



1 agency as defined in s. 119.011(2) under s. 893.055, the  
2 electronic-monitoring system for prescription of controlled  
3 substances, is confidential and exempt from s. 119.07(1) and  
4 s. 24(a), Art. I of the State Constitution.

5 (2) The Department of Health shall disclose such  
6 confidential and exempt information to:

7 (a) The Agency for Health Care Administration when it  
8 has initiated a review of specific identifiers of Medicaid  
9 fraud and abuse.

10 (b) A criminal justice agency as defined in s.  
11 119.011, which enforces the laws of this state or the United  
12 States relating to controlled substances and which has  
13 initiated an active investigation involving a specific  
14 violation of law.

15 (c) A practitioner as defined in s. 893.02, or an  
16 employee of the practitioner who is acting on behalf of and at  
17 the direction of the practitioner, who requests such  
18 information and certifies that the information is necessary to  
19 provide medical treatment to a current patient in accordance  
20 with s. 893.05.

21 (d) A pharmacist as defined in s. 465.003, or a  
22 pharmacy intern or pharmacy technician who is acting on behalf  
23 of and at the direction of the pharmacist, who requests such  
24 information and certifies that the requested information will  
25 be used to dispense controlled substances to a current patient  
26 in accordance with s. 893.04.

27 (e) To the patient who is identified in the record  
28 upon a written request for the purpose of verifying that  
29 information.

30 (3) Any agency that obtains such confidential and  
31 exempt information pursuant to this section must maintain the

1 confidential and exempt status of that information; however,  
2 the Agency for Health Care Administration or a criminal  
3 justice agency with lawful access to such information may  
4 disclose confidential and exempt information received from the  
5 Department of Health to a criminal justice agency as part of  
6 an active investigation of a specific violation of law.

7 (4) Any person who willfully and knowingly violates  
8 this section commits a felony of the third degree, punishable  
9 as provided in s. 775.082 or s. 775.083.

10 (5) This section is subject to the Open Government  
11 Sunset Review Act in accordance with s. 119.15, and shall  
12 stand repealed on October 2, 2011, unless reviewed and saved  
13 from repeal through reenactment by the Legislature.

14 Section 2. The Legislature finds that it is a public  
15 necessity that personal identifying information of a patient,  
16 a practitioner as defined in s. 893.02, Florida Statutes, or a  
17 pharmacist as defined in s. 465.003, Florida Statutes,  
18 contained in records that are reported to the Department of  
19 Health under s. 893.055, Florida Statutes, the  
20 electronic-monitoring system for prescription of controlled  
21 substances, be made confidential and exempt. Information  
22 concerning the prescriptions that a patient has been  
23 prescribed is a private, personal matter between the patient,  
24 the practitioner, and the pharmacist. Nevertheless, reporting  
25 of prescriptions on a timely and accurate basis by  
26 practitioners and pharmacists will ensure the ability of the  
27 state to review and provide oversight of prescribing and  
28 dispensing practices. Further, the reporting of this  
29 information will facilitate investigations and prosecutions of  
30 violations of state drug laws by patients, practitioners, or  
31 pharmacists, thereby increasing compliance with those laws.

1 If, in the process, however, the information that would  
2 identify a patient is not made confidential and exempt, any  
3 person could inspect and copy the record and be aware of the  
4 prescriptions that a patient has been prescribed. The  
5 availability of such information to the public would result in  
6 the invasion of the patient's privacy. If the identity of the  
7 patient could be correlated with his or her prescriptions, it  
8 would be possible for the public to become aware of the  
9 diseases or other medical concerns that a patient is being  
10 treated for by his or her physician. This knowledge could be  
11 used to embarrass or to humiliate a patient or to discriminate  
12 against him or her. Requiring the reporting of prescribing  
13 information, while protecting a patient's personal identifying  
14 information, will facilitate efforts to maintain compliance  
15 with the state's drug laws and will facilitate the sharing of  
16 information between health care practitioners and pharmacists,  
17 while maintaining and ensuring patient privacy. Additionally,  
18 exempting personal identifying information of practitioners  
19 will ensure that an individual will not be able to  
20 "doctor-shop," that is to determine which practitioners  
21 prescribe the highest amount of a particular type of drug and  
22 to seek those practitioners out in order to increase the  
23 likelihood of obtaining a particular prescribed substance.  
24 Further, protecting personal identifying information of  
25 pharmacists ensures that an individual will not be able to  
26 identify which pharmacists dispense the largest amount of a  
27 particular substance and target that pharmacy for robbery or  
28 burglary. Thus, the Legislature finds that personal  
29 identifying information of a patient, a practitioner as  
30 defined in s. 893.02, Florida Statutes, or a pharmacist as  
31 defined in s. 465.003, Florida Statutes, contained in records

1 reported under s. 893.055, Florida Statutes, must be  
2 confidential and exempt from disclosure.

3           Section 3. This act shall take effect July 1, 2006, if  
4 Senate Bill 178, or similar legislation establishing an  
5 electronic system to monitor the prescribing of controlled  
6 substances, is adopted in the same legislative session or an  
7 extension thereof and becomes law.

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9                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
10                   COMMITTEE SUBSTITUTE FOR  
11                   Senate Bill 176

- 12 - Provides that identifying information, including but not  
13 limited to, specified identifying information of a  
14 patient, patient's agent, health care practitioner,  
15 pharmacist's agent, or pharmacy, which is contained in  
16 records held by the Department of Health or other  
17 specified agencies under s. 893.055, F.S., the  
18 electronic-monitoring system for prescription of  
19 controlled substances, is confidential and exempt from  
20 public disclosure.
- 21 - Provides that information in such confidential and exempt  
22 records shall be disclosed to a practitioner or an  
23 employee of a practitioner who is acting on behalf of and  
24 at the direction of the practitioner, who requests such  
25 information and certifies that the information is  
26 necessary to provide medical treatment to a current  
27 patient in accordance with s. 893.05, F.S.
- 28 - Inserts reference to SB 178, which is tied to SB 176 and  
29 which creates s. 893.055, F.S.
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