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1 A bill to be entitled
 2 An act relating to controlled substances; providing an
 3 effective date.

4
 5 Be It Enacted by the Legislature of the State of Florida:

6
 7 Section 1. Subsection (5) of section 456.037, Florida
 8 Statutes, is amended to read:

9 456.037 Business establishments; requirements for active
 10 status licenses; delinquency; discipline; applicability.—

11 (5) This section applies to any business establishment
 12 registered, permitted, or licensed by the department to do
 13 business. Business establishments include, but are not limited
 14 to, dental laboratories, electrology facilities, massage
 15 establishments, and pharmacies, ~~and pain management clinics~~
 16 ~~required to be registered under s. 458.3265 or s. 459.0137.~~

17 Section 2. Subsection (9) of section 456.057, Florida
 18 Statutes, is amended to read:

19 456.057 Ownership and control of patient records; report
 20 or copies of records to be furnished.—

21 (9) (a) 1. The department may obtain patient records
 22 pursuant to a subpoena without written authorization from the
 23 patient if the department and the probable cause panel of the
 24 appropriate board, if any, find reasonable cause to believe that
 25 a health care practitioner has excessively or inappropriately
 26 prescribed any controlled substance specified in chapter 893 in
 27 violation of this chapter or any professional practice act or
 28 that a health care practitioner has practiced his or her

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29 | profession below that level of care, skill, and treatment
 30 | required as defined by this chapter or any professional practice
 31 | act and also find that appropriate, reasonable attempts were
 32 | made to obtain a patient release. ~~Notwithstanding the foregoing,~~
 33 | ~~the department need not attempt to obtain a patient release when~~
 34 | ~~investigating an offense involving the inappropriate~~
 35 | ~~prescribing, overprescribing, or diversion of controlled~~
 36 | ~~substances and the offense involves a pain-management clinic.~~
 37 | ~~The department may obtain patient records without patient~~
 38 | ~~authorization or subpoena from any pain-management clinic~~
 39 | ~~required to be licensed if the department has probable cause to~~
 40 | ~~believe that a violation of any provision of s. 458.3265 or s.~~
 41 | ~~459.0137 is occurring or has occurred and reasonably believes~~
 42 | ~~that obtaining such authorization is not feasible due to the~~
 43 | ~~volume of the dispensing and prescribing activity involving~~
 44 | ~~controlled substances and that obtaining patient authorization~~
 45 | ~~or the issuance of a subpoena would jeopardize the~~
 46 | ~~investigation.~~

47 | 2. The department may obtain patient records and insurance
 48 | information pursuant to a subpoena without written authorization
 49 | from the patient if the department and the probable cause panel
 50 | of the appropriate board, if any, find reasonable cause to
 51 | believe that a health care practitioner has provided inadequate
 52 | medical care based on termination of insurance and also find
 53 | that appropriate, reasonable attempts were made to obtain a
 54 | patient release.

55 | 3. The department may obtain patient records, billing
 56 | records, insurance information, provider contracts, and all

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57 | attachments thereto pursuant to a subpoena without written
 58 | authorization from the patient if the department and probable
 59 | cause panel of the appropriate board, if any, find reasonable
 60 | cause to believe that a health care practitioner has submitted a
 61 | claim, statement, or bill using a billing code that would result
 62 | in payment greater in amount than would be paid using a billing
 63 | code that accurately describes the services performed, requested
 64 | payment for services that were not performed by that health care
 65 | practitioner, used information derived from a written report of
 66 | an automobile accident generated pursuant to chapter 316 to
 67 | solicit or obtain patients personally or through an agent
 68 | regardless of whether the information is derived directly from
 69 | the report or a summary of that report or from another person,
 70 | solicited patients fraudulently, received a kickback as defined
 71 | in s. 456.054, violated the patient brokering provisions of s.
 72 | 817.505, or presented or caused to be presented a false or
 73 | fraudulent insurance claim within the meaning of s.
 74 | 817.234(1)(a), and also find that, within the meaning of s.
 75 | 817.234(1)(a), patient authorization cannot be obtained because
 76 | the patient cannot be located or is deceased, incapacitated, or
 77 | suspected of being a participant in the fraud or scheme, and if
 78 | the subpoena is issued for specific and relevant records.

79 | 4. Notwithstanding subparagraphs 1.-3., when the
 80 | department investigates a professional liability claim or
 81 | undertakes action pursuant to s. 456.049 or s. 627.912, the
 82 | department may obtain patient records pursuant to a subpoena
 83 | without written authorization from the patient if the patient
 84 | refuses to cooperate or if the department attempts to obtain a

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85 patient release and the failure to obtain the patient records
 86 would be detrimental to the investigation.

87 Section 3. Section 458.3265, Florida Statutes, is
 88 repealed.

89 Section 4. Subsections (1) and (2) of section 458.327,
 90 Florida Statutes, are amended to read:

91 458.327 Penalty for violations.—

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

95 (a) The practice of medicine or an attempt to practice
 96 medicine without a license to practice in Florida.

97 (b) The use or attempted use of a license which is
 98 suspended or revoked to practice medicine.

99 (c) Attempting to obtain or obtaining a license to
 100 practice medicine by knowing misrepresentation.

101 (d) Attempting to obtain or obtaining a position as a
 102 medical practitioner or medical resident in a clinic or hospital
 103 through knowing misrepresentation of education, training, or
 104 experience.

105 (e) Dispensing a controlled substance listed in Schedule
 106 II, Schedule III, Schedule IV or Schedule V in violation of s.
 107 465.0276.~~Knowingly operating, owning, or managing a~~
 108 ~~nonregistered pain-management clinic that is required to be~~
 109 ~~registered with the Department of Health pursuant to s.~~
 110 ~~458.3265(1).~~

111 (2) Each of the following acts constitutes a misdemeanor
 112 of the first degree, punishable as provided in s. 775.082 or s.

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113 775.083:

114 (a) Knowingly concealing information relating to
115 violations of this chapter.

116 (b) Making any willfully false oath or affirmation
117 whenever an oath or affirmation is required by this chapter.

118 (c) Referring any patient, for health care goods or
119 services, to a partnership, firm, corporation, or other business
120 entity in which the physician or the physician's employer has an
121 equity interest of 10 percent or more unless, prior to such
122 referral, the physician notifies the patient of his or her
123 financial interest and of the patient's right to obtain such
124 goods or services at the location of the patient's choice. This
125 section does not apply to the following types of equity
126 interest:

127 1. The ownership of registered securities issued by a
128 publicly held corporation or the ownership of securities issued
129 by a publicly held corporation, the shares of which are traded
130 on a national exchange or the over-the-counter market;

131 2. A physician's own practice, whether he or she is a sole
132 practitioner or part of a group, when the health care good or
133 service is prescribed or provided solely for the physician's own
134 patients and is provided or performed by the physician or under
135 the physician's supervision; or

136 3. An interest in real property resulting in a landlord-
137 tenant relationship between the physician and the entity in
138 which the equity interest is held, unless the rent is
139 determined, in whole or in part, by the business volume or
140 profitability of the tenant or is otherwise unrelated to fair

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141 market value.

142 (d) Leading the public to believe that one is licensed as
 143 a medical doctor, or is engaged in the licensed practice of
 144 medicine, without holding a valid, active license.

145 (e) Practicing medicine or attempting to practice medicine
 146 with an inactive or delinquent license.

147 ~~(f) Knowingly prescribing or dispensing, or causing to be~~
 148 ~~prescribed or dispensed, controlled substances in a~~
 149 ~~nonregistered pain-management clinic that is required to be~~
 150 ~~registered with the Department of Health pursuant to s.~~
 151 ~~458.3265(1).~~

152 Section 5. Subsection (1) of section 458.331, Florida
 153 Statutes, is amended to read:

154 458.331 Grounds for disciplinary action; action by the
 155 board and department.—

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

158 (oo) Dispensing a controlled substance listed in Schedule
 159 II, Schedule III, Schedule IV or Schedule V in violation of s.
 160 465.0276. ~~Applicable to a licensee who serves as the designated~~
 161 ~~physician of a pain-management clinic as defined in s. 458.3265~~
 162 ~~or s. 459.0137:~~

163 ~~1. Registering a pain-management clinic through~~
 164 ~~misrepresentation or fraud;~~

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

168 ~~3. Failing to comply with any requirement of chapter 499,~~

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169 ~~the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the~~
 170 ~~Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq.,~~
 171 ~~the Drug Abuse Prevention and Control Act; or chapter 893, the~~
 172 ~~Florida Comprehensive Drug Abuse Prevention and Control Act;~~
 173 ~~—— 4. Being convicted or found guilty of, regardless of~~
 174 ~~adjudication to, a felony or any other crime involving moral~~
 175 ~~turpitude, fraud, dishonesty, or deceit in any jurisdiction of~~
 176 ~~the courts of this state, of any other state, or of the United~~
 177 ~~States;~~
 178 ~~—— 5. Being convicted of, or disciplined by a regulatory~~
 179 ~~agency of the Federal Government or a regulatory agency of~~
 180 ~~another state for, any offense that would constitute a violation~~
 181 ~~of this chapter;~~
 182 ~~—— 6. Being convicted of, or entering a plea of guilty or~~
 183 ~~nolo contendere to, regardless of adjudication, a crime in any~~
 184 ~~jurisdiction of the courts of this state, of any other state, or~~
 185 ~~of the United States which relates to the practice of, or the~~
 186 ~~ability to practice, a licensed health care profession;~~
 187 ~~—— 7. Being convicted of, or entering a plea of guilty or~~
 188 ~~nolo contendere to, regardless of adjudication, a crime in any~~
 189 ~~jurisdiction of the courts of this state, of any other state, or~~
 190 ~~of the United States which relates to health care fraud;~~
 191 ~~—— 8. Dispensing any medicinal drug based upon a~~
 192 ~~communication that purports to be a prescription as defined in~~
 193 ~~s. 465.003(14) or s. 893.02 if the dispensing practitioner knows~~
 194 ~~or has reason to believe that the purported prescription is not~~
 195 ~~based upon a valid practitioner-patient relationship; or~~
 196 ~~—— 9. Failing to timely notify the board of the date of his~~

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197 ~~or her termination from a pain management clinic as required by~~
 198 ~~s. 458.3265(2).~~

199 ~~—— (pp) Failing to timely notify the department of the theft~~
 200 ~~of prescription blanks from a pain management clinic or a breach~~
 201 ~~of other methods for prescribing within 24 hours as required by~~
 202 ~~s. 458.3265(2).~~

203 ~~—— (qq) Promoting or advertising through any communication~~
 204 ~~media the use, sale, or dispensing of any controlled substance~~
 205 ~~appearing on any schedule in chapter 893.~~

206 Section 6. Section 459.0137, Florida Statutes, is
 207 repealed.

208 Section 7. Subsections (1) and (2) of section 459.013,
 209 Florida Statutes, is amended to read:

210 459.013 Penalty for violations.—

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

214 (a) The practice of osteopathic medicine, or an attempt to
 215 practice osteopathic medicine, without an active license or
 216 certificate issued pursuant to this chapter.

217 (b) The practice of osteopathic medicine by a person
 218 holding a limited license, osteopathic faculty certificate, or
 219 other certificate issued under this chapter beyond the scope of
 220 practice authorized for such licensee or certificateholder.

221 (c) Attempting to obtain or obtaining a license to
 222 practice osteopathic medicine by knowing misrepresentation.

223 (d) Attempting to obtain or obtaining a position as an
 224 osteopathic medical practitioner or osteopathic medical resident

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225 in a clinic or hospital through knowing misrepresentation of
 226 education, training, or experience.

227 (e) Dispensing a controlled substance listed in Schedule
 228 II, Schedule III, Schedule IV or Schedule V in violation of s.
 229 465.0276.~~Knowingly operating, owning, or managing a~~
 230 ~~nonregistered pain-management clinic that is required to be~~
 231 ~~registered with the Department of Health pursuant to s.~~
 232 ~~459.0137(1).~~

233 (2) Each of the following acts constitutes a misdemeanor
 234 of the first degree, punishable as provided in s. 775.082 or s.
 235 775.083:

236 (a) Knowingly concealing information relating to
 237 violations of this chapter.

238 (b) Making any willfully false oath or affirmation
 239 whenever an oath or affirmation is required by this chapter.

240 (c) The practice of medicine as a resident or intern
 241 without holding a valid current registration pursuant to s.
 242 459.021.

243 ~~(d) Knowingly prescribing or dispensing, or causing to be~~
 244 ~~prescribed or dispensed, controlled substances in a~~
 245 ~~nonregistered pain-management clinic that is required to be~~
 246 ~~registered with the Department of Health pursuant to s.~~
 247 ~~459.0137(1).~~

248 Section 8. Subsection (1) of section 459.015, Florida
 249 Statutes, is amended to read:

250 459.015 Grounds for disciplinary action; action by the
 251 board and department.—

252 (1) The following acts constitute grounds for denial of a

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253 license or disciplinary action, as specified in s. 456.072(2):
 254 (qq) Dispensing a controlled substance listed in Schedule
 255 II, Schedule III, Schedule IV or Schedule V in violation of s.
 256 465.0276. ~~Applicable to a licensee who serves as the designated~~
 257 ~~physician of a pain-management clinic as defined in s. 458.3265~~
 258 ~~or s. 459.0137:~~
 259 ~~—— 1. Registering a pain-management clinic through~~
 260 ~~misrepresentation or fraud;~~
 261 ~~—— 2. Procuring, or attempting to procure, the registration~~
 262 ~~of a pain-management clinic for any other person by making or~~
 263 ~~causing to be made, any false representation;~~
 264 ~~—— 3. Failing to comply with any requirement of chapter 499,~~
 265 ~~the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the~~
 266 ~~Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq.,~~
 267 ~~the Drug Abuse Prevention and Control Act; or chapter 893, the~~
 268 ~~Florida Comprehensive Drug Abuse Prevention and Control Act;~~
 269 ~~—— 4. Being convicted or found guilty of, regardless of~~
 270 ~~adjudication to, a felony or any other crime involving moral~~
 271 ~~turpitude, fraud, dishonesty, or deceit in any jurisdiction of~~
 272 ~~the courts of this state, of any other state, or of the United~~
 273 ~~States;~~
 274 ~~—— 5. Being convicted of, or disciplined by a regulatory~~
 275 ~~agency of the Federal Government or a regulatory agency of~~
 276 ~~another state for, any offense that would constitute a violation~~
 277 ~~of this chapter;~~
 278 ~~—— 6. Being convicted of, or entering a plea of guilty or~~
 279 ~~nolo contendere to, regardless of adjudication, a crime in any~~
 280 ~~jurisdiction of the courts of this state, of any other state, or~~

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281 ~~of the United States which relates to the practice of, or the~~
 282 ~~ability to practice, a licensed health care profession;~~
 283 ~~—— 7. Being convicted of, or entering a plea of guilty or~~
 284 ~~nolo contendere to, regardless of adjudication, a crime in any~~
 285 ~~jurisdiction of the courts of this state, of any other state, or~~
 286 ~~of the United States which relates to health care fraud;~~

287 ~~—— 8. Dispensing any medicinal drug based upon a~~
 288 ~~communication that purports to be a prescription as defined in~~
 289 ~~s. 465.003(14) or s. 893.02 if the dispensing practitioner knows~~
 290 ~~or has reason to believe that the purported prescription is not~~
 291 ~~based upon a valid practitioner-patient relationship; or~~

292 ~~—— 9. Failing to timely notify the board of the date of his~~
 293 ~~or her termination from a pain-management clinic as required by~~
 294 ~~s. 459.0137(2).~~

295 ~~—— (rr) Failing to timely notify the department of the theft~~
 296 ~~of prescription blanks from a pain-management clinic or a breach~~
 297 ~~of other methods for prescribing within 24 hours as required by~~
 298 ~~s. 459.0137(2).~~

299 ~~—— (ss) Promoting or advertising through any communication~~
 300 ~~media the use, sale, or dispensing of any controlled substance~~
 301 ~~appearing on any schedule in chapter 893.~~

302 Section 9. Subsections (3) and (4) of section 465.015,
 303 Florida Statutes, are renumbered as subsections (4) and (5),
 304 respectively, and subsection (3) is added to that section, to
 305 read:

306 465.015 Violations and penalties.—

307 (3) It is unlawful for any pharmacist, pharmacy intern, or
 308 any other person employed by or at a pharmacy to fail to report

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309 to the Sheriff of that county within 24 hours of learning of any
 310 instance in which a person obtained or attempted to obtain a
 311 controlled substance, as defined in s. 893.02, that the
 312 pharmacist, pharmacy intern, or other person employed by or at a
 313 pharmacy knew or reasonably should have known was obtained or
 314 attempted to be obtained from the pharmacy through fraudulent
 315 methods or representations. Any pharmacist, pharmacy intern, or
 316 other person employed by or at a pharmacy who fails to make such
 317 a report within 24 hours after learning of the fraud or
 318 attempted fraud commits a misdemeanor of the first degree,
 319 punishable as provided in ss. 775.082 and 775.083. A sufficient
 320 report of the fraudulent obtaining of controlled substances
 321 under this section shall contain at a minimum a copy of the
 322 prescription used or presented and a narrative including all
 323 information available to the pharmacy concerning the
 324 transaction, such as the name and telephone number of the
 325 prescribing physician, the name, description, and any personal
 326 identification information pertaining to the person presenting
 327 the prescription and all other material information, such as
 328 photographic or video surveillance of the transaction.

329 Section 10. Paragraph (b) of subsection (1) of section
 330 465.0276, Florida Statutes, is amended to read:

331 465.0276 Dispensing practitioner.—

332 (1) (a) A person may not dispense medicinal drugs unless
 333 licensed as a pharmacist or otherwise authorized under this
 334 chapter to do so, except that a practitioner authorized by law
 335 to prescribe drugs may dispense such drugs to her or his
 336 patients in the regular course of her or his practice in

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337 compliance with this section.

338 (b) A practitioner registered under this section may not
 339 dispense a controlled substance listed in Schedule II, Schedule
 340 III, Schedule IV or Schedule V as provided in s. 893.03. A
 341 ~~practitioner registered under this section may not dispense more~~
 342 ~~than a 72-hour supply of a controlled substance listed in~~
 343 ~~Schedule II, Schedule III, Schedule IV, or Schedule V of s.~~
 344 ~~893.03 for any patient who pays for the medication by cash,~~
 345 ~~check, or credit card in a clinic registered under s. 458.3265~~
 346 ~~or s. 459.0137. A practitioner who violates this paragraph~~
 347 ~~commits a felony of the third degree, punishable as provided in~~
 348 ~~s. 775.082, s. 775.083, or s. 775.084. This paragraph does not~~
 349 ~~apply to:~~

350 1. ~~A practitioner who dispenses medication to a workers'~~
 351 ~~compensation patient pursuant to chapter 440.~~

352 2. ~~A practitioner who dispenses medication to an insured~~
 353 ~~patient who pays by cash, check, or credit card to cover any~~
 354 ~~applicable copayment or deductible.~~

355 1.3. The dispensing of complimentary packages of medicinal
 356 drugs to the practitioner's own patients in the regular course
 357 of her or his practice without the payment of a fee or
 358 remuneration of any kind, whether direct or indirect, as
 359 provided in subsection (5).

360 2. Dispensing of controlled substances in the health care
 361 system of the Department of Corrections.

362 Section 11. Subsection (30) is added to section 499.005,
 363 Florida Statutes, to read:

364 499.005 Prohibited acts.—It is unlawful for a person to

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365 perform or cause the performance of any of the following acts in
 366 this state:

367 (30) The distribution of a controlled substance in
 368 Schedule II, Schedule III, Schedule IV or Schedule V as provided
 369 in s. 893.03 to, or under the Drug Enforcement Administration
 370 number of, any practitioner licensed under chapter 458, 459, 461
 371 or 466, including practitioners designated pursuant to s.
 372 499.01(1)(t).

373 Section 12. Subsection (14) is added to section 499.0121,
 374 Florida Statutes, to read:

375 499.0121 Storage and handling of prescription drugs;
 376 recordkeeping.—The department shall adopt rules to implement
 377 this section as necessary to protect the public health, safety,
 378 and welfare. Such rules shall include, but not be limited to,
 379 requirements for the storage and handling of prescription drugs
 380 and for the establishment and maintenance of prescription drug
 381 distribution records.

382 (14) DISTRIBUTION REPORTING.—Each wholesale distributor
 383 shall submit a report of its distributions of controlled
 384 substances listed in Schedule II, Schedule III, Schedule IV or
 385 Schedule V as provided in s. 893.03 to the department. The
 386 report shall be submitted weekly, in an electronic format
 387 specified by the department. The report shall contain the
 388 following information:

389 (a) The name, address of the entity to which the drugs are
 390 distributed;

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391 (b) The Florida license, registration, or permit number
 392 and Drug Enforcement Administration number of the entity which
 393 ordered the drugs;

394 (c) The name and address of the entity rendering payment
 395 for the drugs, if different than that reported pursuant to
 396 paragraphs (a) and (b);

397 (d) The drug name, lot and batch number, and number of
 398 unit doses distributed; and

399 (e) The date of sale.

400 Section 13. Paragraph (o) is added to subsection (1) of
 401 section 499.05, Florida Statutes, to read:

402 499.05 Rules.—

403 (1) The department shall adopt rules to implement and
 404 enforce this part with respect to:

405 (o) Wholesale distributor reporting requirements of s.
 406 499.0121(14).

407 Section 14. Paragraph (f) is added to subsection (3) of
 408 section 810.02, Florida Statutes, to read:

409 810.02 Burglary.—

410 (3) Burglary is a felony of the second degree, punishable
 411 as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the
 412 course of committing the offense, the offender does not make an
 413 assault or battery and is not and does not become armed with a
 414 dangerous weapon or explosive, and the offender enters or
 415 remains in a:

416 (f) Structure or conveyance when the offense intended to
 417 be committed therein is theft of a controlled substance as
 418 defined in s. 893.02. Notwithstanding any contrary provisions

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419 of law, separate judgments and sentences for burglary with the
 420 intent to commit theft of a controlled substance under this
 421 paragraph and for any applicable possession of controlled
 422 substance offense under s. 893.13 or trafficking in controlled
 423 substance offense under s. 893.135 may be imposed when all such
 424 offenses involve the same amount or amounts of controlled
 425 substance(s).

426
 427 However, if the burglary is committed within a county that is
 428 subject to a state of emergency declared by the Governor under
 429 chapter 252 after the declaration of emergency is made and the
 430 perpetration of the burglary is facilitated by conditions
 431 arising from the emergency, the burglary is a felony of the
 432 first degree, punishable as provided in s. 775.082, s. 775.083,
 433 or s. 775.084. As used in this subsection, the term "conditions
 434 arising from the emergency" means civil unrest, power outages,
 435 curfews, voluntary or mandatory evacuations, or a reduction in
 436 the presence of or response time for first responders or
 437 homeland security personnel. A person arrested for committing a
 438 burglary within a county that is subject to such a state of
 439 emergency may not be released until the person appears before a
 440 committing magistrate at a first appearance hearing. For
 441 purposes of sentencing under chapter 921, a felony offense that
 442 is reclassified under this subsection is ranked one level above
 443 the ranking under s. 921.0022 or s. 921.0023 of the offense
 444 committed.

445 Section 15. Paragraph (c) of subsection (2) of section
 446 812.014, Florida Statutes, is amended to read:

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447 | 812.014 Theft.—
 448 | (2)
 449 | (c) It is grand theft of the third degree and a felony of
 450 | the third degree, punishable as provided in s. 775.082, s.
 451 | 775.083, or s. 775.084, if the property stolen is:
 452 | 1. Valued at \$300 or more, but less than \$5,000.
 453 | 2. Valued at \$5,000 or more, but less than \$10,000.
 454 | 3. Valued at \$10,000 or more, but less than \$20,000.
 455 | 4. A will, codicil, or other testamentary instrument.
 456 | 5. A firearm.
 457 | 6. A motor vehicle, except as provided in paragraph (a).
 458 | 7. Any commercially farmed animal, including any animal of
 459 | the equine, bovine, or swine class, or other grazing animal, and
 460 | including aquaculture species raised at a certified aquaculture
 461 | facility. If the property stolen is aquaculture species raised
 462 | at a certified aquaculture facility, then a \$10,000 fine shall
 463 | be imposed.
 464 | 8. Any fire extinguisher.
 465 | 9. Any amount of citrus fruit consisting of 2,000 or more
 466 | individual pieces of fruit.
 467 | 10. Taken from a designated construction site identified
 468 | by the posting of a sign as provided for in s. 810.09(2)(d).
 469 | 11. Any stop sign.
 470 | 12. Anhydrous ammonia.
 471 | 13. Any amount of a controlled substance as defined in s.
 472 | 893.02. Notwithstanding any contrary provisions of law,
 473 | separate judgments and sentences for theft of a controlled
 474 | substance under this subparagraph and for any applicable

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475 possession of controlled substance offense under s. 893.13 or
 476 trafficking in controlled substance offense under s. 893,135 may
 477 be imposed when all such offenses involve the same amount or
 478 amounts of controlled substance(s).

479
 480 However, if the property is stolen within a county that is
 481 subject to a state of emergency declared by the Governor under
 482 chapter 252, the property is stolen after the declaration of
 483 emergency is made, and the perpetration of the theft is
 484 facilitated by conditions arising from the emergency, the
 485 offender commits a felony of the second degree, punishable as
 486 provided in s. 775.082, s. 775.083, or s. 775.084, if the
 487 property is valued at \$5,000 or more, but less than \$10,000, as
 488 provided under subparagraph 2., or if the property is valued at
 489 \$10,000 or more, but less than \$20,000, as provided under
 490 subparagraph 3. As used in this paragraph, the term "conditions
 491 arising from the emergency" means civil unrest, power outages,
 492 curfews, voluntary or mandatory evacuations, or a reduction in
 493 the presence of or the response time for first responders or
 494 homeland security personnel. For purposes of sentencing under
 495 chapter 921, a felony offense that is reclassified under this
 496 paragraph is ranked one level above the ranking under s.
 497 921.0022 or s. 921.0023 of the offense committed.

498 Section 16. Subsections (4) and (5) of section 893.07,
 499 Florida Statutes, are amended to read:

500 893.07 Records.—

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

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

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

509
 510 In either case, such records described herein shall be kept and
 511 made available for a period of at least 2 years for inspection
 512 and copying by law enforcement officers whose duty it is to
 513 enforce the laws of this state relating to controlled
 514 substances. Law enforcement officers are not required to obtain
 515 a subpoena, court order, or search warrant in order to obtain
 516 access to or copies of such records.

517 (5) Each person described in subsection (1) shall:

518 (a) M~~ma~~intain a record which shall contain a detailed list
 519 of controlled substances lost, destroyed, or stolen, if any; the
 520 kind and quantity of such controlled substances; and the date of
 521 the discovering of such loss, destruction, or theft.

522 (b) In the event of the discovery of the theft or loss of
 523 controlled substances, report such theft or loss to the Sheriff
 524 of that county within 48 hours of its discovery. A person who
 525 fails to report a theft or loss of a substance listed in s.
 526 893.03(3), (4), or (5), within 48 hours of discovery commits a
 527 misdemeanor of the second degree, punishable as provided in s.
 528 775.082 and s. 775.083. A person who fails to report a theft or
 529 loss of a substance listed in s. 893.03(2), within 48 hours of
 530 discovery a misdemeanor of the first degree, punishable as

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531 provided in s. 775.082 and s. 775.083.

532 Section 17. Section 2 of Chapter 2009-198, 2009 Laws of
 533 Florida, is repealed.

534 Section 18.

535 (1) Buy-Back Program. Within 10 days of the effective date
 536 of this act, each physician licensed under chapter 458, 459, 461
 537 or 466 shall ensure that undispensed controlled substance
 538 inventory purchased under the physician's Drug Enforcement
 539 Administration number for dispensing is:

540 (a) Returned to the wholesale distributor, as defined in
 541 s. 499.004(55), which distributed them; or

542 (b) Turned in to local law enforcement agencies and
 543 abandoned.

544
 545 Wholesale distributors shall buy back undispensed controlled
 546 substance inventory at the purchase price paid by the physician,
 547 physician practice, clinic, or other paying entity. Each
 548 wholesale distributor shall submit a report of its activities
 549 under this section to the Department by August 1, 2011. The
 550 report shall include the following information:

551 1. The name and address of the returning entity;

552 2. The Florida license, registration, or permit number and
 553 Drug Enforcement Administration number of the entity which
 554 originally ordered the drugs;

555 3. The drug name and number of unit doses returned; and

556 4. The date of return.

557 (2) Public Health Emergency.

558 (a) The Legislature finds that:

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- 559 1. Prescription drug overdose has been declared a public
 560 health epidemic by the United States Centers for Disease
 561 Control;
- 562 2. Prescription drug abuse results in an average of 7
 563 Florida deaths a day;
- 564 3. Physicians in Florida purchased over 85 percent of the
 565 oxycodone purchased by all practitioners in the United States in
 566 2006;
- 567 4. Physicians in Florida purchased over 93 percent of the
 568 methadone purchased by all practitioners in the United States in
 569 2006;
- 570 5. Some Florida physicians dispense medically unjustifiable
 571 amounts of controlled substances to addicts and people who
 572 intend to illegally sell the drugs;
- 573 6. Florida physicians who have purchased large quantities
 574 of controlled substances may have significant inventory upon
 575 enactment of this act;
- 576 7. Upon enactment of the act, the only legal method for a
 577 dispensing practitioner to sell or otherwise transfer controlled
 578 substances purchased for dispensing is through the buy-back
 579 procedure or abandonment procedures of subsection (1);
- 580 8. It is likely that the same physicians which purchase and
 581 dispense medically unjustifiable amounts of drugs will not
 582 legally dispose of remaining inventory;
- 583 9. The actions of such dispensing practitioners may result
 584 in substantial injury to the public health.
- 585 (b) Immediately upon enactment of this act, the State
 586 Health Officer shall declare a public health emergency pursuant

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587 to s. 381.00315. Pursuant to that declaration, the Department
 588 of Health, the Attorney General, the Department of Law
 589 Enforcement and local law enforcement agencies shall take the
 590 following actions.

591 1. Within 2 days of enactment, in consultation with
 592 wholesale distributors as defined in s. 499.005(55), the
 593 Department of Health shall identify dispensing practitioners
 594 which purchased more than an average of 2000 unit doses of
 595 controlled substances per month in the previous 6 months, and
 596 shall identify the dispensing practitioners in that group which
 597 pose the greatest threat to the public health based on an
 598 assessment of:

- 599 1. The risk of noncompliance with subsection (1);
- 600 2. Purchase amounts;
- 601 3. Manner of medical practice; and
- 602 4. Any other factor set by the State Health Officer.

603
 604 The Attorney General shall consult and coordinate with federal
 605 law enforcement agencies. The Department of Law Enforcement
 606 shall coordinate the efforts of local law enforcement agencies.

607 2. Upon the third day after enactment, the Department of
 608 Law Enforcement or local law enforcement agencies shall enter
 609 the business premises of the dispensing practitioners identified
 610 as posing the greatest threat to public health and quarantine
 611 the controlled substance inventory of such dispensing
 612 practitioners on-site.

613 3. The Department of Law Enforcement or local law
 614 enforcement agencies shall ensure the security of such inventory

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615 24 hours a day through the tenth day after enactment or until
 616 the inventory is validly transferred pursuant to subsection (1),
 617 whichever is first.

618 4. Upon the eleventh day after enactment, remaining
 619 controlled substance purchased for dispensing by practitioners
 620 is deemed contraband pursuant to s. 893.12. The Department of
 621 Law Enforcement or local law enforcement agencies shall seize
 622 the inventory and comply with the provisions of s. 893.12 to
 623 destroy it.

624 (c) In order to implement the provisions of this act, the
 625 sum of \$1,500,000 of non-recurring funds from the General
 626 Revenue Fund is appropriated to the Florida Department of Law
 627 Enforcement for Fiscal Year 2010-2011. The Department of Law
 628 Enforcement shall expend the appropriation by reimbursing local
 629 law enforcement agencies for the overtime hour costs associated
 630 with securing the quarantined controlled substance inventory as
 631 provided in paragraph (b). All requests for reimbursement must
 632 be submitted to the Department of Law Enforcement by June 1,
 633 2011. In the event the requests for reimbursement exceed the
 634 amount appropriated, the reimbursements shall be prorated by the
 635 hours of overtime per requesting agency at a maximum of 1 law
 636 enforcement officer per quarantine site.

637 (3) This section is repealed on January 1, 2013.

638 Section 19. This act shall take effect upon becoming law.