

By Senator Atwater

25-02553-08

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1 A bill to be entitled

2 An act relating to controlled substances; creating s.
3 893.055, F.S.; providing definitions; requiring the
4 Department of Health to establish an electronic system to
5 monitor the prescribing and dispensing of controlled
6 substances listed in Schedule II, Schedule III, or
7 Schedule IV in two counties; requiring the department to
8 implement the expansion of the system to the remaining
9 counties in the state; requiring the dispensing of such
10 controlled substances to be reported through the system;
11 providing reporting requirements; specifying circumstances
12 under which a pharmacy is exempt from participation in the
13 pilot project; requiring certain pharmacists or
14 practitioners to submit information in a certain format;
15 providing a penalty; requiring that the department and
16 regulatory boards adopt rules; requiring that all costs
17 incurred by the department be paid through a grant;
18 providing an effective date.

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

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22 Section 1. Section 893.055, Florida Statutes, is created to
23 read:

24 893.055 Electronic-monitoring system for prescription of
25 controlled substances listed in Schedule II, Schedule III, or
26 Schedule IV.--

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

28 (a) "Department" means the Department of Health.

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29 (b) "Pharmacy" means any pharmacy subject to licensure or
30 regulation by the department pursuant to chapter 465 which
31 dispenses or delivers a controlled substance included on Schedule
32 II, Schedule III, or Schedule IV to a patient in this state.

33 (2) By June 30, 2009, the department shall design and
34 establish an electronic system consistent with standards of the
35 American Society for Automation in Pharmacy to monitor the
36 prescribing of controlled substances listed in Schedule II,
37 Schedule III, or Schedule IV by health care practitioners and the
38 dispensing of such controlled substances to an individual by a
39 pharmacy permitted or registered by the Board of Pharmacy. Phase
40 one of the system shall be implemented in two geographic areas.
41 One site shall include only Broward County. A second site shall
42 include Palm Beach County. By June 30, 2010, the department shall
43 implement expansion of the program to include the remaining
44 counties of the state in accordance with a plan developed by the
45 department.

46 (3) Each time a controlled substance listed in Schedule
47 II, Schedule III, or Schedule IV is dispensed to an individual,
48 the controlled substance must be reported to the department
49 through the system as soon thereafter as possible, but not more
50 than 35 days after the date the controlled substance is
51 dispensed. A pharmacy or dispensing practitioner may meet the
52 reporting requirements of this section by providing to the
53 department in written or any electronic or magnetic format,
54 including, but not limited to, electronic submission via the
55 Internet or magnetic disc or tape, each controlled substance
56 listed in Schedule II, Schedule III, or Schedule IV which it
57 dispenses.

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

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

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

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

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

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

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

79 (6) A practitioner or pharmacist who dispenses a
80 controlled substance listed in Schedule II, Schedule III, or
81 Schedule IV must submit the information required by this section
82 in an electronic or other format approved by rule of the
83 department. The cost to the dispenser in submitting the
84 information required by this section may not be material or
85 extraordinary. Costs not considered to be material or
86 extraordinary include, but are not limited to, regular postage,

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87 compact discs, zip-drive storage, regular electronic mail,
88 magnetic tapes, diskettes, and facsimile charges. The information
89 submitted to the department under this section may be transmitted
90 to any person or agency authorized to receive it pursuant to
91 chapter 119, and that person or agency may maintain the
92 information received for up to 24 months before purging the
93 information from its records. All transmissions required by this
94 subsection must comply with relevant privacy and security laws of
95 the state and federal government. However, any authorized agency
96 receiving such information may maintain it for longer than 24
97 months if the information is pertinent to an ongoing
98 investigation or prosecution.

99 (7) Any person who knowingly fails to report the
100 dispensing of a controlled substance listed in Schedule II,
101 Schedule III, or Schedule IV as required by this section commits
102 a misdemeanor of the first degree, punishable as provided in s.
103 775.082 or s. 775.083.

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

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

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