer, may not publish or otherwise reveal  
688 information regarding the actual amount of rebates, discounts,  
689 payment differentials, concessions, or reductions in price that  
690 the plan, health insurer, or pharmacy benefit plan receives on a  
691 product-, manufacturer-, or pharmacy-specific basis. The plan,  
692 health insurer, or pharmacy benefit manager shall protect such  
693 information as a trade secret and shall impose the  
694 confidentiality protections on any vendor or third party  
695 performing health care or pharmacy administrative services on  
696 behalf of the plan, health insurer, or pharmacy benefit manager



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697 that have access to rebate, discount, payment differential,  
698 concession, or reduction information.

699 (5) A group health plan, health insurer, or pharmacy  
700 benefit manager that violates any provision of this section is  
701 liable for a civil fine of \$10,000 for each violation and may be  
702 required to discontinue the issuance or renewal of the plan or  
703 health insurance coverage or the provision of pharmacy benefit  
704 management services, as applicable.

705 (6) The department shall investigate any alleged violation  
706 of this section.

707 (7) This section does not prevent a group health plan,  
708 health insurer, or pharmacy benefit manager from requiring a  
709 copayment for any prescription drug if such copayment is not  
710 tied to a percentage of the cost of the drug.

711 Section 8. Present subsection (5) of section 627.64741,  
712 Florida Statutes, is redesignated as subsection (10), new  
713 subsections (5) through (9) are added to that section, and  
714 subsection (1) and present subsection (5) are amended, to read:

715 627.64741 Pharmacy benefit manager contracts.—

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

717 (a) "Maximum allowable cost" means the per-unit amount that  
718 a pharmacy benefit manager reimburses a pharmacy or pharmacist  
719 for a generic drug, brand name drug, specialty drug, biological  
720 product, or other prescription drug, excluding dispensing fees,  
721 before ~~prior to~~ the application of copayments, coinsurance, and  
722 other cost-sharing charges, if any.

723 (b) "Maximum allowable cost list" means a listing of  
724 generic drugs, brand name drugs, specialty drugs, biological  
725 products, or other prescription drugs or other methodology used

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726 directly or indirectly by a pharmacy benefit manager to set the  
727 maximum allowable costs for the drugs.

728 (c) "Payor" means a health plan, a health plan sponsor, a  
729 health plan provider, or any other payor that uses pharmacy  
730 benefit management services in this state.

731 (d) ~~(b)~~ "Pharmacy benefit manager" means an a person or  
732 entity that performs pharmacy benefit management services for  
733 doing business in this state which contracts to administer or  
734 manage prescription drug benefits on behalf of a health insurer  
735 or payor to residents of this state. The term does not include a  
736 provider as defined in s. 641.19, a physician as defined in s.  
737 458.305, or an osteopathic physician as defined in s. 459.003.

738 (e) "Pharmacy benefit management services" means services  
739 that:

740 1. Are provided, directly or through another entity, to a  
741 health insurer or payor, regardless of whether the services  
742 provider and the health insurer or payor are related or  
743 associated by ownership, common ownership, organization, or  
744 otherwise.

745 2. Include the procurement of prescription drugs to be  
746 dispensed to patients and the administration or management of  
747 prescription drug benefits, including, but not limited to, any  
748 of the following:

749 a. A mail service pharmacy or a specialty pharmacy.

750 b. Claims processing, retail network management, or payment  
751 of claims to pharmacies for dispensing drugs.

752 c. Clinical or other formulary or preferred-drug-list  
753 development or management.

754 d. Negotiation, administration, or receipt of rebates,

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755 discounts, payment differentials, or other incentives, to  
756 include particular drugs in a particular category or to promote  
757 the purchase of particular drugs.

758 e. Patients' compliance, therapeutic intervention, or  
759 generic substitution programs.

760 f. Disease management.

761 g. Drug use review, step-therapy protocol, or prior  
762 authorization.

763 h. Adjudication of appeals or grievances related to  
764 prescription drug coverage.

765 i. Contracts with network pharmacies.

766 j. Control of the cost of covered prescription drugs.

767 (5) A contract between a health insurer or payor and a  
768 pharmacy benefit manager must require the maximum allowable cost  
769 list to include:

770 (a) Average acquisition cost, including national average  
771 drug acquisition cost.

772 (b) Average manufacturer price.

773 (c) Average wholesale price.

774 (d) Brand effective rate or generic effective rate.

775 (e) Discount indexing.

776 (f) Federal upper limits.

777 (g) Wholesale acquisition cost.

778 (h) Any other item that a pharmacy benefit manager or a  
779 health insurer or payor may use to establish reimbursement rates  
780 to a pharmacist or pharmacy for filling prescriptions or  
781 providing other pharmacy services.

782 (6) A health insurer that uses pharmacy benefit management  
783 services or a payor shall have access to all financial and

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784 utilization records, data, and information used by the pharmacy  
785 benefit manager in relation to the pharmacy benefit management  
786 services provided to the health insurer or payor.

787 (7) A pharmacy benefit manager shall:

788 (a) Disclose in writing to the health insurer that uses  
789 pharmacy benefit management services or to the payor any  
790 activity, policy, practice, contract, or arrangement of the  
791 pharmacy benefit manager which directly or indirectly presents  
792 conflicts of interest with the pharmacy benefit manager's  
793 relationship with, or fiduciary duty or obligation to, the  
794 insureds and the health insurer or payor.

795 (b) Report quarterly to the health insurer or payor any  
796 income resulting from pricing discounts, rebates of any kind,  
797 inflationary payments, credits, clawbacks, fees, grants,  
798 chargebacks, reimbursements, or other financial benefits  
799 received by the pharmacy benefit manager from any person or  
800 entity. The pharmacy benefit manager shall ensure that such  
801 income and financial benefits are passed through in full, at  
802 least quarterly, to the health insurer or payor to reduce the  
803 cost of prescription drugs and pharmacy services to the  
804 insureds.

805 (8) The department shall investigate any alleged violation  
806 of this section.

807 (9) (a) A pharmacy benefit manager that violates any  
808 provision of this section is liable for a civil fine of \$10,000  
809 for each violation and may have its registration revoked by the  
810 department.

811 (b) A violation by a pharmacy benefit manager of any  
812 provision of this section which is committed or performed with

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813 such frequency as to indicate a general business practice is  
814 subject to the Florida Deceptive and Unfair Trade Practices Act  
815 under part II of chapter 501.

816 (10)(5) This section applies to contracts entered into or  
817 renewed on or after January 1, 2021 ~~July 1, 2018~~.

818 Section 9. Section 627.64745, Florida Statutes, is created  
819 to read:

820 627.64745 Health insurers; prescription drug spending  
821 reports.-

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

823 (a) "Specialty drug" means a prescription drug on a health  
824 insurer's formulary which is also covered under Medicare Part D  
825 and exceeds the specialty tier cost threshold established by the  
826 federal Centers for Medicare and Medicaid Services.

827 (b) "Utilization management" means a set of formal  
828 techniques designed to monitor the use of or evaluate the  
829 medical necessity, appropriateness, efficacy, or efficiency of  
830 health care services, procedures, or settings.

831 (2) By February 1 of each year, each health insurer shall  
832 submit to the office a report including all of the following  
833 information across all health insurance policies for the  
834 preceding calendar year:

835 (a) The names of the 25 most frequently prescribed  
836 prescription drugs.

837 (b) The percentage of any increase in annual net spending  
838 for prescription drugs.

839 (c) The percentage of any increase in premiums which was  
840 attributable to prescription drugs.

841 (d) The percentage of specialty drugs with utilization

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842 management requirements prescribed.

843 (e) Any premium reductions that were attributable to  
844 specialty drug utilization management.

845 (3) A report submitted under this section must not disclose  
846 the identity of a specific health insurance policy or the price  
847 charged for a specific prescription drug or class of  
848 prescription drugs.

849 (4) By May 1 of each year, the office shall publish on its  
850 website aggregated data from all reports it received under this  
851 section for that year. The data from the reports may not be  
852 published in a manner that would disclose or tend to disclose  
853 any health insurer's proprietary or confidential information.

854 (5) The commission may adopt rules to implement this  
855 section.

856 Section 10. Present subsection (5) of section 627.6572,  
857 Florida Statutes, is redesignated as subsection (10) and  
858 amended, a new subsection (5) and subsections (6) through (9)  
859 are added to that section, and subsection (1) is amended, to  
860 read:

861 627.6572 Pharmacy benefit manager contracts.—

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

863 (a) "Maximum allowable cost" means the per-unit amount that  
864 a pharmacy benefit manager reimburses a pharmacy or pharmacist  
865 for a generic drug, brand name drug, specialty drug, biological  
866 product, or other prescription drug, excluding dispensing fees,  
867 before ~~prior to~~ the application of copayments, coinsurance, and  
868 other cost-sharing charges, if any.

869 (b) "Maximum allowable cost list" means a listing of  
870 generic drugs, brand name drugs, specialty drugs, biological

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871 products, or other prescription drugs or other methodology used  
872 directly or indirectly by a pharmacy benefit manager to set the  
873 maximum allowable costs for the drugs.

874 (c) "Payor" means a health plan, a health plan sponsor, a  
875 health plan provider, or any other payor that uses pharmacy  
876 benefit management services in this state.

877 (d) ~~(b)~~ "Pharmacy benefit manager" means ~~an a person or~~  
878 entity that performs pharmacy benefit management services for  
879 doing business in this state which contracts to administer or  
880 manage prescription drug benefits on behalf of a health insurer  
881 or payor to residents of this state. The term does not include a  
882 provider as defined in s. 641.19, a physician as defined in s.  
883 458.305, or an osteopathic physician as defined in s. 459.003.

884 (e) "Pharmacy benefit management services" means services  
885 that:

886 1. Are provided, directly or through another entity, to a  
887 health insurer or payor, regardless of whether the services  
888 provider and the health insurer or payor are related or  
889 associated by ownership, common ownership, organization, or  
890 otherwise.

891 2. Include the procurement of prescription drugs to be  
892 dispensed to patients and the administration or management of  
893 prescription drug benefits, including, but not limited to, any  
894 of the following:

895 a. A mail service pharmacy or a specialty pharmacy.

896 b. Claims processing, retail network management, or payment  
897 of claims to pharmacies for dispensing drugs.

898 c. Clinical or other formulary or preferred-drug-list  
899 development or management.

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- 900       d. Negotiation, administration, or receipt of rebates,  
901 discounts, payment differentials, or other incentives, to  
902 include particular drugs in a particular category or to promote  
903 the purchase of particular drugs.
- 904       e. Patients' compliance, therapeutic intervention, or  
905 generic substitution programs.
- 906       f. Disease management.
- 907       g. Drug use review, step-therapy protocol, or prior  
908 authorization.
- 909       h. Adjudication of appeals or grievances related to  
910 prescription drug coverage.
- 911       i. Contracts with network pharmacies.
- 912       j. Control of the cost of covered prescription drugs.
- 913       (5) A contract between a health insurer or payor and a  
914 pharmacy benefit manager must require the maximum allowable cost  
915 list to include:
- 916           (a) Average acquisition cost, including national average  
917 drug acquisition cost.
- 918           (b) Average manufacturer price.
- 919           (c) Average wholesale price.
- 920           (d) Brand effective rate or generic effective rate.
- 921           (e) Discount indexing.
- 922           (f) Federal upper limits.
- 923           (g) Wholesale acquisition cost.
- 924           (h) Any other item that a pharmacy benefit manager or a  
925 health insurer or payor may use to establish reimbursement rates  
926 to a pharmacist or pharmacy for filling prescriptions or  
927 providing other pharmacy services.
- 928       (6) A health insurer that uses pharmacy benefit management



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929 services or a payor shall have access to all financial and  
930 utilization records, data, and information used by the pharmacy  
931 benefit manager in relation to the pharmacy benefit management  
932 services provided to the health insurer or payor.

933 (7) A pharmacy benefit manager shall:

934 (a) Disclose in writing to the health insurer that uses  
935 pharmacy benefit management services or the payor any activity,  
936 policy, practice, contract, or arrangement of the pharmacy  
937 benefit manager which directly or indirectly presents conflicts  
938 of interest with the pharmacy benefit manager's relationship  
939 with, or fiduciary duty or obligation to, the insureds and the  
940 health insurer or payor.

941 (b) Report quarterly to the health insurer or payor any  
942 income resulting from pricing discounts, rebates of any kind,  
943 inflationary payments, credits, clawbacks, fees, grants,  
944 chargebacks, reimbursements, or other financial benefits  
945 received by the pharmacy benefit manager from any person or  
946 entity. The pharmacy benefit manager shall ensure that such  
947 income and financial benefits are passed through in full, at  
948 least quarterly, to the health insurer or payor to reduce the  
949 cost of prescription drugs and pharmacy services to the  
950 insureds.

951 (8) The department shall investigate any alleged violation  
952 of this section.

953 (9) (a) A pharmacy benefit manager that violates any  
954 provision of this section is liable for a civil fine of \$10,000  
955 for each violation and may have its registration revoked by the  
956 department.

957 (b) A violation by a pharmacy benefit manager of any

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958 provision of this section which is committed or performed with  
959 such frequency as to indicate a general business practice is  
960 subject to the Florida Deceptive and Unfair Trade Practices Act  
961 under part II of chapter 501.

962 (10) ~~(5)~~ This section applies to contracts entered into or  
963 renewed on or after January 1, 2021 ~~July 1, 2018~~.

964 Section 11. Section 627.65725, Florida Statutes, is created  
965 to read:

966 627.65725 Health insurers; prescription drug spending  
967 reports.-

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

969 (a) "Specialty drug" means a prescription drug on a health  
970 insurer's formulary which is also covered under Medicare Part D  
971 and exceeds the specialty tier cost threshold established by the  
972 federal Centers for Medicare and Medicaid Services.

973 (b) "Utilization management" means a set of formal  
974 techniques designed to monitor the use of or evaluate the  
975 medical necessity, appropriateness, efficacy, or efficiency of  
976 health care services, procedures, or settings.

977 (2) By February 1 of each year, each health insurer shall  
978 submit to the office a report including all of the following  
979 information across all group health insurance policies for the  
980 preceding calendar year:

981 (a) The names of the 25 most frequently prescribed  
982 prescription drugs.

983 (b) The percentage of any increase in annual net spending  
984 for prescription drugs.

985 (c) The percentage of any increase in premiums which was  
986 attributable to prescription drugs.

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987 (d) The percentage of specialty drugs with utilization  
 988 management requirements prescribed.

989 (e) Any premium reduction that was attributable to  
 990 specialty drug utilization management.

991 (3) A report submitted under this section must not disclose  
 992 the identity of a specific health insurance policy or the price  
 993 charged for a specific prescription drug or class of  
 994 prescription drugs.

995 (4) By May 1 of each year, the office shall publish on its  
 996 website aggregated data from all reports it received under this  
 997 section for that year. The data from the reports may not be  
 998 published in a manner that would disclose or tend to disclose  
 999 any health insurer's proprietary or confidential information.

1000 (5) The commission may adopt rules to implement this  
 1001 section.

1002 Section 12. Section 641.262, Florida Statutes, is created  
 1003 to read:

1004 641.262 Health maintenance organizations; prescription drug  
 1005 spending reports.—

1006 (1) As used in this section, the term:

1007 (a) "Specialty drug" means a prescription drug on a health  
 1008 maintenance organization's formulary which is also covered under  
 1009 Medicare Part D and exceeds the specialty tier cost threshold  
 1010 established by the federal Centers for Medicare and Medicaid  
 1011 Services.

1012 (b) "Utilization management" means a set of formal  
 1013 techniques designed to monitor the use of or evaluate the  
 1014 medical necessity, appropriateness, efficacy, or efficiency of  
 1015 health care services, procedures, or settings.

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1016 (2) By February 1 of each year, each health maintenance  
1017 organization shall submit to the office a report including all  
1018 of the following information across all health maintenance  
1019 contracts for the preceding calendar year:

1020 (a) The names of the 25 most frequently prescribed  
1021 prescription drugs.

1022 (b) The percentage of any increase in annual net spending  
1023 for prescription drugs.

1024 (c) The percentage of any increase in premiums which was  
1025 attributable to prescription drugs.

1026 (d) The percentage of specialty drugs with utilization  
1027 management requirements prescribed.

1028 (e) Any premium reduction that was attributable to  
1029 specialty drug utilization management.

1030 (3) A report submitted under this section must not disclose  
1031 the identity of a specific health maintenance contract or the  
1032 price charged for a specific prescription drug or class of  
1033 prescription drugs.

1034 (4) By May 1 of each year, the office shall publish on its  
1035 website aggregated data from all reports it received under this  
1036 section for that year. The data from the reports may not be  
1037 published in a manner that would disclose or tend to disclose  
1038 any health maintenance organization's proprietary or  
1039 confidential information.

1040 (5) The commission may adopt rules to implement this  
1041 section.

1042 Section 13. Present subsection (5) of section 641.314,  
1043 Florida Statutes, is redesignated as subsection (10) and  
1044 amended, a new subsection (5) and subsections (6) through (9)

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1045 are added to that section, and subsection (1) is amended, to  
1046 read:

1047 641.314 Pharmacy benefit manager contracts.—

1048 (1) As used in this section, the term:

1049 (a) "Maximum allowable cost" means the per-unit amount that  
1050 a pharmacy benefit manager reimburses a pharmacy or pharmacist  
1051 for a generic drug, brand name drug, specialty drug, biological  
1052 product, or other prescription drug, excluding dispensing fees,  
1053 before ~~prior to~~ the application of copayments, coinsurance, and  
1054 other cost-sharing charges, if any.

1055 (b) "Maximum allowable cost list" means a listing of  
1056 generic drugs, brand name drugs, specialty drugs, biological  
1057 products, or other prescription drugs or other methodology used  
1058 directly or indirectly by a pharmacy benefit manager to set the  
1059 maximum allowable costs for the drugs.

1060 (c) "Payor" means a health plan, a health plan sponsor, a  
1061 health plan provider, or any other payor that uses pharmacy  
1062 benefit management services in this state.

1063 (d) ~~(b)~~ "Pharmacy benefit manager" means an a person or  
1064 entity that performs pharmacy benefit management services for  
1065 doing business in this state which contracts to administer or  
1066 manage prescription drug benefits on behalf of a health  
1067 maintenance organization or payor to residents of this state.  
1068 The term does not include a provider as defined in s. 641.19, a  
1069 physician as defined in s. 458.305, or an osteopathic physician  
1070 as defined in s. 459.003.

1071 (e) "Pharmacy benefit management services" means services  
1072 that:

1073 1. Are provided, directly or through another entity, to a

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1074 health maintenance organization or payor, regardless of whether  
1075 the services provider and the health maintenance organization or  
1076 payor are related or associated by ownership, common ownership,  
1077 organization, or otherwise.

1078 2. Include the procurement of prescription drugs to be  
1079 dispensed to patients and the administration or management of  
1080 prescription drug benefits, including, but not limited to, any  
1081 of the following:

1082 a. A mail service pharmacy or a specialty pharmacy.

1083 b. Claims processing, retail network management, or payment  
1084 of claims to pharmacies for dispensing drugs.

1085 c. Clinical or other formulary or preferred-drug-list  
1086 development or management.

1087 d. Negotiation, administration, or receipt of rebates,  
1088 discounts, payment differentials, or other incentives, to  
1089 include particular drugs in a particular category or to promote  
1090 the purchase of particular drugs.

1091 e. Patients' compliance, therapeutic intervention, or  
1092 generic substitution programs.

1093 f. Disease management.

1094 g. Drug use review, step-therapy protocol, or prior  
1095 authorization.

1096 h. Adjudication of appeals or grievances related to  
1097 prescription drug coverage.

1098 i. Contracts with network pharmacies.

1099 j. Control of the cost of covered prescription drugs.

1100 (5) A contract between a health maintenance organization or  
1101 payor and a pharmacy benefit manager must require the maximum  
1102 allowable cost list to include:

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- 1103        (a) Average acquisition cost, including national average  
1104 drug acquisition cost.
- 1105        (b) Average manufacturer price.
- 1106        (c) Average wholesale price.
- 1107        (d) Brand effective rate or generic effective rate.
- 1108        (e) Discount indexing.
- 1109        (f) Federal upper limits.
- 1110        (g) Wholesale acquisition cost.
- 1111        (h) Any other item that a pharmacy benefit manager or a  
1112 health maintenance organization or payor may use to establish  
1113 reimbursement rates to a pharmacist or pharmacy for filling  
1114 prescriptions or providing other pharmacy services.
- 1115        (6) A health maintenance organization that uses pharmacy  
1116 benefit management services or a payor shall have access to all  
1117 financial and utilization records, data, and information used by  
1118 the pharmacy benefit manager in relation to the pharmacy benefit  
1119 management services provided to the health maintenance  
1120 organization or payor.
- 1121        (7) A pharmacy benefit manager shall:
- 1122        (a) Disclose in writing to the health maintenance  
1123 organization that uses pharmacy benefit management services or  
1124 the payor any activity, policy, practice, contract, or  
1125 arrangement of the pharmacy benefit manager which directly or  
1126 indirectly presents conflicts of interest with the pharmacy  
1127 benefit manager's relationship with, or fiduciary duty or  
1128 obligation to, the subscribers and the health maintenance  
1129 organization or payor.
- 1130        (b) Report quarterly to the health maintenance organization  
1131 or payor any income resulting from pricing discounts, rebates of

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1132 any kind, inflationary payments, credits, clawbacks, fees,  
1133 grants, chargebacks, reimbursements, or other financial benefits  
1134 received by the pharmacy benefit manager from any person or  
1135 entity. The pharmacy benefit manager shall ensure that such  
1136 income and financial benefits are passed through in full, at  
1137 least quarterly, to the health maintenance organization or payor  
1138 to reduce the cost of prescription drugs and pharmacy services  
1139 to the subscribers.

1140 (8) The department shall investigate any alleged violation  
1141 of this section.

1142 (9) (a) A pharmacy benefit manager that violates any  
1143 provision of this section is liable for a civil fine of \$10,000  
1144 for each violation and may have its registration revoked by the  
1145 department.

1146 (b) A violation of any provision of this section which is  
1147 committed or performed with such frequency as to indicate a  
1148 general business practice is subject to the Florida Deceptive  
1149 and Unfair Trade Practices Act under part II of chapter 501.

1150 (10) ~~(5)~~ This section applies to contracts entered into or  
1151 renewed on or after January 1, 2021 ~~July 1, 2018~~.

1152 Section 14. Paragraph (a) of subsection (1) of section  
1153 409.9201, Florida Statutes, is amended to read:

1154 409.9201 Medicaid fraud.—

1155 (1) As used in this section, the term:

1156 (a) "Prescription drug" means any drug, including, but not  
1157 limited to, finished dosage forms or active ingredients that are  
1158 subject to, defined in, or described in s. 503(b) of the Federal  
1159 Food, Drug, and Cosmetic Act or in s. 465.003 ~~s. 465.003(8)~~, s.  
1160 499.003(17), s. 499.007(13), or s. 499.82(10).



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1161  
1162 The value of individual items of the legend drugs or goods or  
1163 services involved in distinct transactions committed during a  
1164 single scheme or course of conduct, whether involving a single  
1165 person or several persons, may be aggregated when determining  
1166 the punishment for the offense.

1167 Section 15. Paragraph (pp) of subsection (1) of section  
1168 458.331, Florida Statutes, is amended to read:

1169 458.331 Grounds for disciplinary action; action by the  
1170 board and department.—

1171 (1) The following acts constitute grounds for denial of a  
1172 license or disciplinary action, as specified in s. 456.072(2):

1173 (pp) Applicable to a licensee who serves as the designated  
1174 physician of a pain-management clinic as defined in s. 458.3265  
1175 or s. 459.0137:

1176 1. Registering a pain-management clinic through  
1177 misrepresentation or fraud;

1178 2. Procuring, or attempting to procure, the registration of  
1179 a pain-management clinic for any other person by making or  
1180 causing to be made, any false representation;

1181 3. Failing to comply with any requirement of chapter 499,  
1182 the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the  
1183 Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq.,  
1184 the Drug Abuse Prevention and Control Act; or chapter 893, the  
1185 Florida Comprehensive Drug Abuse Prevention and Control Act;

1186 4. Being convicted or found guilty of, regardless of  
1187 adjudication to, a felony or any other crime involving moral  
1188 turpitude, fraud, dishonesty, or deceit in any jurisdiction of  
1189 the courts of this state, of any other state, or of the United

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1190 States;

1191 5. Being convicted of, or disciplined by a regulatory  
1192 agency of the Federal Government or a regulatory agency of  
1193 another state for, any offense that would constitute a violation  
1194 of this chapter;

1195 6. Being convicted of, or entering a plea of guilty or nolo  
1196 contendere to, regardless of adjudication, a crime in any  
1197 jurisdiction of the courts of this state, of any other state, or  
1198 of the United States which relates to the practice of, or the  
1199 ability to practice, a licensed health care profession;

1200 7. Being convicted of, or entering a plea of guilty or nolo  
1201 contendere to, regardless of adjudication, a crime in any  
1202 jurisdiction of the courts of this state, of any other state, or  
1203 of the United States which relates to health care fraud;

1204 8. Dispensing any medicinal drug based upon a communication  
1205 that purports to be a prescription as defined in s. 465.003 ~~s.~~  
1206 ~~465.003(14)~~ or s. 893.02 if the dispensing practitioner knows or  
1207 has reason to believe that the purported prescription is not  
1208 based upon a valid practitioner-patient relationship; or

1209 9. Failing to timely notify the board of the date of his or  
1210 her termination from a pain-management clinic as required by s.  
1211 458.3265(3).

1212 Section 16. Paragraph (rr) of subsection (1) of section  
1213 459.015, Florida Statutes, is amended to read:

1214 459.015 Grounds for disciplinary action; action by the  
1215 board and department.—

1216 (1) The following acts constitute grounds for denial of a  
1217 license or disciplinary action, as specified in s. 456.072(2):

1218 (rr) Applicable to a licensee who serves as the designated

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1219 physician of a pain-management clinic as defined in s. 458.3265  
1220 or s. 459.0137:

1221 1. Registering a pain-management clinic through  
1222 misrepresentation or fraud;

1223 2. Procuring, or attempting to procure, the registration of  
1224 a pain-management clinic for any other person by making or  
1225 causing to be made, any false representation;

1226 3. Failing to comply with any requirement of chapter 499,  
1227 the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the  
1228 Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq.,  
1229 the Drug Abuse Prevention and Control Act; or chapter 893, the  
1230 Florida Comprehensive Drug Abuse Prevention and Control Act;

1231 4. Being convicted or found guilty of, regardless of  
1232 adjudication to, a felony or any other crime involving moral  
1233 turpitude, fraud, dishonesty, or deceit in any jurisdiction of  
1234 the courts of this state, of any other state, or of the United  
1235 States;

1236 5. Being convicted of, or disciplined by a regulatory  
1237 agency of the Federal Government or a regulatory agency of  
1238 another state for, any offense that would constitute a violation  
1239 of this chapter;

1240 6. Being convicted of, or entering a plea of guilty or nolo  
1241 contendere to, regardless of adjudication, a crime in any  
1242 jurisdiction of the courts of this state, of any other state, or  
1243 of the United States which relates to the practice of, or the  
1244 ability to practice, a licensed health care profession;

1245 7. Being convicted of, or entering a plea of guilty or nolo  
1246 contendere to, regardless of adjudication, a crime in any  
1247 jurisdiction of the courts of this state, of any other state, or

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1248 of the United States which relates to health care fraud;

1249 8. Dispensing any medicinal drug based upon a communication  
1250 that purports to be a prescription as defined in s. 465.003 ~~s.~~  
1251 ~~465.003(14)~~ or s. 893.02 if the dispensing practitioner knows or  
1252 has reason to believe that the purported prescription is not  
1253 based upon a valid practitioner-patient relationship; or

1254 9. Failing to timely notify the board of the date of his or  
1255 her termination from a pain-management clinic as required by s.  
1256 459.0137(3).

1257 Section 17. Subsection (1) of section 465.014, Florida  
1258 Statutes, is amended to read:

1259 465.014 Pharmacy technician.—

1260 (1) A person other than a licensed pharmacist or pharmacy  
1261 intern may not engage in the practice of the profession of  
1262 pharmacy, except that a licensed pharmacist may delegate to  
1263 pharmacy technicians who are registered pursuant to this section  
1264 those duties, tasks, and functions that do not fall within the  
1265 purview of s. 465.003 ~~s. 465.003(13)~~. All such delegated acts  
1266 must be performed under the direct supervision of a licensed  
1267 pharmacist who is responsible for all such acts performed by  
1268 persons under his or her supervision. A registered pharmacy  
1269 technician, under the supervision of a pharmacist, may initiate  
1270 or receive communications with a practitioner or his or her  
1271 agent, on behalf of a patient, regarding refill authorization  
1272 requests. A licensed pharmacist may not supervise more than one  
1273 registered pharmacy technician unless otherwise permitted by the  
1274 guidelines adopted by the board. The board shall establish  
1275 guidelines to be followed by licensees or permittees in  
1276 determining the circumstances under which a licensed pharmacist

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1277 may supervise more than one pharmacy technician.

1278 Section 18. Paragraph (c) of subsection (2) of section  
1279 465.015, Florida Statutes, is amended to read:

1280 465.015 Violations and penalties.—

1281 (2) It is unlawful for any person:

1282 (c) To sell or dispense drugs as defined in s. 465.003 ~~s.~~  
1283 ~~465.003(8)~~ without first being furnished with a prescription.

1284 Section 19. Subsection (9) of section 465.0156, Florida  
1285 Statutes, is amended to read:

1286 465.0156 Registration of nonresident pharmacies.—

1287 (9) Notwithstanding s. 465.003 ~~s. 465.003(10)~~, for purposes  
1288 of this section, the registered pharmacy and the pharmacist  
1289 designated by the registered pharmacy as the prescription  
1290 department manager or the equivalent must be licensed in the  
1291 state of location in order to dispense into this state.

1292 Section 20. Paragraph (s) of subsection (1) of section  
1293 465.016, Florida Statutes, is amended to read:

1294 465.016 Disciplinary actions.—

1295 (1) The following acts constitute grounds for denial of a  
1296 license or disciplinary action, as specified in s. 456.072(2):

1297 (s) Dispensing any medicinal drug based upon a  
1298 communication that purports to be a prescription as defined in  
1299 s. 465.003 ~~by s. 465.003(14)~~ or s. 893.02 when the pharmacist  
1300 knows or has reason to believe that the purported prescription  
1301 is not based upon a valid practitioner-patient relationship.

1302 Section 21. Subsection (4) of section 465.0197, Florida  
1303 Statutes, is amended to read:

1304 465.0197 Internet pharmacy permits.—

1305 (4) Notwithstanding s. 465.003 ~~s. 465.003(10)~~, for purposes

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1306 of this section, the Internet pharmacy and the pharmacist  
1307 designated by the Internet pharmacy as the prescription  
1308 department manager or the equivalent must be licensed in the  
1309 state of location in order to dispense into this state.

1310 Section 22. Paragraph (j) of subsection (5) of section  
1311 465.022, Florida Statutes, is amended to read:

1312 465.022 Pharmacies; general requirements; fees.—

1313 (5) The department or board shall deny an application for a  
1314 pharmacy permit if the applicant or an affiliated person,  
1315 partner, officer, director, or prescription department manager  
1316 or consultant pharmacist of record of the applicant:

1317 (j) Has dispensed any medicinal drug based upon a  
1318 communication that purports to be a prescription as defined in  
1319 s. 465.003 ~~by s. 465.003(14)~~ or s. 893.02 when the pharmacist  
1320 knows or has reason to believe that the purported prescription  
1321 is not based upon a valid practitioner-patient relationship that  
1322 includes a documented patient evaluation, including history and  
1323 a physical examination adequate to establish the diagnosis for  
1324 which any drug is prescribed and any other requirement  
1325 established by board rule under chapter 458, chapter 459,  
1326 chapter 461, chapter 463, chapter 464, or chapter 466.

1327  
1328 For felonies in which the defendant entered a plea of guilty or  
1329 nolo contendere in an agreement with the court to enter a  
1330 pretrial intervention or drug diversion program, the department  
1331 shall deny the application if upon final resolution of the case  
1332 the licensee has failed to successfully complete the program.

1333 Section 23. Paragraph (h) of subsection (1) of section  
1334 465.023, Florida Statutes, is amended to read:

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1335 465.023 Pharmacy permittee; disciplinary action.—

1336 (1) The department or the board may revoke or suspend the  
1337 permit of any pharmacy permittee, and may fine, place on  
1338 probation, or otherwise discipline any pharmacy permittee if the  
1339 permittee, or any affiliated person, partner, officer, director,  
1340 or agent of the permittee, including a person fingerprinted  
1341 under s. 465.022(3), has:

1342 (h) Dispensed any medicinal drug based upon a communication  
1343 that purports to be a prescription as defined in s. 465.003 ~~by~~  
1344 ~~s. 465.003(14)~~ or s. 893.02 when the pharmacist knows or has  
1345 reason to believe that the purported prescription is not based  
1346 upon a valid practitioner-patient relationship that includes a  
1347 documented patient evaluation, including history and a physical  
1348 examination adequate to establish the diagnosis for which any  
1349 drug is prescribed and any other requirement established by  
1350 board rule under chapter 458, chapter 459, chapter 461, chapter  
1351 463, chapter 464, or chapter 466.

1352 Section 24. Section 465.1901, Florida Statutes, is amended  
1353 to read:

1354 465.1901 Practice of orthotics and pedorthics.—The  
1355 provisions of chapter 468 relating to orthotics or pedorthics do  
1356 not apply to any licensed pharmacist or to any person acting  
1357 under the supervision of a licensed pharmacist. The practice of  
1358 orthotics or pedorthics by a pharmacist or any of the  
1359 pharmacist's employees acting under the supervision of a  
1360 pharmacist shall be construed to be within the meaning of the  
1361 term "practice of the profession of pharmacy" as defined ~~set~~  
1362 ~~forth~~ in s. 465.003 ~~s. 465.003(13)~~, and shall be subject to  
1363 regulation in the same manner as any other pharmacy practice.

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1364 The Board of Pharmacy shall develop rules regarding the practice  
1365 of orthotics and pedorthics by a pharmacist. Any pharmacist or  
1366 person under the supervision of a pharmacist engaged in the  
1367 practice of orthotics or pedorthics is not precluded from  
1368 continuing that practice pending adoption of these rules.

1369 Section 25. Subsection (40) of section 499.003, Florida  
1370 Statutes, is amended to read:

1371 499.003 Definitions of terms used in this part.—As used in  
1372 this part, the term:

1373 (40) "Prescription drug" means a prescription, medicinal,  
1374 or legend drug, including, but not limited to, finished dosage  
1375 forms or active pharmaceutical ingredients subject to, defined  
1376 by, or described by s. 503(b) of the federal act or s. 465.003  
1377 ~~s. 465.003(8)~~, s. 499.007(13), subsection (31), or subsection  
1378 (47), except that an active pharmaceutical ingredient is a  
1379 prescription drug only if substantially all finished dosage  
1380 forms in which it may be lawfully dispensed or administered in  
1381 this state are also prescription drugs.

1382 Section 26. Paragraph (c) of subsection (24) of section  
1383 893.02, Florida Statutes, is amended to read:

1384 893.02 Definitions.—The following words and phrases as used  
1385 in this chapter shall have the following meanings, unless the  
1386 context otherwise requires:

1387 (24) "Prescription" includes any order for drugs or  
1388 medicinal supplies which is written or transmitted by any means  
1389 of communication by a licensed practitioner authorized by the  
1390 laws of this state to prescribe such drugs or medicinal  
1391 supplies, is issued in good faith and in the course of  
1392 professional practice, is intended to be dispensed by a person



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1393 authorized by the laws of this state to do so, and meets the  
1394 requirements of s. 893.04.

1395 (c) A prescription for a controlled substance may not be  
1396 issued on the same prescription blank with another prescription  
1397 for a controlled substance that is named or described in a  
1398 different schedule or with another prescription for a medicinal  
1399 drug, as defined in s. 465.003 ~~s. 465.003(8)~~, that is not a  
1400 controlled substance.

1401 Section 27. This act shall take effect July 1, 2020.