

CHAPTER 2016-145

House Bill No. 1241

An act relating to the ordering of medication; amending s. 381.887, F.S.; providing that a pharmacist may dispense an emergency opioid antagonist pursuant to a non-patient-specific standing order for an autoinjection delivery system or intranasal application delivery system; amending ss. 458.347 and 459.022, F.S.; revising the authority of a licensed physician assistant to order medication under the direction of a supervisory physician for a specified patient; amending s. 464.012, F.S.; authorizing an advanced registered nurse practitioner to order medication for administration to a specified patient; providing a short title; amending s. 465.003, F.S.; revising the term “prescription” to exclude an order for drugs or medicinal supplies dispensed for administration; amending s. 893.02, F.S.; revising the term “administer” to include the term “administration”; revising the definition of the term “prescription”; amending s. 893.04, F.S.; conforming provisions to changes made by the act; amending s. 893.05, F.S.; authorizing a licensed practitioner to authorize a licensed physician assistant or advanced registered nurse practitioner to order controlled substances for a specified patient under certain circumstances; reenacting ss. 400.462(26) and 409.906(18), F.S., relating to the definition of the term “physician assistant” for purposes of the Home Health Services Act and physician assistant services under the Medicaid program, respectively, to incorporate the amendments made by the act to ss. 458.347 and 459.022, F.S., in references thereto; reenacting ss. 401.445(1) and 766.103(3), F.S., relating to emergency examination and treatment of incapacitated persons and the Florida Medical Consent Law, respectively, to incorporate the amendments made by the act to ss. 458.347, 459.022, and 464.012, F.S., in references thereto; reenacting ss. 409.9201(1)(a), 465.014(1), 465.1901, 499.003(43), and 831.30(1), F.S., relating to the definition of “prescription drug” for purposes of Medicaid fraud, the supervision of registered pharmacy technicians, applicability of provisions regulating the practice of orthotics or pedorthics to pharmacists, the definition of the term “prescription drug” for purposes of the Florida Drug and Cosmetic Act, and criminal penalties related to the fraudulent obtaining of medicinal drugs, respectively, to incorporate the amendment made by the act to s. 465.003, F.S., in references thereto; reenacting ss. 458.331(1)(pp), 459.015(1)(rr), 465.015(2)(c) and (3), 465.016(1)(s), 465.022(5)(j), and 465.023(1)(h), F.S., relating to grounds for disciplinary action by the Board of Medicine or the Board of Osteopathic Medicine, unlawful acts and penalties related to the practice of pharmacy, grounds for denial of a pharmacy permit or disciplinary action against a pharmacy permittee, respectively, to incorporate the amendments made by the act to ss. 465.003 and 893.02, F.S., in references thereto; reenacting ss. 112.0455(5)(i), 381.986(7)(b), 440.102(1)(l), 499.0121(14), 768.36(1)(b), 810.02(3)(f), 812.014(2)(c), 856.015(1)(c), 944.47(1)(a), 951.22(1), 985.711(1)(a), 1003.57(1)(i), and 1006.09(8), F.S., relating to the Drug-

Free Workplace Act, the compassionate use of low-THC cannabis, drug-free workplace program requirements, reporting of prescription drug distribution, the definition of the term “drug” for purposes of defenses from civil actions related to alcohol or drugs, burglary offenses, penalties for grand theft, the definition of the term “drug” for purposes of offenses related to open house parties, unlawful introduction of certain articles into correctional institutions, county detention facilities, or juvenile detention facilities, the definition of the term “controlled substance” for purposes of exceptional student instruction, and duties of school principals related to student discipline, respectively, to incorporate the amendment made by the act to s. 893.02, F.S., in references thereto; reenacting s. 893.0551(3)(d) and (e), F.S., relating to disclosure by the Department of Health of confidential information in prescription drug monitoring program records, to incorporate the amendments made by the act to ss. 893.04 and 893.05, F.S., in references thereto; providing an effective date.

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

Section 1. Subsection (3) of section 381.887, Florida Statutes, is amended to read:

381.887 Emergency treatment for suspected opioid overdose.—

(3) An authorized health care practitioner may prescribe and dispense an emergency opioid antagonist to a patient or caregiver for use in accordance with this section, and pharmacists may dispense an emergency opioid antagonist pursuant to such a prescription or pursuant to a non-patient-specific standing order for an autoinjection delivery system or intranasal application delivery system, which must be issued in the name of the patient or caregiver, which is appropriately labeled with instructions for use. Such patient or caregiver is authorized to store and possess approved emergency opioid antagonists and, in an emergency situation when a physician is not immediately available, administer the emergency opioid antagonist to a person believed in good faith to be experiencing an opioid overdose, regardless of whether that person has a prescription for an emergency opioid antagonist.

Section 2. Paragraph (g) of subsection (4) of section 458.347, Florida Statutes, is amended to read:

458.347 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(g) A supervisory physician may delegate to a licensed physician assistant the authority to, and the licensed physician assistant acting under the direction of the supervisory physician may, order any medication medications for administration to the supervisory physician’s patient during his or her care in a facility licensed under chapter 395 or part II of chapter 400, notwithstanding any provisions in chapter 465 or chapter 893 which

may prohibit this delegation. ~~For the purpose of this paragraph, an order is not considered a prescription. A licensed physician assistant working in a facility that is licensed under chapter 395 may order any medication under the direction of the supervisory physician.~~

Section 3. Paragraph (f) of subsection (4) of section 459.022, Florida Statutes, is amended to read:

459.022 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(f) A supervisory physician may delegate to a licensed physician assistant the authority to, and the licensed physician assistant acting under the direction of the supervisory physician may, order any medication medications for administration to the supervisory physician’s patient during his or her care in a facility licensed under chapter 395 or part II of chapter 400, notwithstanding any provisions in chapter 465 or chapter 893 which may prohibit this delegation. ~~For the purpose of this paragraph, an order is not considered a prescription. A licensed physician assistant working in a facility that is licensed under chapter 395 may order any medication under the direction of the supervisory physician.~~

Section 4. Paragraph (e) is added to subsection (3) of section 464.012, Florida Statutes, and subsection (6) is added to that section to read:

464.012 Certification of advanced registered nurse practitioners; fees.

(3) An advanced registered nurse practitioner shall perform those functions authorized in this section within the framework of an established protocol that is filed with the board upon biennial license renewal and within 30 days after entering into a supervisory relationship with a physician or changes to the protocol. The board shall review the protocol to ensure compliance with applicable regulatory standards for protocols. The board shall refer to the department licensees submitting protocols that are not compliant with the regulatory standards for protocols. A practitioner currently licensed under chapter 458, chapter 459, or chapter 466 shall maintain supervision for directing the specific course of medical treatment. Within the established framework, an advanced registered nurse practitioner may:

(e) Order any medication for administration to a patient in a facility licensed under chapter 395 or part II of chapter 400, notwithstanding any provisions in chapter 465 or chapter 893.

(6) This section shall be known as “The Barbara Lumpkin Prescribing Act.”

Section 5. Subsections (1) and (22) of section 893.02, Florida Statutes, are amended to read:

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

(1) “Administer” or “administration” means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a person or animal.

(22) “Prescription” ~~means and includes~~ any ~~an~~ order for drugs or medicinal supplies ~~which is~~ written, ~~signed,~~ or transmitted by any ~~word~~ of mouth, telephone, telegram, or other means of communication by a duly licensed practitioner authorized ~~licensed~~ by the laws of this ~~the~~ state to prescribe such drugs or medicinal supplies, is issued in good faith and in the course of professional practice, is intended to be filled, ~~compounded,~~ or dispensed by a ~~another~~ person authorized ~~licensed~~ by the laws of this ~~the~~ state to do so, and meets ~~meeting~~ the requirements of s. 893.04.

(a) The term also includes an order for drugs or medicinal supplies ~~so~~ transmitted or written by a physician, dentist, veterinarian, or other practitioner licensed to practice in a state other than Florida, but only if the pharmacist called upon to fill such an order determines, in the exercise of his or her professional judgment, that the order was issued pursuant to a valid patient-physician relationship, that it is authentic, and that the drugs or medicinal supplies ~~so~~ ordered are considered necessary for the continuation of treatment of a chronic or recurrent illness.

(b) ~~However,~~ If the physician writing the prescription is not known to the pharmacist, the pharmacist shall obtain proof to a reasonable certainty of the validity of the ~~said~~ prescription.

(c) A prescription ~~order~~ for a controlled substance may ~~shall~~ not be issued on the same prescription blank with another prescription ~~order~~ for a controlled substance that ~~which~~ is named or described in a different schedule or with another, ~~nor shall any prescription order for a controlled substance be issued on the same prescription blank as a prescription order for a medicinal drug, as defined in s. 465.003(8), that is which does not fall within the definition of a controlled substance as defined in this act.~~

Section 6. Paragraphs (a), (d), and (f) of subsection (2) of section 893.04, Florida Statutes, are amended to read:

893.04 Pharmacist and practitioner.—

(2)(a) A pharmacist may not dispense a controlled substance listed in Schedule II, Schedule III, or Schedule IV to any patient or patient’s agent without first determining, in the exercise of her or his professional judgment, that the prescription ~~order~~ is valid. The pharmacist may dispense the controlled substance, in the exercise of her or his professional judgment, when the pharmacist or pharmacist’s agent has obtained satisfactory patient information from the patient or the patient’s agent.

(d) Each ~~written~~ written prescription ~~written~~ prescribed by a practitioner in this state for a controlled substance listed in Schedule II, Schedule III, or Schedule IV must include ~~both~~ a written and a numerical notation of the quantity of the controlled substance prescribed and a notation of the date in numerical, month/day/year format, or with the abbreviated month written out, or the month written out in whole. A pharmacist may, upon verification by the prescriber, document any information required by this paragraph. If the prescriber is not available to verify a prescription, the pharmacist may dispense the controlled substance, but may insist that the person to whom the controlled substance is dispensed provide valid photographic identification. If a prescription includes a numerical notation of the quantity of the controlled substance or date, but does not include the quantity or date written out in textual format, the pharmacist may dispense the controlled substance without verification by the prescriber of the quantity or date if the pharmacy previously dispensed another prescription for the person to whom the prescription was written.

(f) A pharmacist may not knowingly dispense ~~fill~~ a prescription that has been forged for a controlled substance listed in Schedule II, Schedule III, or Schedule IV.

Section 7. Subsection (1) of section 893.05, Florida Statutes, is amended to read:

893.05 Practitioners and persons administering controlled substances in their absence.—

(1)(a) A practitioner, in good faith and in the course of his or her professional practice only, may prescribe, administer, dispense, mix, or otherwise prepare a controlled substance, or the practitioner may cause the controlled substance ~~same~~ to be administered by a licensed nurse or an intern practitioner under his or her direction and supervision only.

(b) Pursuant to s. 458.347(4)(g), s. 459.022(4)(f), or s. 464.012(3), as applicable, a practitioner who supervises a licensed physician assistant or advanced registered nurse practitioner may authorize the licensed physician assistant or advanced registered nurse practitioner to order controlled substances for administration to a patient in a facility licensed under chapter 395 or part II of chapter 400.

(c) A veterinarian may ~~so~~ prescribe, administer, dispense, mix, or prepare a controlled substance for use on animals only, and may cause the controlled substance ~~it~~ to be administered by an assistant or orderly under the veterinarian's direction and supervision only.

(d) A certified optometrist licensed under chapter 463 may not administer or prescribe a controlled substance listed in Schedule I or Schedule II of s. 893.03.

Section 8. For the purpose of incorporating the amendments made by this act to sections 458.347 and 459.022, Florida Statutes, in references thereto, subsection (26) of section 400.462, Florida Statutes, is reenacted to read:

400.462 Definitions.—As used in this part, the term:

(26) “Physician assistant” means a person who is a graduate of an approved program or its equivalent, or meets standards approved by the boards, and is licensed to perform medical services delegated by the supervising physician, as defined in s. 458.347 or s. 459.022.

Section 9. For the purpose of incorporating the amendments made by this act to sections 458.347 and 459.022, Florida Statutes, in references thereto, subsection (18) of section 409.906, Florida Statutes, is reenacted to read:

409.906 Optional Medicaid services.—Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. Optional services rendered by providers in mobile units to Medicaid recipients may be restricted or prohibited by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. If necessary to safeguard the state’s systems of providing services to elderly and disabled persons and subject to the notice and review provisions of s. 216.177, the Governor may direct the Agency for Health Care Administration to amend the Medicaid state plan to delete the optional Medicaid service known as “Intermediate Care Facilities for the Developmentally Disabled.” Optional services may include:

(18) PHYSICIAN ASSISTANT SERVICES.—The agency may pay for all services provided to a recipient by a physician assistant licensed under s. 458.347 or s. 459.022. Reimbursement for such services must be not less than 80 percent of the reimbursement that would be paid to a physician who provided the same services.

Section 10. For the purpose of incorporating the amendments made by this act to sections 458.347, 459.022, and 464.012, Florida Statutes, in references thereto, subsection (1) of section 401.445, Florida Statutes, is reenacted to read:

401.445 Emergency examination and treatment of incapacitated persons.—

(1) No recovery shall be allowed in any court in this state against any emergency medical technician, paramedic, or physician as defined in this chapter, any advanced registered nurse practitioner certified under s. 464.012, or any physician assistant licensed under s. 458.347 or s. 459.022, or any person acting under the direct medical supervision of a physician, in an action brought for examining or treating a patient without his or her informed consent if:

(a) The patient at the time of examination or treatment is intoxicated, under the influence of drugs, or otherwise incapable of providing informed consent as provided in s. 766.103;

(b) The patient at the time of examination or treatment is experiencing an emergency medical condition; and

(c) The patient would reasonably, under all the surrounding circumstances, undergo such examination, treatment, or procedure if he or she were advised by the emergency medical technician, paramedic, physician, advanced registered nurse practitioner, or physician assistant in accordance with s. 766.103(3).

Examination and treatment provided under this subsection shall be limited to reasonable examination of the patient to determine the medical condition of the patient and treatment reasonably necessary to alleviate the emergency medical condition or to stabilize the patient.

Section 11. For the purpose of incorporating the amendments made by this act to sections 458.347, 459.022, and 464.012, Florida Statutes, in references thereto, subsection (3) of section 766.103, Florida Statutes, is reenacted to read:

766.103 Florida Medical Consent Law.—

(3) No recovery shall be allowed in any court in this state against any physician licensed under chapter 458, osteopathic physician licensed under chapter 459, chiropractic physician licensed under chapter 460, podiatric physician licensed under chapter 461, dentist licensed under chapter 466, advanced registered nurse practitioner certified under s. 464.012, or physician assistant licensed under s. 458.347 or s. 459.022 in an action brought for treating, examining, or operating on a patient without his or her informed consent when:

(a)1. The action of the physician, osteopathic physician, chiropractic physician, podiatric physician, dentist, advanced registered nurse practitioner, or physician assistant in obtaining the consent of the patient or another person authorized to give consent for the patient was in accordance with an accepted standard of medical practice among members of the medical profession with similar training and experience in the same or similar medical community as that of the person treating, examining, or operating on the patient for whom the consent is obtained; and

2. A reasonable individual, from the information provided by the physician, osteopathic physician, chiropractic physician, podiatric physician, dentist, advanced registered nurse practitioner, or physician assistant, under the circumstances, would have a general understanding of the procedure, the medically acceptable alternative procedures or treatments, and the substantial risks and hazards inherent in the proposed treatment or procedures, which are recognized among other physicians, osteopathic physicians, chiropractic physicians, podiatric physicians, or dentists in the same or similar community who perform similar treatments or procedures; or

(b) The patient would reasonably, under all the surrounding circumstances, have undergone such treatment or procedure had he or she been advised by the physician, osteopathic physician, chiropractic physician, podiatric physician, dentist, advanced registered nurse practitioner, or physician assistant in accordance with the provisions of paragraph (a).

Section 12. For the purpose of incorporating the amendment made by this act to section 465.003, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 409.9201, Florida Statutes, is reenacted to read:

409.9201 Medicaid fraud.—

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

(a) “Prescription drug” means any drug, including, but not limited to, finished dosage forms or active ingredients that are subject to, defined in, or described in s. 503(b) of the Federal Food, Drug, and Cosmetic Act or in s. 465.003(8), s. 499.003(52), s. 499.007(13), or s. 499.82(10).

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

Section 13. For the purpose of incorporating the amendment made by this act to section 465.003, Florida Statutes, in a reference thereto, subsection (1) of section 465.014, Florida Statutes, is reenacted to read:

465.014 Pharmacy technician.—

(1) A person other than a licensed pharmacist or pharmacy intern may not engage in the practice of the profession of pharmacy, except that a licensed pharmacist may delegate to pharmacy technicians who are registered pursuant to this section those duties, tasks, and functions that do not fall within the purview of s. 465.003(13). All such delegated acts must be performed under the direct supervision of a licensed pharmacist who is responsible for all such acts performed by persons under his or her supervision. A registered pharmacy technician, under the supervision of a pharmacist, may initiate or receive communications with a practitioner or

his or her agent, on behalf of a patient, regarding refill authorization requests. A licensed pharmacist may not supervise more than one registered pharmacy technician unless otherwise permitted by the guidelines adopted by the board. The board shall establish guidelines to be followed by licensees or permittees in determining the circumstances under which a licensed pharmacist may supervise more than one pharmacy technician.

Section 14. For the purpose of incorporating the amendment made by this act to section 465.003, Florida Statutes, in a reference thereto, section 465.1901, Florida Statutes, is reenacted to read:

465.1901 Practice of orthotics and pedorthics.—The provisions of chapter 468 relating to orthotics or pedorthics do not apply to any licensed pharmacist or to any person acting under the supervision of a licensed pharmacist. The practice of orthotics or pedorthics by a pharmacist or any of the pharmacist's employees acting under the supervision of a pharmacist shall be construed to be within the meaning of the term "practice of the profession of pharmacy" as set forth in s. 465.003(13), and shall be subject to regulation in the same manner as any other pharmacy practice. The Board of Pharmacy shall develop rules regarding the practice of orthotics and pedorthics by a pharmacist. Any pharmacist or person under the supervision of a pharmacist engaged in the practice of orthotics or pedorthics is not precluded from continuing that practice pending adoption of these rules.

Section 15. For the purpose of incorporating the amendment made by this act to section 465.003, Florida Statutes, in a reference thereto, subsection (43) of section 499.003, Florida Statutes, is reenacted to read:

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

(43) "Prescription drug" means a prescription, medicinal, or legend drug, including, but not limited to, finished dosage forms or active pharmaceutical ingredients subject to, defined by, or described by s. 503(b) of the federal act or s. 465.003(8), s. 499.007(13), subsection (32), or subsection (52), except that an active pharmaceutical ingredient is a prescription drug only if substantially all finished dosage forms in which it may be lawfully dispensed or administered in this state are also prescription drugs.

Section 16. For the purpose of incorporating the amendment made by this act to section 465.003, Florida Statutes, in a reference thereto, subsection (1) of section 831.30, Florida Statutes, is reenacted to read:

831.30 Medicinal drugs; fraud in obtaining.—Whoever:

(1) Falsely makes, alters, or forges any prescription, as defined in s. 465.003, for a medicinal drug other than a drug controlled by chapter 893;

with intent to obtain such drug commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A second or

subsequent conviction constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 17. For the purpose of incorporating the amendments made by this act to sections 465.003 and 893.02, Florida Statutes, in references thereto, paragraph (pp) of subsection (1) of section 458.331, Florida Statutes, is reenacted to read:

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

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

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

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

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

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

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

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

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

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

8. Dispensing any medicinal drug based upon a communication that purports to be a prescription as defined in s. 465.003(14) or s. 893.02 if the

dispensing practitioner knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship; or

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

Section 18. For the purpose of incorporating the amendments made by this act to sections 465.003 and 893.02, Florida Statutes, in references thereto, paragraph (rr) of subsection (1) of section 459.015, Florida Statutes, is reenacted to read:

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

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

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

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

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

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

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

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

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

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

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

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

Section 19. For the purpose of incorporating the amendments made by this act to sections 465.003 and 893.02, Florida Statutes, in references thereto, paragraph (c) of subsection (2) and subsection (3) of section 465.015, Florida Statutes, are reenacted to read:

465.015 Violations and penalties.—

(2) It is unlawful for any person:

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

(3) It is unlawful for any pharmacist to knowingly fail to report to the sheriff or other chief law enforcement agency of the county where the pharmacy is located within 24 hours after learning of any instance in which a person obtained or attempted to obtain a controlled substance, as defined in s. 893.02, or at the close of business on the next business day, whichever is later, that the pharmacist knew or believed was obtained or attempted to be obtained through fraudulent methods or representations from the pharmacy at which the pharmacist practiced pharmacy. Any pharmacist who knowingly fails to make such a report within 24 hours after learning of the fraud or attempted fraud or at the close of business on the next business day, whichever is later, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A sufficient report of the fraudulent obtaining of controlled substances under this subsection must contain, at a minimum, a copy of the prescription used or presented and a narrative, including all information available to the pharmacist concerning the transaction, such as the name and telephone number of the prescribing physician; the name, description, and any personal identification information pertaining to the person who presented the prescription; and all other material information, such as photographic or video surveillance of the transaction.

Section 20. For the purpose of incorporating the amendments made by this act to sections 465.003 and 893.02, Florida Statutes, in references thereto, paragraph (s) of subsection (1) of section 465.016, Florida Statutes, is reenacted to read:

465.016 Disciplinary actions.—

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

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

Section 21. For the purpose of incorporating the amendments made by this act to sections 465.003 and 893.02, Florida Statutes, in references thereto, paragraph (j) of subsection (5) of section 465.022, Florida Statutes, is reenacted to read:

465.022 Pharmacies; general requirements; fees.—

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

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

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

Section 22. For the purpose of incorporating the amendments made by this act to sections 465.003 and 893.02, Florida Statutes, in references thereto, paragraph (h) of subsection (1) of section 465.023, Florida Statutes, is reenacted to read:

465.023 Pharmacy permittee; disciplinary action.—

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

(h) Dispensed any medicinal drug based upon a communication that purports to be a prescription as defined by s. 465.003(14) or s. 893.02 when the pharmacist knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship that includes a documented patient evaluation, including history and a

physical examination adequate to establish the diagnosis for which any drug is prescribed and any other requirement established by board rule under chapter 458, chapter 459, chapter 461, chapter 463, chapter 464, or chapter 466.

Section 23. For the purpose of incorporating the amendment made by this act to section 893.02, Florida Statutes, in a reference thereto, paragraph (i) of subsection (5) of section 112.0455, Florida Statutes, is reenacted to read:

112.0455 Drug-Free Workplace Act.—

(5) DEFINITIONS.—Except where the context otherwise requires, as used in this act:

(i) “Prescription or nonprescription medication” means a drug or medication obtained pursuant to a prescription as defined by s. 893.02 or a medication that is authorized pursuant to federal or state law for general distribution and use without a prescription in the treatment of human diseases, ailments, or injuries.

Section 24. For the purpose of incorporating the amendment made by this act to section 893.02, Florida Statutes, in a reference thereto, paragraph (b) of subsection (7) of section 381.986, Florida Statutes, is reenacted to read:

381.986 Compassionate use of low-THC cannabis.—

(7) EXCEPTIONS TO OTHER LAWS.—

(b) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or any other provision of law, but subject to the requirements of this section, an approved dispensing organization and its owners, managers, and employees may manufacture, possess, sell, deliver, distribute, dispense, and lawfully dispose of reasonable quantities, as established by department rule, of low-THC cannabis. For purposes of this subsection, the terms “manufacture,” “possession,” “deliver,” “distribute,” and “dispense” have the same meanings as provided in s. 893.02.

Section 25. For the purpose of incorporating the amendment made by this act to section 893.02, Florida Statutes, in a reference thereto, paragraph (1) of subsection (1) of section 440.102, Florida Statutes, is reenacted to read:

440.102 Drug-free workplace program requirements.—The following provisions apply to a drug-free workplace program implemented pursuant to law or to rules adopted by the Agency for Health Care Administration:

(1) DEFINITIONS.—Except where the context otherwise requires, as used in this act:

(1) “Prescription or nonprescription medication” means a drug or medication obtained pursuant to a prescription as defined by s. 893.02 or

a medication that is authorized pursuant to federal or state law for general distribution and use without a prescription in the treatment of human diseases, ailments, or injuries.

Section 26. For the purpose of incorporating the amendment made by this act to section 893.02, Florida Statutes, in a reference thereto, subsection (14) of section 499.0121, Florida Statutes, is reenacted to read:

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

(14) DISTRIBUTION REPORTING.—Each prescription drug wholesale distributor, out-of-state prescription drug wholesale distributor, retail pharmacy drug wholesale distributor, manufacturer, or repackager that engages in the wholesale distribution of controlled substances as defined in s. 893.02 shall submit a report to the department of its receipts and distributions of controlled substances listed in Schedule II, Schedule III, Schedule IV, or Schedule V as provided in s. 893.03. Wholesale distributor facilities located within this state shall report all transactions involving controlled substances, and wholesale distributor facilities located outside this state shall report all distributions to entities located in this state. If the prescription drug wholesale distributor, out-of-state prescription drug wholesale distributor, retail pharmacy drug wholesale distributor, manufacturer, or repackager does not have any controlled substance distributions for the month, a report shall be sent indicating that no distributions occurred in the period. The report shall be submitted monthly by the 20th of the next month, in the electronic format used for controlled substance reporting to the Automation of Reports and Consolidated Orders System division of the federal Drug Enforcement Administration. Submission of electronic data must be made in a secured Internet environment that allows for manual or automated transmission. Upon successful transmission, an acknowledgment page must be displayed to confirm receipt. The report must contain the following information:

- (a) The federal Drug Enforcement Administration registration number of the wholesale distributing location.
- (b) The federal Drug Enforcement Administration registration number of the entity to which the drugs are distributed or from which the drugs are received.
- (c) The transaction code that indicates the type of transaction.
- (d) The National Drug Code identifier of the product and the quantity distributed or received.

(e) The Drug Enforcement Administration Form 222 number or Controlled Substance Ordering System Identifier on all Schedule II transactions.

(f) The date of the transaction.

The department must share the reported data with the Department of Law Enforcement and local law enforcement agencies upon request and must monitor purchasing to identify purchasing levels that are inconsistent with the purchasing entity's clinical needs. The Department of Law Enforcement shall investigate purchases at levels that are inconsistent with the purchasing entity's clinical needs to determine whether violations of chapter 893 have occurred.

Section 27. For the purpose of incorporating the amendment made by this act to section 893.02, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 768.36, Florida Statutes, is reenacted to read:

768.36 Alcohol or drug defense.—

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

(b) "Drug" means any chemical substance set forth in s. 877.111 or any substance controlled under chapter 893. The term does not include any drug or medication obtained pursuant to a prescription as defined in s. 893.02 which was taken in accordance with the prescription, or any medication that is authorized under state or federal law for general distribution and use without a prescription in treating human diseases, ailments, or injuries and that was taken in the recommended dosage.

Section 28. For the purpose of incorporating the amendment made by this act to section 893.02, Florida Statutes, in a reference thereto, paragraph (f) of subsection (3) of section 810.02, Florida Statutes, is reenacted to read:

810.02 Burglary.—

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

(f) Structure or conveyance when the offense intended to be committed therein is theft of a controlled substance as defined in s. 893.02. Notwithstanding any other law, separate judgments and sentences for burglary with the intent to commit theft of a controlled substance under this paragraph and for any applicable possession of controlled substance offense under s. 893.13 or trafficking in controlled substance offense under s. 893.135 may be imposed when all such offenses involve the same amount or amounts of a controlled substance.

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

Section 29. For the purpose of incorporating the amendment made by this act to section 893.02, Florida Statutes, in a reference thereto, paragraph (c) of subsection (2) of section 812.014, Florida Statutes, is reenacted to read:

812.014 Theft.—

(2)

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

1. Valued at \$300 or more, but less than \$5,000.
2. Valued at \$5,000 or more, but less than \$10,000.
3. Valued at \$10,000 or more, but less than \$20,000.
4. A will, codicil, or other testamentary instrument.
5. A firearm.
6. A motor vehicle, except as provided in paragraph (a).

7. Any commercially farmed animal, including any animal of the equine, bovine, or swine class or other grazing animal; a bee colony of a registered beekeeper; and aquaculture species raised at a certified aquaculture facility. If the property stolen is aquaculture species raised at a certified aquaculture facility, then a \$10,000 fine shall be imposed.

8. Any fire extinguisher.

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

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

11. Any stop sign.

12. Anhydrous ammonia.

13. Any amount of a controlled substance as defined in s. 893.02. Notwithstanding any other law, separate judgments and sentences for theft of a controlled substance under this subparagraph and for any applicable possession of controlled substance offense under s. 893.13 or trafficking in controlled substance offense under s. 893.135 may be imposed when all such offenses involve the same amount or amounts of a controlled substance.

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

Section 30. For the purpose of incorporating the amendment made by this act to section 893.02, Florida Statutes, in a reference thereto, paragraph (c) of subsection (1) of section 856.015, Florida Statutes, is reenacted to read:

856.015 Open house parties.—

(1) Definitions.—As used in this section:

(c) “Drug” means a controlled substance, as that term is defined in ss. 893.02(4) and 893.03.

Section 31. For the purpose of incorporating the amendment made by this act to section 893.02, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 944.47, Florida Statutes, is reenacted to read:

944.47 Introduction, removal, or possession of certain articles unlawful; penalty.—

(1)(a) Except through regular channels as authorized by the officer in charge of the correctional institution, it is unlawful to introduce into or upon the grounds of any state correctional institution, or to take or attempt to take

or send or attempt to send therefrom, any of the following articles which are hereby declared to be contraband for the purposes of this section, to wit:

1. Any written or recorded communication or any currency or coin given or transmitted, or intended to be given or transmitted, to any inmate of any state correctional institution.
2. Any article of food or clothing given or transmitted, or intended to be given or transmitted, to any inmate of any state correctional institution.
3. Any intoxicating beverage or beverage which causes or may cause an intoxicating effect.
4. Any controlled substance as defined in s. 893.02(4) or any prescription or nonprescription drug having a hypnotic, stimulating, or depressing effect.
5. Any firearm or weapon of any kind or any explosive substance.
6. Any cellular telephone or other portable communication device intentionally and unlawfully introduced inside the secure perimeter of any state correctional institution without prior authorization or consent from the officer in charge of such correctional institution. As used in this subparagraph, the term "portable communication device" means any device carried, worn, or stored which is designed or intended to receive or transmit verbal or written messages, access or store data, or connect electronically to the Internet or any other electronic device and which allows communications in any form. Such devices include, but are not limited to, portable two-way pagers, hand-held radios, cellular telephones, Blackberry-type devices, personal digital assistants or PDA's, laptop computers, or any components of these devices which are intended to be used to assemble such devices. The term also includes any new technology that is developed for similar purposes. Excluded from this definition is any device having communication capabilities which has been approved or issued by the department for investigative or institutional security purposes or for conducting other state business.

Section 32. For the purpose of incorporating the amendment made by this act to section 893.02, Florida Statutes, in a reference thereto, subsection (1) of section 951.22, Florida Statutes, is reenacted to read:

951.22 County detention facilities; contraband articles.—

(1) It is unlawful, except through regular channels as duly authorized by the sheriff or officer in charge, to introduce into or possess upon the grounds of any county detention facility as defined in s. 951.23 or to give to or receive from any inmate of any such facility wherever said inmate is located at the time or to take or to attempt to take or send therefrom any of the following articles which are hereby declared to be contraband for the purposes of this act, to wit: Any written or recorded communication; any currency or coin; any article of food or clothing; any tobacco products as defined in s. 210.25(11); any cigarette as defined in s. 210.01(1); any cigar; any

intoxicating beverage or beverage which causes or may cause an intoxicating effect; any narcotic, hypnotic, or excitative drug or drug of any kind or nature, including nasal inhalators, sleeping pills, barbiturates, and controlled substances as defined in s. 893.02(4); any firearm or any instrumentality customarily used or which is intended to be used as a dangerous weapon; and any instrumentality of any nature that may be or is intended to be used as an aid in effecting or attempting to effect an escape from a county facility.

Section 33. For the purpose of incorporating the amendment made by this act to section 893.02, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 985.711, Florida Statutes, is reenacted to read:

985.711 Introduction, removal, or possession of certain articles unlawful; penalty.—

(1)(a) Except as authorized through program policy or operating procedure or as authorized by the facility superintendent, program director, or manager, a person may not introduce into or upon the grounds of a juvenile detention facility or commitment program, or take or send, or attempt to take or send, from a juvenile detention facility or commitment program, any of the following articles, which are declared to be contraband under this section:

1. Any unauthorized article of food or clothing.
2. Any intoxicating beverage or any beverage that causes or may cause an intoxicating effect.
3. Any controlled substance, as defined in s. 893.02(4), or any prescription or nonprescription drug that has a hypnotic, stimulating, or depressing effect.
4. Any firearm or weapon of any kind or any explosive substance.

Section 34. For the purpose of incorporating the amendment made by this act to section 893.02, Florida Statutes, in a reference thereto, paragraph (i) of subsection (1) of section 1003.57, Florida Statutes, is reenacted to read:

1003.57 Exceptional students instruction.—

(1)

(i) For purposes of paragraph (h), the term:

1. “Controlled substance” means a drug or other substance identified under Schedule I, Schedule II, Schedule III, Schedule IV, or Schedule V of the Controlled Substances Act, 21 U.S.C. s. 812(c) and s. 893.02(4).

2. “Weapon” means a device, instrument, material, or substance, animate or inanimate, which is used for, or is readily capable of, causing

death or serious bodily injury; however, this definition does not include a pocketknife having a blade that is less than 2½ inches in length.

Section 35. For the purpose of incorporating the amendment made by this act to section 893.02, Florida Statutes, in a reference thereto, subsection (8) of section 1006.09, Florida Statutes, is reenacted to read:

1006.09 Duties of school principal relating to student discipline and school safety.—

(8) The school principal shall require all school personnel to report to the principal or principal’s designee any suspected unlawful use, possession, or sale by a student of any controlled substance, as defined in s. 893.02; any counterfeit controlled substance, as defined in s. 831.31; any alcoholic beverage, as defined in s. 561.01(4); or model glue. School personnel are exempt from civil liability when reporting in good faith to the proper school authority such suspected unlawful use, possession, or sale by a student. Only a principal or principal’s designee is authorized to contact a parent or legal guardian of a student regarding this situation. Reports made and verified under this subsection shall be forwarded to an appropriate agency. The principal or principal’s designee shall timely notify the student’s parent that a verified report made under this subsection with respect to the student has been made and forwarded.

Section 36. For the purpose of incorporating the amendments made by this act to sections 893.04 and 893.05, Florida Statutes, in references thereto, paragraphs (d) and (e) of subsection (3) of section 893.0551, Florida Statutes, are reenacted to read:

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

(3) The department shall disclose such confidential and exempt information to the following persons or entities upon request and after using a verification process to ensure the legitimacy of the request as provided in s. 893.055:

(d) A health care practitioner who certifies that the information is necessary to provide medical treatment to a current patient in accordance with ss. 893.05 and 893.055.

(e) A pharmacist who certifies that the requested information will be used to dispense controlled substances to a current patient in accordance with ss. 893.04 and 893.055.

Section 37. This act shall take effect July 1, 2016.

Approved by the Governor March 25, 2016.

Filed in Office Secretary of State March 25, 2016.