

HB 1011

2008

1 A bill to be entitled

2 An act relating to monitoring controlled substance
3 prescriptions; creating s. 893.055, F.S.; providing a
4 definition; requiring the Department of Health to
5 establish, initially within specified counties, a
6 comprehensive electronic system to monitor the dispensing
7 of specified controlled substances; requiring the
8 department to phase in implementation statewide; requiring
9 the dispensing of such controlled substances to be
10 reported to the department through the system; providing
11 exceptions; providing for rulemaking concerning data to be
12 reported and for reporting formats; providing that costs
13 for required reporting by dispenser may not be material or
14 extraordinary; providing that specified costs are not
15 material or extraordinary; authorizing transmission of
16 data to certain persons or agencies; providing for data
17 retention; requiring that data transmissions comply with
18 privacy and security laws; providing penalties for
19 violations; requiring that the department and regulatory
20 boards adopt rules; requiring the department to obtain
21 financial assistance through grants; providing an
22 effective date.

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

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26 Section 1. Section 893.055, Florida Statutes, is created
27 to read:

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28 893.055 Electronic monitoring system for dispensing of
29 controlled substances listed in Schedules II, III, and IV.--

30 (1) As used in this section, the term "pharmacy" means any
31 pharmacy subject to licensure or regulation by the department
32 under chapter 465 that dispenses or delivers a controlled
33 substance listed in Schedule II, Schedule III, or Schedule IV to
34 a patient in this state.

35 (2) By June 30, 2009, the department shall design and
36 establish an electronic system consistent with standards of the
37 American Society for Automation in Pharmacy to monitor the
38 prescribing and dispensing of controlled substances listed in
39 Schedule II, Schedule III, or Schedule IV by health care
40 practitioners and the dispensing of such controlled substances
41 to an individual by a pharmacy permitted or registered by the
42 Board of Pharmacy. Initially, the system shall be implemented in
43 Broward County and Palm Beach County only. The department shall
44 implement expansion of the program to include the remaining
45 counties of the state in accordance with a plan to be developed
46 by the department.

47 (3) Each time a controlled substance listed in Schedule
48 II, Schedule III, or Schedule IV is dispensed to an individual
49 in the county, the controlled substance must be reported to the
50 department through the system as soon thereafter as possible but
51 not more than 35 days after the date the controlled substance is
52 dispensed. A pharmacy or dispensing practitioner may meet the
53 reporting requirements of this section by providing to the
54 department, in a format approved by the department as provided

55 in subsection (6), each controlled substance listed in Schedule
56 II, Schedule III, or Schedule IV that it dispenses.

57 (4) This section does not apply to controlled substances:

58 (a) Administered by a health care practitioner directly to
59 a patient.

60 (b) Dispensed by a health care practitioner authorized to
61 prescribe controlled substances directly to a patient and
62 limited to an amount adequate to treat the patient for a period
63 of not more than 72 hours.

64 (c) Dispensed by a health care practitioner or a
65 pharmacist to an inpatient of a facility that holds an
66 institutional pharmacy permit.

67 (d) Ordered from an institutional pharmacy permitted under
68 s. 465.019 in accordance with the institutional policy for such
69 controlled substances.

70 (e) Dispensed by a pharmacist or administered by a health
71 care practitioner to a patient or resident receiving care from a
72 hospital, nursing home, assisted living facility, home health
73 agency, hospice, or intermediate care facility for the
74 developmentally disabled that is licensed in this state.

75 (5) The data required to be reported under this section
76 shall be determined by the department by rule but may include
77 any data required under s. 893.04.

78 (6) A practitioner or pharmacist who dispenses a
79 controlled substance under this section must submit the
80 information required by this section in a written or electronic
81 or other format approved by rule of the department. The cost to
82 the dispenser in submitting the information required by this

83 section may not be material or extraordinary. Costs not
84 considered to be material or extraordinary include, but are not
85 limited to, regular postage, compact discs, zip-drive storage,
86 regular electronic mail, magnetic tapes, diskettes, and
87 facsimile charges. The information submitted to the department
88 under this section may be transmitted to any person or agency
89 authorized to receive it under chapter 119, and that person or
90 agency may maintain the information received for up to 24 months
91 before purging the information from its records. All
92 transmissions required by this subsection must comply with
93 relevant privacy and security laws of the state and the Federal
94 Government. However, any authorized agency receiving such
95 information may maintain it for longer than 24 months if the
96 information is pertinent to an ongoing investigation or
97 prosecution.

98 (7) Any person who knowingly fails to report the
99 dispensing of a controlled substance as required by this section
100 commits a misdemeanor of the first degree, punishable as
101 provided in s. 775.082 or s. 775.083.

102 (8) The department and the regulatory boards for the
103 health care practitioners subject to this section shall adopt
104 rules pursuant to ss. 120.536(1) and 120.54 to administer this
105 section.

106 (9) All costs incurred by the department in administering
107 the prescription monitoring system shall be paid through a grant
108 applied for by the county or the state. The department and local
109 government will cooperate in seeking grant funds at no cost to
110 the department.

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Section 2. This act shall take effect July 1, 2008.