



Judiciary Committee

Wednesday, March 30, 2011

8:00 AM

404 HOB

Action Packet

**Dean Cannon
Speaker**

**William Snyder
Chair**

COMMITTEE MEETING REPORT

Judiciary Committee

3/30/2011 8:00:00AM

Location: 404 HOB

Summary:

Judiciary Committee

Wednesday March 30, 2011 08:00 am

CS/HB 75 Temporarily Deferred

CS/HB 563 Favorable With Committee Substitute Yeas: 18 Nays: 0

HB 7095 Favorable With Committee Substitute Yeas: 12 Nays: 6

HB 7119 Not Considered

HB 7121 Not Considered

HB 7131 Not Considered

HB 7133 Not Considered

HB 7137 Not Considered

HB 7141 Not Considered

HB 7143 Not Considered

Committee meeting was reported out: Wednesday, March 30, 2011 10:50:52AM

COMMITTEE MEETING REPORT

Judiciary Committee

3/30/2011 8:00:00AM

Location: 404 HOB

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
William Snyder (Chair)	X		
Dennis Baxley	X		
Daphne Campbell	X		
Eric Eisnaugle	X		
Matt Gaetz	X		
Tom Goodson	X		
Bill Hager	X		
Shawn Harrison	X		
John Julien	X		
Charles McBurney	X		
Larry Metz	X		
Kathleen Passidomo	X		
Ray Pilon	X		
Ari Porth	X		
Elaine Schwartz	X		
Darren Soto	X		
Richard Steinberg	X		
W. Gregory Steube	X		
Totals:	18	0	0

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COMMITTEE MEETING REPORT

Judiciary Committee

3/30/2011 8:00:00AM

Location: 404 HOB

CS/HB 75 : Offense of Sexting

Temporarily Deferred

Committee meeting was reported out: Wednesday, March 30, 2011 10:50:52AM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 75 (2011)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

*favorable
3.30.11*

1 Committee/Subcommittee hearing bill: Judiciary
 2 Representative(s) Abruzzo offered the following:

Amendment (with title amendment)

Remove lines 26-39 and insert:

6 distribute to another minor any photograph or video of any
 7 person which depicts nudity, as defined in s. 847.001(9),
 8 Florida Statutes, and is harmful to minors, as defined in s.
 9 847.001(6), Florida Statutes. The transmission or distribution
 10 of multiple photographs or videos is a single offense if the
 11 photographs or videos were transmitted or distributed within the
 12 same 24-hour period.

15 -----
 16 **T I T L E A M E N D M E N T**

Remove lines 6-11 and insert:

18 or distribute to another minor any photograph or video of any
 19 person which depicts nudity and is harmful to minors; providing

COMMITTEE/SUBCOMMITTEE AMENDMENT

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20 noncriminal and criminal penalties; providing that the
21 transmission or distribution of multiple photographs or videos
22 is a single offense if the

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3/30/2011 8:00:00AM

Location: 404 HOB

CS/HB 563 : Injunctions for Protection against Domestic Violence, Repeat Violence, Sexual Violence, or Dating Violence

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dennis Baxley	X				
Daphne Campbell	X				
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Shawn Harrison	X				
John Julien	X				
Charles McBurney	X				
Larry Metz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth	X				
Elaine Schwartz	X				
Darren Soto	X				
Richard Steinberg	X				
W. Gregory Steube	X				
William Snyder (Chair)	X				
Total Yeas: 18		Total Nays: 0			

Committee meeting was reported out: Wednesday, March 30, 2011 10:50:52AM

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

*Favorable
3:30:11*

1 Committee/Subcommittee hearing bill: Judiciary Committee

2

3 Representative Jones offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Paragraph (c) of subsection (8) of section
8 741.30, Florida Statutes, is amended to read:

9 741.30 Domestic violence; injunction; powers and duties of
10 court and clerk; petition; notice and hearing; temporary
11 injunction; issuance of injunction; statewide verification
12 system; enforcement.-

13 (8)

14 (c)1. Within 24 hours after the court issues an injunction
15 for protection against domestic violence or changes, continues,
16 extends, or vacates an injunction for protection against
17 domestic violence, the clerk of the court must forward a
18 certified copy of the injunction for service to the sheriff with

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19 jurisdiction over the residence of the petitioner. The
20 injunction must be served in accordance with this subsection.

21 2. Within 24 hours after service of process of an
22 injunction for protection against domestic violence upon a
23 respondent, the law enforcement officer must forward the written
24 proof of service of process to the sheriff with jurisdiction
25 over the residence of the petitioner.

26 3. Within 24 hours after the sheriff receives a certified
27 copy of the injunction for protection against domestic violence,
28 the sheriff must make information relating to the injunction
29 available to other law enforcement agencies by electronically
30 transmitting such information to the department.

31 4. Within 24 hours after the sheriff or other law
32 enforcement officer has made service upon the respondent and the
33 sheriff has been so notified, the sheriff must make information
34 relating to the service available to other law enforcement
35 agencies by electronically transmitting such information to the
36 department.

37 5. Subject to available funding, the Florida Association
38 of Court Clerks and Comptrollers shall develop an automated
39 process by which a petitioner may request notification of
40 service of the injunction for protection against domestic
41 violence and other court actions related to the injunction for
42 protection. The automated notice shall be made within 12 hours
43 after the sheriff or other law enforcement officer serves the
44 injunction upon the respondent. The notification must include,
45 at a minimum, the date, time, and location where the injunction
46 for protection against domestic violence was served. The

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47 Florida Association of Court Clerks and Comptrollers may apply
48 for any available grants to fund the development of the
49 automated process.

50 ~~6.5.~~ Within 24 hours after an injunction for protection
51 against domestic violence is vacated, terminated, or otherwise
52 rendered no longer effective by ruling of the court, the clerk
53 of the court must notify the sheriff receiving original
54 notification of the injunction as provided in subparagraph 2.
55 That agency shall, within 24 hours after receiving such
56 notification from the clerk of the court, notify the department
57 of such action of the court.

58 Section 2. Paragraph (c) of subsection (8) of section
59 784.046, Florida Statutes, is amended to read:

60 784.046 Action by victim of repeat violence, sexual
61 violence, or dating violence for protective injunction; dating
62 violence investigations, notice to victims, and reporting;
63 pretrial release violations.-

64 (8)

65 (c)1. Within 24 hours after the court issues an injunction
66 for protection against repeat violence, sexual violence, or
67 dating violence or changes or vacates an injunction for
68 protection against repeat violence, sexual violence, or dating
69 violence, the clerk of the court must forward a copy of the
70 injunction to the sheriff with jurisdiction over the residence
71 of the petitioner.

72 2. Within 24 hours after service of process of an
73 injunction for protection against repeat violence, sexual
74 violence, or dating violence upon a respondent, the law

Amendment No. 1

75 enforcement officer must forward the written proof of service of
76 process to the sheriff with jurisdiction over the residence of
77 the petitioner.

78 3. Within 24 hours after the sheriff receives a certified
79 copy of the injunction for protection against repeat violence,
80 sexual violence, or dating violence, the sheriff must make
81 information relating to the injunction available to other law
82 enforcement agencies by electronically transmitting such
83 information to the department.

84 4. Within 24 hours after the sheriff or other law
85 enforcement officer has made service upon the respondent and the
86 sheriff has been so notified, the sheriff must make information
87 relating to the service available to other law enforcement
88 agencies by electronically transmitting such information to the
89 department.

90 5. Subject to available funding, the Florida Association
91 of Court Clerks and Comptrollers shall develop an automated
92 process by which a petitioner may request notification of
93 service of the injunction for protection against repeat
94 violence, sexual violence, or dating violence and other court
95 actions related to the injunction for protection. The automated
96 notice shall be made within 12 hours after the sheriff or other
97 law enforcement officer serves the injunction upon the
98 respondent. The notification must include, at a minimum, the
99 date, time, and location where the injunction for protection
100 against repeat violence, sexual violence, or dating violence was
101 served. The Florida Association of Court Clerks and

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102 Comptrollers may apply for any available grants to fund the
103 development of the automated process.

104 6.5. Within 24 hours after an injunction for protection
105 against repeat violence, sexual violence, or dating violence is
106 lifted, terminated, or otherwise rendered no longer effective by
107 ruling of the court, the clerk of the court must notify the
108 sheriff or local law enforcement agency receiving original
109 notification of the injunction as provided in subparagraph 2.
110 That agency shall, within 24 hours after receiving such
111 notification from the clerk of the court, notify the department
112 of such action of the court.

113 Section 3. This act shall take effect July 1, 2011.

114
115 -----

116 **T I T L E A M E N D M E N T**

117 Remove the entire title and insert:
118 An act relating to injunctions for protection against domestic
119 violence, repeat violence, sexual violence, or dating violence;
120 amending ss. 741.30 and 784.046, F.S.; subject to available
121 funding, directing the Florida Association of Court Clerks and
122 Comptrollers to develop an automated process by which a
123 petitioner for an injunction for protection may request
124 notification of service of the injunction or notice of other
125 court actions related to the injunction; requiring that notice
126 be given to the petitioner within a specified time; providing
127 for the content of the notice; providing an effective date.

128

COMMITTEE MEETING REPORT

Judiciary Committee

3/30/2011 8:00:00AM

Location: 404 HOB

HB 7095 : Controlled Substances

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dennis Baxley	X				
Daphne Campbell		X			
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager		X			
Shawn Harrison	X				
John Julien	X				
Charles McBurney	X				
Larry Metz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth		X			
Elaine Schwartz		X			
Darren Soto		X			
Richard Steinberg		X			
W. Gregory Steube	X				
William Snyder (Chair)	X				
Total Yeas: 12		Total Nays: 6			

Appearances:

HB 7095

Weems, Lori (Lobbyist) - Information Only

Florida Pharmacy Association
610 N Adams St
Tallahassee FL 32301
Phone: (850)668-5379

HB 7095

Jackson, Michael (Lobbyist) - Information Only

Florida Pharmacy Association
610 N Adams St
Tallahassee FL 32301
Phone: (850)222-2400

HB 7095

West, Sally (Lobbyist) - Information Only

Florida Retail Federation
PO Box 10024
Tallahassee FL 32302-2024
Phone: (850)222-4082

HB 7095

Rogers, Bonnie (State Employee) - Proponent

Policy Coordination, OPB, Governor's Office
Tallahassee FL

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Location: 404 HOB

HB 7095

Jacquis, Michelle (Lobbyist) - Waive In Opposition

Florida Medical Association

PO Box 10269

Tallahassee FL 32302

Phone: (850)224-6496

HB 7095

Pitts, Brian - Information Only

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: 727-897-9291

Committee meeting was reported out: Wednesday, March 30, 2011 10:50:52AM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7095 (2011)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

*favorable
3.30.11*

1 Committee/Subcommittee hearing bill: Judiciary

2 Representative(s) McBurney offered the following:

3
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

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

8 456.037 Business establishments; requirements for active
9 status licenses; delinquency; discipline; applicability.—

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

16 Section 1. Subsections (1) and (2) of section 456.42,
17 Florida Statutes, are created to read:

18 456.42

Amendment No. 1

19 (1) Written prescriptions for medicinal drugs.—A written
20 prescription for a medicinal drug issued by a health care
21 practitioner licensed by law to prescribe such drug must be
22 legibly printed or typed so as to be capable of being understood
23 by the pharmacist filling the prescription; must contain the
24 name of the prescribing practitioner, the name and strength of
25 the drug prescribed, the quantity of the drug prescribed, and
26 the directions for use of the drug; must be dated; and must be
27 signed by the prescribing practitioner on the day when issued. A
28 ~~written prescription for a controlled substance listed in~~
29 ~~chapter 893 must have the quantity of the drug prescribed in~~
30 ~~both textual and numerical formats and must be dated with the~~
31 ~~abbreviated month written out on the face of the prescription.~~
32 However, a prescription that is electronically generated and
33 transmitted must contain the name of the prescribing
34 practitioner, the name and strength of the drug prescribed, the
35 quantity of the drug prescribed in numerical format, and the
36 directions for use of the drug and must be dated and signed by
37 the prescribing practitioner only on the day issued, which
38 signature may be in an electronic format as defined in s.
39 668.003(4).

40 (2) A written prescription for a controlled substance
41 listed in chapter 893 must have the quantity of the drug
42 prescribed in both textual and numerical formats and must be
43 dated with the abbreviated month written out on the face of the
44 prescription. A prescription for a controlled substance listed
45 in chapter 893 must be written on a counterfeit-proof
46 prescription pad produced by a vendor approved by the

Amendment No. 1

47 department, or must be electronically prescribed, as that term
48 is used in s. 408.0611.

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

51 456.057 Ownership and control of patient records; report
52 or copies of records to be furnished.—

53 (9)(a)1. The department may obtain patient records
54 pursuant to a subpoena without written authorization from the
55 patient if the department and the probable cause panel of the
56 appropriate board, if any, find reasonable cause to believe that
57 a health care practitioner has excessively or inappropriately
58 prescribed any controlled substance specified in chapter 893 in
59 violation of this chapter or any professional practice act or
60 that a health care practitioner has practiced his or her
61 profession below that level of care, skill, and treatment
62 required as defined by this chapter or any professional practice
63 act and also find that appropriate, reasonable attempts were
64 made to obtain a patient release. ~~Notwithstanding the foregoing,~~
65 ~~the department need not attempt to obtain a patient release when~~
66 ~~investigating an offense involving the inappropriate~~
67 ~~prescribing, overprescribing, or diversion of controlled~~
68 ~~substances and the offense involves a pain-management clinic.~~
69 ~~The department may obtain patient records without patient~~
70 ~~authorization or subpoena from any pain-management clinic~~
71 ~~required to be licensed if the department has probable cause to~~
72 ~~believe that a violation of any provision of s. 458.3265 or s.~~
73 ~~459.0137 is occurring or has occurred and reasonably believes~~
74 ~~that obtaining such authorization is not feasible due to the~~

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7095 (2011)

Amendment No. 1

75 ~~volume of the dispensing and prescribing activity involving~~
76 ~~controlled substances and that obtaining patient authorization~~
77 ~~or the issuance of a subpoena would jeopardize the~~
78 ~~investigation.~~

79 2. The department may obtain patient records and insurance
80 information pursuant to a subpoena without written authorization
81 from the patient if the department and the probable cause panel
82 of the appropriate board, if any, find reasonable cause to
83 believe that a health care practitioner has provided inadequate
84 medical care based on termination of insurance and also find
85 that appropriate, reasonable attempts were made to obtain a
86 patient release.

87 3. The department may obtain patient records, billing
88 records, insurance information, provider contracts, and all
89 attachments thereto pursuant to a subpoena without written
90 authorization from the patient if the department and probable
91 cause panel of the appropriate board, if any, find reasonable
92 cause to believe that a health care practitioner has submitted a
93 claim, statement, or bill using a billing code that would result
94 in payment greater in amount than would be paid using a billing
95 code that accurately describes the services performed, requested
96 payment for services that were not performed by that health care
97 practitioner, used information derived from a written report of
98 an automobile accident generated pursuant to chapter 316 to
99 solicit or obtain patients personally or through an agent
100 regardless of whether the information is derived directly from
101 the report or a summary of that report or from another person,
102 solicited patients fraudulently, received a kickback as defined

Amendment No. 1

103 in s. 456.054, violated the patient brokering provisions of s.
104 817.505, or presented or caused to be presented a false or
105 fraudulent insurance claim within the meaning of s.
106 817.234(1)(a), and also find that, within the meaning of s.
107 817.234(1)(a), patient authorization cannot be obtained because
108 the patient cannot be located or is deceased, incapacitated, or
109 suspected of being a participant in the fraud or scheme, and if
110 the subpoena is issued for specific and relevant records.

111 4. Notwithstanding subparagraphs 1.-3., when the
112 department investigates a professional liability claim or
113 undertakes action pursuant to s. 456.049 or s. 627.912, the
114 department may obtain patient records pursuant to a subpoena
115 without written authorization from the patient if the patient
116 refuses to cooperate or if the department attempts to obtain a
117 patient release and the failure to obtain the patient records
118 would be detrimental to the investigation.

119 Section 3. Section 458.3265, Florida Statutes, is
120 repealed.

121 Section 4. Section 458.327, Florida Statutes, is amended
122 to read:

123 458.327 Penalty for violations.—

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

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

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

Amendment No. 1

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

133 (d) Attempting to obtain or obtaining a position as a
134 medical practitioner or medical resident in a clinic or hospital
135 through knowing misrepresentation of education, training, or
136 experience.

137 (e) Dispensing a controlled substance listed in Schedule
138 II or Schedule III in violation of s. 465.0276. Knowingly
139 ~~operating, owning, or managing a nonregistered pain-management~~
140 ~~clinic that is required to be registered with the Department of~~
141 ~~Health pursuant to s. 458.3265(1).~~

142 (2) Each of the following acts constitutes a misdemeanor
143 of the first degree, punishable as provided in s. 775.082 or s.
144 775.083:

145 (a) Knowingly concealing information relating to
146 violations of this chapter.

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

149 (c) Referring any patient, for health care goods or
150 services, to a partnership, firm, corporation, or other business
151 entity in which the physician or the physician's employer has an
152 equity interest of 10 percent or more unless, prior to such
153 referral, the physician notifies the patient of his or her
154 financial interest and of the patient's right to obtain such
155 goods or services at the location of the patient's choice. This
156 section does not apply to the following types of equity
157 interest:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7095 (2011)

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158 1. The ownership of registered securities issued by a
159 publicly held corporation or the ownership of securities issued
160 by a publicly held corporation, the shares of which are traded
161 on a national exchange or the over-the-counter market;

162 2. A physician's own practice, whether he or she is a sole
163 practitioner or part of a group, when the health care good or
164 service is prescribed or provided solely for the physician's own
165 patients and is provided or performed by the physician or under
166 the physician's supervision; or

167 3. An interest in real property resulting in a landlord-
168 tenant relationship between the physician and the entity in
169 which the equity interest is held, unless the rent is
170 determined, in whole or in part, by the business volume or
171 profitability of the tenant or is otherwise unrelated to fair
172 market value.

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

176 (e) Practicing medicine or attempting to practice medicine
177 with an inactive or delinquent license.

178 ~~(f) Knowingly prescribing or dispensing, or causing to be~~
179 ~~prescribed or dispensed, controlled substances in a~~
180 ~~nonregistered pain-management clinic that is required to be~~
181 ~~registered with the Department of Health pursuant to s.~~
182 ~~458.3265(1).~~

183 Section 5. Paragraphs (oo), (pp), and (qq) of subsection
184 (1) of section 458.331, Florida Statutes, are amended to read:

Amendment No. 1

185 458.331 Grounds for disciplinary action; action by the
186 board and department.—

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

189 (oo) Dispensing a controlled substance listed in Schedule
190 II or Schedule III in violation of s. 465.0276. Applicable to a
191 licensee who serves as the designated physician of a pain-
192 management clinic as defined in s. 458.3265 or s. 459.0137:

193 1. ~~Registering a pain-management clinic through~~
194 ~~misrepresentation or fraud;~~

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

198 3. ~~Failing to comply with any requirement of chapter 499,~~
199 ~~the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the~~
200 ~~Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq.,~~
201 ~~the Drug Abuse Prevention and Control Act; or chapter 893, the~~
202 ~~Florida Comprehensive Drug Abuse Prevention and Control Act;~~

203 4. ~~Being convicted or found guilty of, regardless of~~
204 ~~adjudication to, a felony or any other crime involving moral~~
205 ~~turpitude, fraud, dishonesty, or deceit in any jurisdiction of~~
206 ~~the courts of this state, of any other state, or of the United~~
207 ~~States;~~

208 5. ~~Being convicted of, or disciplined by a regulatory~~
209 ~~agency of the Federal Government or a regulatory agency of~~
210 ~~another state for, any offense that would constitute a violation~~
211 ~~of this chapter;~~

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7095 (2011)

Amendment No. 1

212 ~~6. Being convicted of, or entering a plea of guilty or~~
213 ~~nolo contendere to, regardless of adjudication, a crime in any~~
214 ~~jurisdiction of the courts of this state, of any other state, or~~
215 ~~of the United States which relates to the practice of, or the~~
216 ~~ability to practice, a licensed health care profession;~~

217 ~~7. Being convicted of, or entering a plea of guilty or~~
218 ~~nolo contendere to, regardless of adjudication, a crime in any~~
219 ~~jurisdiction of the courts of this state, of any other state, or~~
220 ~~of the United States which relates to health care fraud;~~

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

226 ~~9. Failing to timely notify the board of the date of his~~
227 ~~or her termination from a pain-management clinic as required by~~
228 ~~s. 458.3265(2).~~

229 ~~(pp) Failing to timely notify the department of the theft~~
230 ~~of prescription blanks from a pain-management clinic or a breach~~
231 ~~of other methods for prescribing within 24 hours as required by~~
232 ~~s. 458.3265(2).~~

233 ~~(qq) Promoting or advertising through any communication~~
234 ~~media the use, sale, or dispensing of any controlled substance~~
235 ~~appearing on any schedule in chapter 893.~~

236 Section 6. Section 459.0137, Florida Statutes, is
237 repealed.

Amendment No. 1

238 Section 7. Paragraph (e) of subsection (1) and paragraph
239 (d) of subsection (2) of section 459.013, Florida Statutes, are
240 amended to read:

241 459.013 Penalty for violations.—

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

245 (e) Dispensing a controlled substance listed in Schedule
246 II or Schedule III in violation of s. 465.0276. Knowingly
247 ~~operating, owning, or managing a nonregistered pain-management~~
248 ~~clinic that is required to be registered with the Department of~~
249 ~~Health pursuant to s. 459.0137(1).~~

250 (2) Each of the following acts constitutes a misdemeanor
251 of the first degree, punishable as provided in s. 775.082 or s.
252 775.083:

253 ~~(d) Knowingly prescribing or dispensing, or causing to be~~
254 ~~prescribed or dispensed, controlled substances in a~~
255 ~~nonregistered pain-management clinic that is required to be~~
256 ~~registered with the Department of Health pursuant to s.~~
257 ~~459.0137(1).~~

258 Section 8. Paragraphs (qq), (rr), and (ss) of subsection
259 (1) of section 459.015, Florida Statutes, are amended to read:

260 459.015 Grounds for disciplinary action; action by the
261 board and department.—

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

264 (qq) Dispensing a controlled substance listed in Schedule
265 II or Schedule III in violation of s. 465.0276. Applicable to a

Amendment No. 1

266 ~~licensee who serves as the designated physician of a pain-~~
 267 ~~management clinic as defined in s. 458.3265 or s. 459.0137:~~

268 ~~1. Registering a pain-management clinic through~~
 269 ~~misrepresentation or fraud;~~

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

273 ~~3. Failing to comply with any requirement of chapter 499,~~
 274 ~~the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the~~
 275 ~~Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq.,~~
 276 ~~the Drug Abuse Prevention and Control Act; or chapter 893, the~~
 277 ~~Florida Comprehensive Drug Abuse Prevention and Control Act;~~

278 ~~4. Being convicted or found guilty of, regardless of~~
 279 ~~adjudication to, a felony or any other crime involving moral~~
 280 ~~turpitude, fraud, dishonesty, or deceit in any jurisdiction of~~
 281 ~~the courts of this state, of any other state, or of the United~~
 282 ~~States;~~

283 ~~5. Being convicted of, or disciplined by a regulatory~~
 284 ~~agency of the Federal Government or a regulatory agency of~~
 285 ~~another state for, any offense that would constitute a violation~~
 286 ~~of this chapter;~~

287 ~~6. Being convicted of, or entering a plea of guilty or~~
 288 ~~nolo contendere to, regardless of adjudication, a crime in any~~
 289 ~~jurisdiction of the courts of this state, of any other state, or~~
 290 ~~of the United States which relates to the practice of, or the~~
 291 ~~ability to practice, a licensed health care profession;~~

292 ~~7. Being convicted of, or entering a plea of guilty or~~
 293 ~~nolo contendere to, regardless of adjudication, a crime in any~~

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294 ~~jurisdiction of the courts of this state, of any other state, or~~
295 ~~of the United States which relates to health care fraud;~~

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

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

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

308 ~~(ss) Promoting or advertising through any communication~~
309 ~~media the use, sale, or dispensing of any controlled substance~~
310 ~~appearing on any schedule in chapter 893.~~

311 Section 9. Subsections (3) and (4) of section 465.015,
312 Florida Statutes, are renumbered as subsections (4) and (5),
313 respectively, a new subsection (3) is added to that section, and
314 present subsection (4) of that section is amended, to read:

315 465.015 Violations and penalties.—

316 (3) It is unlawful for any pharmacist, pharmacy intern, or
317 other person employed by or at a pharmacy to fail to report to
318 the sheriff of the county where the pharmacy is located within
319 24 hours after learning of any instance in which a person
320 obtained or attempted to obtain a controlled substance, as
321 defined in s. 893.02, that the pharmacist, pharmacy intern, or

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322 other person employed by or at the pharmacy knew or reasonably
323 should have known was obtained or attempted to be obtained from
324 the pharmacy through fraudulent methods or representations. Any
325 pharmacist, pharmacy intern, or other person employed by or at a
326 pharmacy who fails to make such a report within 24 hours after
327 learning of the fraud or attempted fraud commits a misdemeanor
328 of the first degree, punishable as provided in s. 775.082 or s.
329 775.083. A sufficient report of the fraudulent obtaining of
330 controlled substances under this subsection shall contain, at a
331 minimum, a copy of the prescription used or presented and a
332 narrative, including all information available to the pharmacy
333 concerning the transaction, such as the name and telephone
334 number of the prescribing physician; the name, description, and
335 any personal identification information pertaining to the person
336 who presented the prescription; and all other material
337 information, such as photographic or video surveillance of the
338 transaction.

339 ~~(5)~~(4) Any person who violates any provision of subsection
340 (1) or subsection ~~(4)~~ ~~(3)~~ commits a misdemeanor of the first
341 degree, punishable as provided in s. 775.082 or s. 775.083. Any
342 person who violates any provision of subsection (2) commits a
343 felony of the third degree, punishable as provided in s.
344 775.082, s. 775.083, or s. 775.084. In any warrant, information,
345 or indictment, it shall not be necessary to negative any
346 exceptions, and the burden of any exception shall be upon the
347 defendant.

348 Section 10. Subsections (1) and (2) of section 465.018,
349 Florida Statutes, are created to read:

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350 465.018 Community pharmacies; permits.-

351 (1) Any person desiring a permit to operate a community
 352 pharmacy shall apply to the department. If the board office
 353 certifies that the application complies with the laws of the
 354 state and the rules of the board governing pharmacies, the
 355 department shall issue the permit. No permit shall be issued
 356 unless a licensed pharmacist is designated as the prescription
 357 department manager responsible for maintaining all drug records,
 358 providing for the security of the prescription department, and
 359 following such other rules as relate to the practice of the
 360 profession of pharmacy. The permittee and the newly designated
 361 prescription department manager shall notify the department
 362 within 10 days of any change in prescription department manager.

363 (2) A pharmacy permitted under this section may not
 364 dispense a controlled substance listed in Schedule II or
 365 Schedule III as provided in s. 893.03 unless the pharmacy is:

366 (a) Wholly owned by a corporation whose shares are publicly
 367 traded on a recognized stock exchange; or

368 (b) Wholly owned by a corporation having more than \$100
 369 million of business taxable assets in this state.

370
 371 Community pharmacies continuously permitted for at least 10
 372 years are exempt from the requirements of this subsection.

373 Section 11. Paragraph (b) of subsection (1) of section
 374 465.0276, Florida Statutes, is amended to read:

375 465.0276 Dispensing practitioner.-

376 (1)

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377 (b) A practitioner registered under this section may not
378 dispense a controlled substance listed in Schedule II or
379 Schedule III as provided in s. 893.03. A practitioner registered
380 under this section may not dispense more than a 72-hour supply
381 of a controlled substance listed in Schedule II, Schedule III,
382 Schedule IV, or Schedule V of s. 893.03 for any patient who pays
383 for the medication by cash, check, or credit card in a clinic
384 registered under s. 458.3265 or s. 459.0137. A practitioner who
385 violates this paragraph commits a felony of the third degree,
386 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
387 This paragraph does not apply to:

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

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

393 1.3. The dispensing of complimentary packages of medicinal
394 drugs to the practitioner's own patients in the regular course
395 of her or his practice without the payment of a fee or
396 remuneration of any kind, whether direct or indirect, as
397 provided in subsection (5).

398 2. The dispensing of controlled substances in the health
399 care system of the Department of Corrections.

400 Section 12. Paragraph (o) is added to subsection (8) of
401 section 499.012, Florida Statutes, to read:

402 499.012 Permit application requirements.—

403 (8) An application for a permit or to renew a permit for a
404 prescription drug wholesale distributor or an out-of-state

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405 prescription drug wholesale distributor submitted to the
406 department must include:

407 (o) Documentation of the credentialing policies and
408 procedures required by s. 499.0121(14).

409 Section 13. Subsections (14) and (15) are added to section
410 499.0121, Florida Statutes, to read:

411 499.0121 Storage and handling of prescription drugs;
412 recordkeeping.—The department shall adopt rules to implement
413 this section as necessary to protect the public health, safety,
414 and welfare. Such rules shall include, but not be limited to,
415 requirements for the storage and handling of prescription drugs
416 and for the establishment and maintenance of prescription drug
417 distribution records.

418 (14) DISTRIBUTION REPORTING.—Each wholesale distributor
419 shall submit a report of its receipts and distributions of
420 controlled substances listed in Schedule II, Schedule III,
421 Schedule IV or Schedule V as provided in s. 893.03 to the
422 department. Wholesale distributor facilities located within the
423 state of Florida will report all transactions involving
424 controlled substances and wholesale distributor facilities
425 located outside the state of Florida will report distributions
426 to entities located in the state of Florida. If the wholesale
427 distributor did not have any controlled substance distributions
428 for the month, a transaction will be sent indicating no
429 distributions occurred in the period. The report shall be
430 submitted monthly by the 20th of the following month, in the
431 electronic format utilized for controlled substance reporting to
432 the Automation of Reports and Consolidated Orders System

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433 division of the Federal Drug Enforcement Administration.
434 Submission of electronic data will be made in a secured web
435 environment that allows for manual or automated transmission.
436 Upon successful transmission an acknowledgement page will be
437 displayed to confirm receipt. The report shall contain the
438 following information:

439 (a) The DEA registration of the wholesale distributing
440 location;

441 (b) The DEA registration of the entity to which the drugs
442 are distributed to or received from;

443 (c) The transaction code that indicates the type of
444 transaction;

445 (d) The National Drug Code identifier of the product and
446 the quantity distributed or received;

447 (e) The DEA 222 Form number or CSOS Identifier on all
448 schedule II transactions;

449 (f) The date of the transaction.

450

451 The department must share the reported data with the Department
452 of Law Enforcement and local law enforcement agencies upon
453 request, and must monitor purchasing to identify purchasing
454 levels which are inconsistent with the purchasing entity's
455 clinical needs. The Department of Law Enforcement shall
456 investigate purchases at levels which are inconsistent with the
457 purchasing entity's clinical needs to determine whether
458 violations of chapter 893 have occurred.

459 (15) DUE DILIGENCE.-Each wholesale distributor must
460 establish and maintain policies and procedures to credential

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461 physicians licensed under chapter 459, 459, 461 or 466 and
462 pharmacies which would purchase or otherwise receive Schedule II
463 or Schedule III controlled substances from the wholesale
464 distributor. The wholesale distributor shall maintain records
465 of such credentialing, and make the records available to the
466 department upon request. Such credentialing must, at a minimum,
467 include:

468 (a) Ascertaining the clinical nature of the receiving
469 entity, including any specialty practice area;

470 (b) Review of the receiving entity's history of Schedule
471 II and Schedule III controlled substance purchasing from the
472 wholesale distributor;

473 (c) Determination by the wholesale distributor that the
474 receiving entity's Schedule II and Schedule III controlled
475 substance purchasing history, if any, is consistent with and
476 reasonable for that entity's clinical business needs; and

477 (d) Conducting a level 2 background screening pursuant to
478 chapter 435 through the department on any person who owns a
479 controlling interest in or, directly or indirectly, manages,
480 oversees or controls the operation of the entity, including
481 officers and members of the board of directors of an entity
482 which is a corporation.

483
484 Wholesale distributors may not distribute more than 5,000 unit
485 doses of any one controlled substance to a retail pharmacy in
486 any given month. Wholesale distributors may not distribute
487 controlled substances to an entity if any criminal history
488 record check for any person associated with that entity shows

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489 the person has been convicted of, or entered a plea of guilty or
490 nolo contendere to, regardless of adjudication, a crime in any
491 jurisdiction related to controlled substances, the practice of
492 pharmacy, or dispensing of medicinal drugs.

493 Section 14. Paragraphs (o) and (p) are added to subsection
494 (1) of section 499.05, Florida Statutes, to read:

495 499.05 Rules.—

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

498 (o) Wholesale distributor reporting requirements of s.
499 499.0121(14).

500 (p) Wholesale distributor credentialing requirements of s.
501 499.0121(15).

502 Section 15. Subsection (8) is added to section 499.067,
503 Florida Statutes, to read:

504 499.067 Denial, suspension, or revocation of permit,
505 certification, or registration.—

506 (1) (a) The department may deny, suspend, or revoke a
507 permit if it finds that there has been a substantial failure to
508 comply with this part or chapter 465, chapter 501, or chapter
509 893, the rules adopted under this part or those chapters, any
510 final order of the department, or applicable federal laws or
511 regulations or other state laws or rules governing drugs,
512 devices, or cosmetics.

513 (b) The department may deny an application for a permit or
514 certification, or suspend or revoke a permit or certification,
515 if the department finds that:

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516 1. The applicant is not of good moral character or that it
517 would be a danger or not in the best interest of the public
518 health, safety, and welfare if the applicant were issued a
519 permit or certification.

520 2. The applicant has not met the requirements for the
521 permit or certification.

522 3. The applicant is not eligible for a permit or
523 certification for any of the reasons enumerated in s. 499.012.

524 4. The applicant, permittee, or person certified under s.
525 499.012(16) demonstrates any of the conditions enumerated in s.
526 499.012.

527 5. The applicant, permittee, or person certified under s.
528 499.012(16) has committed any violation of ss. 499.005-499.0054.

529 (2) The department may deny, suspend, or revoke any
530 registration required by the provisions of this part for the
531 violation of any provision of this part or of any rules adopted
532 under this part.

533 (3) The department may revoke or suspend a permit:

534 (a) If the permit was obtained by misrepresentation or
535 fraud or through a mistake of the department;

536 (b) If the permit was procured, or attempted to be
537 procured, for any other person by making or causing to be made
538 any false representation; or

539 (c) If the permittee has violated any provision of this
540 part or rules adopted under this part.

541 (4) If any permit issued under this part is revoked or
542 suspended, the owner, manager, operator, or proprietor of the
543 establishment shall cease to operate as the permit authorized,

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544 from the effective date of the suspension or revocation until
545 the person is again registered with the department and possesses
546 the required permit. If a permit is revoked or suspended, the
547 owner, manager, or proprietor shall remove all signs and symbols
548 that identify the operation as premises permitted as a drug
549 wholesaling establishment; drug, device, or cosmetic
550 manufacturing establishment; or retail establishment. The
551 department shall determine the length of time for which the
552 permit is to be suspended. If a permit is revoked, the person
553 that owns or operates the establishment may not apply for any
554 permit under this part for a period of 1 year after the date of
555 the revocation. A revocation of a permit may be permanent if the
556 department considers that to be in the best interest of the
557 public health.

558 (5) The department may deny, suspend, or revoke a permit
559 issued under this part which authorizes the permittee to
560 purchase prescription drugs if any owner, officer, employee, or
561 other person who participates in administering or operating the
562 establishment has been found guilty of any violation of this
563 part or chapter 465, chapter 501, or chapter 893, any rules
564 adopted under this part or those chapters, or any federal or
565 state drug law, regardless of whether the person has been
566 pardoned, had her or his civil rights restored, or had
567 adjudication withheld.

568 (6) The department shall deny, suspend, or revoke the
569 permit of any person or establishment if the assignment, sale,
570 transfer, or lease of an establishment permitted under this part

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571 will avoid an administrative penalty, civil action, or criminal
572 prosecution.

573 (7) Notwithstanding s. 120.60(5), if a permittee fails to
574 comply with s. 499.012(6), the department may revoke the permit
575 of the permittee and shall provide notice of the intended agency
576 action by posting a notice at the department's headquarters and
577 by mailing a copy of the notice of intended agency action by
578 certified mail to the most recent mailing address on record with
579 the department and, if the permittee is not a natural person, to
580 the permittee's registered agent on file with the Department of
581 State.

582 (8) The department shall deny, suspend, or revoke a permit
583 if it finds the permittee has not complied with the
584 credentialing requirements of s. 499.0121(15).

585 Section 16. Paragraph (f) is added to subsection (3) of
586 section 810.02, Florida Statutes, to read:

587 810.02 Burglary.—

588 (3) Burglary is a felony of the second degree, punishable
589 as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the
590 course of committing the offense, the offender does not make an
591 assault or battery and is not and does not become armed with a
592 dangerous weapon or explosive, and the offender enters or
593 remains in a:

594 (f) Structure or conveyance when the offense intended to
595 be committed therein is theft of a controlled substance as
596 defined in s. 893.02. Notwithstanding any other law, separate
597 judgments and sentences for burglary with the intent to commit
598 theft of a controlled substance under this paragraph and for any

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7095 (2011)

Amendment No. 1

599 applicable possession of controlled substance offense under s.
600 893.13 or trafficking in controlled substance offense under s.
601 893.135 may be imposed when all such offenses involve the same
602 amount or amounts of a controlled substance.

603
604 However, if the burglary is committed within a county that is
605 subject to a state of emergency declared by the Governor under
606 chapter 252 after the declaration of emergency is made and the
607 perpetration of the burglary is facilitated by conditions
608 arising from the emergency, the burglary is a felony of the
609 first degree, punishable as provided in s. 775.082, s. 775.083,
610 or s. 775.084. As used in this subsection, the term "conditions
611 arising from the emergency" means civil unrest, power outages,
612 curfews, voluntary or mandatory evacuations, or a reduction in
613 the presence of or response time for first responders or
614 homeland security personnel. A person arrested for committing a
615 burglary within a county that is subject to such a state of
616 emergency may not be released until the person appears before a
617 committing magistrate at a first appearance hearing. For
618 purposes of sentencing under chapter 921, a felony offense that
619 is reclassified under this subsection is ranked one level above
620 the ranking under s. 921.0022 or s. 921.0023 of the offense
621 committed.

622 Section 17. Paragraph (c) of subsection (2) of section
623 812.014, Florida Statutes, is amended to read:

624 812.014 Theft.—

625 (2)

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Bill No. HB 7095 (2011)

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626 (c) It is grand theft of the third degree and a felony of
627 the third degree, punishable as provided in s. 775.082, s.
628 775.083, or s. 775.084, if the property stolen is:

- 629 1. Valued at \$300 or more, but less than \$5,000.
- 630 2. Valued at \$5,000 or more, but less than \$10,000.
- 631 3. Valued at \$10,000 or more, but less than \$20,000.
- 632 4. A will, codicil, or other testamentary instrument.
- 633 5. A firearm.
- 634 6. A motor vehicle, except as provided in paragraph (a).
- 635 7. Any commercially farmed animal, including any animal of
636 the equine, bovine, or swine class, or other grazing animal, and
637 including aquaculture species raised at a certified aquaculture
638 facility. If the property stolen is aquaculture species raised
639 at a certified aquaculture facility, then a \$10,000 fine shall
640 be imposed.
- 641 8. Any fire extinguisher.
- 642 9. Any amount of citrus fruit consisting of 2,000 or more
643 individual pieces of fruit.
- 644 10. Taken from a designated construction site identified
645 by the posting of a sign as provided for in s. 810.09(2)(d).
- 646 11. Any stop sign.
- 647 12. Anhydrous ammonia.
- 648 13. Any amount of a controlled substance as defined in s.
649 893.02. Notwithstanding any other law, separate judgments and
650 sentences for theft of a controlled substance under this
651 subparagraph and for any applicable possession of controlled
652 substance offense under s. 893.13 or trafficking in controlled
653 substance offense under s. 893.135 may be imposed when all such

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654 | offenses involve the same amount or amounts of a controlled
655 | substance.

656 |

657 | However, if the property is stolen within a county that is
658 | subject to a state of emergency declared by the Governor under
659 | chapter 252, the property is stolen after the declaration of
660 | emergency is made, and the perpetration of the theft is
661 | facilitated by conditions arising from the emergency, the
662 | offender commits a felony of the second degree, punishable as
663 | provided in s. 775.082, s. 775.083, or s. 775.084, if the
664 | property is valued at \$5,000 or more, but less than \$10,000, as
665 | provided under subparagraph 2., or if the property is valued at
666 | \$10,000 or more, but less than \$20,000, as provided under
667 | subparagraph 3. As used in this paragraph, the term "conditions
668 | arising from the emergency" means civil unrest, power outages,
669 | curfews, voluntary or mandatory evacuations, or a reduction in
670 | the presence of or the response time for first responders or
671 | homeland security personnel. For purposes of sentencing under
672 | chapter 921, a felony offense that is reclassified under this
673 | paragraph is ranked one level above the ranking under s.
674 | 921.0022 or s. 921.0023 of the offense committed.

675 | Section 18. Subsections (4) and (5) of section 893.07,
676 | Florida Statutes, are amended to read:

677 | 893.07 Records.—

678 | (4) Every inventory or record required by this chapter,
679 | including prescription records, shall be maintained:

680 | (a) Separately from all other records of the registrant,
681 | or

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

686

687 In either case, the records described in this subsection shall
688 be kept and made available for a period of at least 2 years for
689 inspection and copying by law enforcement officers whose duty it
690 is to enforce the laws of this state relating to controlled
691 substances. Law enforcement officers are not required to obtain
692 a subpoena, court order, or search warrant in order to obtain
693 access to or copies of such records.

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

695 (a) Maintain a record which shall contain a detailed list
696 of controlled substances lost, destroyed, or stolen, if any; the
697 kind and quantity of such controlled substances; and the date of
698 the discovering of such loss, destruction, or theft.

699 (b) In the event of the discovery of the theft or loss of
700 controlled substances, report such theft or loss to the sheriff
701 of that county within 48 hours after its discovery. A person who
702 fails to report a theft or loss of a substance listed in s.
703 893.03(3), (4), or (5) within 48 hours after discovery as
704 required in this paragraph commits a misdemeanor of the second
705 degree, punishable as provided in s. 775.082 or s. 775.083. A
706 person who fails to report a theft or loss of a substance listed
707 in s. 893.03(2) within 48 hours after discovery as required in
708 this paragraph commits a misdemeanor of the first degree,
709 punishable as provided in s. 775.082 or s. 775.083.

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710 Section 19. Section 2 of chapter 2009-198, Laws of
711 Florida, is repealed.

712 Section 20.

713 (1) BUY-BACK PROGRAM.—Within 10 days after the effective
714 date of this act, each physician licensed under chapter 458,
715 chapter 459, chapter 461, or chapter 466, Florida Statutes,
716 shall ensure that undispensed controlled substance inventory
717 purchased under the physician's Drug Enforcement Administration
718 number for dispensing is:

719 (a) Returned to the wholesale distributor, as defined in
720 s. 499.003, Florida Statutes, which distributed them; or

721 (b) Turned in to local law enforcement agencies and
722 abandoned.

723

724 Wholesale distributors shall buy back undispensed controlled
725 substance inventory at the purchase price paid by the physician,
726 physician practice, clinic, or other paying entity. Each
727 wholesale distributor shall submit a report of its activities
728 under this section to the Department of Health by August 1,
729 2011. The report shall include the following information:

730 1. The name and address of the returning entity.

731 2. The Florida license, registration, or permit number and
732 Drug Enforcement Administration number of the entity that
733 originally ordered the drugs.

734 3. The drug name and number of unit doses returned.

735 4. The date of return.

736 (2) PUBLIC HEALTH EMERGENCY.—

737 (a) The Legislature finds that:

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738 1. Prescription drug overdose has been declared a public
739 health epidemic by the United States Centers for Disease Control
740 and Prevention.

741 2. Prescription drug abuse results in an average of 7
742 deaths in this state each day.

743 3. Physicians in this state purchased over 85 percent of
744 the oxycodone purchased by all practitioners in the United
745 States in 2006.

746 4. Physicians in this state purchased over 93 percent of
747 the methadone purchased by all practitioners in the United
748 States in 2006.

749 5. Some physicians in this state dispense medically
750 unjustifiable amounts of controlled substances to addicts and
751 people who intend to illegally sell the drugs.

752 6. Physicians in this state who have purchased large
753 quantities of controlled substances may have significant
754 inventory on the effective date of this act.

755 7. On the effective date of this act, the only legal
756 method for a dispensing practitioner to sell or otherwise
757 transfer controlled substances purchased for dispensing is
758 through the buy-back procedure or abandonment procedures of
759 subsection (1).

760 8. It is likely that the same physicians who purchase and
761 dispense medically unjustifiable amounts of drugs will not
762 legally dispose of remaining inventory.

763 9. The actions of such dispensing practitioners may result
764 in substantial injury to the public health.

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765 (b) Immediately on the effective date of this act, the
766 State Health Officer shall declare a public health emergency
767 pursuant to s. 381.00315, Florida Statutes. Pursuant to that
768 declaration, the Department of Health, the Attorney General, the
769 Department of Law Enforcement, and local law enforcement
770 agencies shall take the following actions:

771 1. Within 2 days after the effective date of this act, in
772 consultation with wholesale distributors as defined in s.
773 499.003, Florida Statutes, the Department of Health shall
774 identify dispensing practitioners that purchased more than an
775 average of 2,000 unit doses of controlled substances per month
776 in the previous 6 months, and shall identify the dispensing
777 practitioners in that group who pose the greatest threat to the
778 public health based on an assessment of:

- 779 a. The risk of noncompliance with subsection (1).
780 b. Purchase amounts.
781 c. Manner of medical practice.
782 d. Any other factor set by the State Health Officer.

783
784 The Attorney General shall consult and coordinate with federal
785 law enforcement agencies. The Department of Law Enforcement
786 shall coordinate the efforts of local law enforcement agencies.

787 2. On the 3rd day after the effective date of this act,
788 the Department of Law Enforcement or local law enforcement
789 agencies shall enter the business premises of the dispensing
790 practitioners identified as posing the greatest threat to public
791 health and quarantine the controlled substance inventory of such
792 dispensing practitioners on site.

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793 3. The Department of Law Enforcement or local law
794 enforcement agencies shall ensure the security of such inventory
795 24 hours a day through the 10th day after the effective date of
796 this act or until the inventory is validly transferred pursuant
797 to subsection (1), whichever is earlier.

798 4. On the 11th day after the effective date of this act,
799 any remaining controlled substance purchased for dispensing by
800 practitioners is deemed contraband under s. 893.12, Florida
801 Statutes. The Department of Law Enforcement or local law
802 enforcement agencies shall seize the inventory and comply with
803 the provisions of s. 893.12, Florida Statutes, to destroy it.

804 (c) In order to implement the provisions of this section,
805 the sum of \$3 million of nonrecurring funds from the General
806 Revenue Fund is appropriated to the Department of Law
807 Enforcement for the 2010-2011 fiscal year. The Department of Law
808 Enforcement shall expend the appropriation by reimbursing local
809 law enforcement agencies for the overtime-hour costs associated
810 with securing the quarantined controlled substance inventory as
811 provided in paragraph (b), and activities related to
812 investigation and prosecution of crimes related to prescribed
813 controlled substances. If requests for reimbursement exceed the
814 amount appropriated, the reimbursements shall be prorated by the
815 hours of overtime per requesting agency at a maximum of one law
816 enforcement officer per quarantine site.

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

818 Section 21. This act shall take effect upon becoming a
819 law.

820

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821

822

823

T I T L E A M E N D M E N T

824

Remove the entire title and insert:

825

An act relating to controlled substances; amending s. 456.037;

826

conforming provisions to changes made by the act; amending s.

827

456.42, F.S.; requiring prescriptions for controlled substances

828

to be written on a counterfeit-resistant pad produced by an

829

approved vendor, or electronically prescribed; amending s.

830

456.057, F.S., conforming provisions to changes made by the act;

831

repealing s. 458.3265, F.S., relating to regulation of pain-

832

management clinics and medical doctors; amending s. 458.327,

833

F.S.; providing that dispensing certain controlled substances in

834

violation of specified provisions is a third-degree felony;

835

deleting references to felonies for certain activities related

836

to pain-management clinics and medical doctors; amending s.

837

458.331, F.S.; deleting grounds for disciplinary actions against

838

physicians relating to pain-management clinics and advertising

839

controlled substances; repealing s. 459.0137, F.S., relating to

840

pain-management clinics and osteopathic physicians; amending s.

841

459.013, F.S., relating to penalties for violations; providing

842

that dispensing certain controlled substances in violation of

843

specified provisions is a third-degree felony; deleting

844

provisions relating to felonies for certain activities related

845

to pain-management clinics and osteopathic physicians; amending

846

s. 459.015, F.S.; deleting grounds for disciplinary actions

847

against osteopathic physicians relating to pain-management

848

clinics and advertising controlled substances; amending s.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7095 (2011)

Amendment No. 1

849 465.015, F.S.; requiring a pharmacist, pharmacy intern, or other
850 person employed by or at a pharmacy to report to the sheriff
851 within a specified period any instance in which a person
852 fraudulently obtained or attempted to fraudulently obtain a
853 controlled substance; providing criminal penalties; providing
854 requirements for reports; amending s. 465.018, F.S.; defining
855 the community pharmacies which may dispense controlled
856 substances; providing an exemption; amending s. 465.0276, F.S.;
857 prohibiting registered dispensing practitioners from dispensing
858 certain controlled substances; providing an exception; repealing
859 a 72-hour supply limit on dispensing certain controlled
860 substances to certain patients in registered pain-management
861 clinics; providing an exception for dispensing controlled
862 substances in the health care system of the Department of
863 Corrections; amending s. 499.012, F.S.; requiring wholesale
864 distributor permit applicants to submit documentation of
865 credentialing policies; amending s. 499.0121, F.S.; providing
866 reporting requirements for wholesale distributors of certain
867 controlled substances; requiring the Department of Health to
868 share the reported data; requiring the Department of Law
869 Enforcement to make investigations based on the reported data;
870 providing credentialing requirements for distribution of
871 controlled substances to certain entities by wholesale
872 distributors; limiting monthly distribution amounts of
873 controlled substances to retail pharmacies; prohibiting
874 distribution to entities with certain criminal backgrounds;
875 amending s. 499.05, F.S.; authorizing rulemaking concerning
876 specified controlled substance wholesale distributor reporting

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7095 (2011)

Amendment No. 1

877 requirements and credentialing requirements; amending s.
878 499.067, F.S.; requiring the Department of Health to take
879 disciplinary action against wholesale distributors under certain
880 conditions; amending s. 810.02, F.S.; authorizing separate
881 judgments and sentences for burglary with the intent to commit
882 theft of a controlled substance under specified provisions and
883 for any applicable possession of controlled substance offense
884 under specified provisions in certain circumstances; amending s.
885 812.014, F.S.; authorizing separate judgments and sentences for
886 theft of a controlled substance under specified provisions and
887 for any applicable possession of controlled substance offense
888 under specified provisions in certain circumstances; amending s.
889 893.07, F.S.; providing that law enforcement officers are not
890 required to obtain a subpoena, court order, or search warrant in
891 order to obtain access to or copies of specified controlled
892 substance inventory records; requiring reporting discovery of
893 the theft or loss of controlled substances to the sheriff within
894 a specified period; providing criminal penalties; repealing s. 2
895 of chapter 2009-198, Laws of Florida, relating to Program
896 Implementation and Oversight Task Force in the Executive Office
897 of the Governor concerning the electronic system established for
898 the prescription drug monitoring program; providing a buyback
899 program for undispensed controlled substance inventory held by
900 specified licensed physicians; requiring reports of program;
901 providing for a declaration of a public health emergency;
902 requiring certain actions relating to dispensing practitioners
903 identified as posing the greatest threat to public health;

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7095 (2011)

Amendment No. 1

904 providing an appropriation; providing for future repeal of
905 program provisions; providing an effective date.

COMMITTEE MEETING REPORT

Judiciary Committee

3/30/2011 8:00:00AM

Location: 404 HOB

HB 7119 : District Courts of Appeal

Not Considered

Committee meeting was reported out: Wednesday, March 30, 2011 10:50:52AM

COMMITTEE MEETING REPORT

Judiciary Committee

3/30/2011 8:00:00AM

Location: 404 HOB

HB 7121 : Offers of Settlement

Not Considered

Committee meeting was reported out: Wednesday, March 30, 2011 10:50:52AM

COMMITTEE MEETING REPORT

Judiciary Committee

3/30/2011 8:00:00AM

Location: 404 HOB

HB 7131 : Seat Requirements

Not Considered

Committee meeting was reported out: Wednesday, March 30, 2011 10:50:52AM

COMMITTEE MEETING REPORT

Judiciary Committee

3/30/2011 8:00:00AM

Location: 404 HOB

HB 7133 : Failure to Assist Officers at Polls

Not Considered

Committee meeting was reported out: Wednesday, March 30, 2011 10:50:52AM

COMMITTEE MEETING REPORT

Judiciary Committee

3/30/2011 8:00:00AM

Location: 404 HOB

HB 7137 : County-operated Boot Camp Programs

Not Considered

Committee meeting was reported out: Wednesday, March 30, 2011 10:50:52AM

COMMITTEE MEETING REPORT

Judiciary Committee

3/30/2011 8:00:00AM

Location: 404 HOB

HB 7141 : Adulterated Syrup

Not Considered

Committee meeting was reported out: Wednesday, March 30, 2011 10:50:52AM

COMMITTEE MEETING REPORT

Judiciary Committee

3/30/2011 8:00:00AM

Location: 404 HOB

HB 7143 : Public Health

Not Considered

Committee meeting was reported out: Wednesday, March 30, 2011 10:50:52AM