



207044

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/04/2009	.	
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The Committee on Health Regulation (Jones) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 893.056, Florida Statutes, is created to read:

893.056 Public-records exemption for the prescription drug validation program for the tracking of prescriptions of controlled substances listed in Schedule II, Schedule III, or Schedule IV in s. 893.03.-

(1) Identifying information, including, but not limited to,



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12 the name, address, telephone number, insurance plan number,
13 social security number or government-issued identification
14 number, provider number, Drug Enforcement Administration number,
15 or any other unique identifying number of a patient, patient's
16 agent, health care practitioner, pharmacist, pharmacist's agent,
17 or pharmacy which is contained in records held by the Department
18 of Health or any other agency as defined in s. 119.011(2) under
19 s. 893.055, the prescription drug validation program for the
20 tracking of prescriptions of controlled substances, is
21 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
22 of the State Constitution.

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

25 (a) The Agency for Health Care Administration when it has
26 initiated a review of specific identifiers of Medicaid fraud and
27 abuse.

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

32 (c) A practitioner as defined in s. 893.02, or an employee
33 of the practitioner who is acting on behalf of and at the
34 direction of the practitioner, who requests such information and
35 certifies that the information is necessary to provide medical
36 treatment to a current patient in accordance with s. 893.05.

37 (d) A pharmacist as defined in s. 465.003, or a pharmacy
38 intern or pharmacy technician who is acting on behalf of and at
39 the direction of the pharmacist, who requests such information
40 and certifies that the requested information will be used to



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41 dispense controlled substances to a current patient in
42 accordance with s. 893.04.

43 (e) A patient who is identified in the record upon a
44 written request for the purpose of verifying that information.

45 (f) A judge or a probation or parole officer administering
46 a drug or the probation program of a criminal defendant arising
47 out of a violation of chapter 893 or of a criminal defendant who
48 is documented by the court as a substance abuser and who is
49 eligible to participate in a court-ordered drug diversion,
50 treatment, or probation program.

51 (g) A duly appointed medical examiner, or an investigator
52 of the medical examiner who is acting on behalf of or at the
53 direction of the medical examiner, who requests such information
54 and certifies that the information is necessary in an active
55 death investigation as provided in s. 406.11 which involves a
56 suspected drug-related death.

57 (3) Any agency that obtains such confidential and exempt
58 information pursuant to this section must maintain the
59 confidential and exempt status of that information; however, the
60 Department of Health or a criminal justice agency that has
61 lawful access to such information may disclose confidential and
62 exempt information received from the Department of Health to a
63 criminal justice agency as part of an active investigation of a
64 specific violation of law.

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

68 (5) This section is subject to the Open Government Sunset
69 Review Act in accordance with s. 119.15, and shall stand



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70 repealed on October 2, 2014, unless reviewed and saved from
71 repeal through reenactment by the Legislature.

72 Section 2. The Legislature finds that it is a public
73 necessity that personal identifying information of a patient, a
74 practitioner as defined in s. 893.02, Florida Statutes, or a
75 pharmacist as defined in s. 465.003, Florida Statutes, contained
76 in records that are reported to the Department of Health under
77 s. 893.055, Florida Statutes, the prescription drug validation
78 program for the tracking of prescriptions of controlled
79 substances, be made confidential and exempt from disclosure.
80 Information concerning the prescriptions that a patient has been
81 prescribed is a private, personal matter between the patient,
82 the practitioner, and the pharmacist. Nevertheless, reporting of
83 prescriptions on a timely and accurate basis by practitioners
84 and pharmacists will ensure the ability of the state to review
85 and provide oversight of prescribing and dispensing practices.
86 Further, the reporting of this information will facilitate
87 investigations and prosecutions of violations of state drug laws
88 by patients, practitioners, or pharmacists, thereby increasing
89 compliance with those laws. However, if in the process the
90 information that would identify a patient is not made
91 confidential and exempt from disclosure, any person could
92 inspect and copy the record and be aware of the patient's
93 prescriptions. The availability of such information to the
94 public would result in the invasion of the patient's privacy. If
95 the identity of the patient could be correlated with his or her
96 prescriptions, it would be possible for the public to become
97 aware of the diseases or other medical concerns for which a
98 patient is being treated by his or her physician. This knowledge



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99 could be used to embarrass or to humiliate a patient or to
100 discriminate against him or her. Requiring the reporting of
101 prescribing information, while protecting a patient's personal
102 identifying information, will facilitate efforts to maintain
103 compliance with the state's drug laws and will facilitate the
104 sharing of information between health care practitioners and
105 pharmacists, while maintaining and ensuring patient privacy.
106 Additionally, exempting from disclosure the personal identifying
107 information of practitioners will ensure that an individual will
108 not be able to identify which practitioners prescribe the
109 highest amount of a particular type of drug and to seek those
110 practitioners out in order to increase the likelihood of
111 obtaining a particular prescribed substance. Further, protecting
112 personal identifying information of pharmacists ensures that an
113 individual will not be able to identify which pharmacists or
114 pharmacies dispense the largest amount of a particular substance
115 and identify that pharmacy for robbery or burglary. Thus, the
116 Legislature finds that the personal identifying information of a
117 patient, a practitioner as defined in s. 893.02, Florida
118 Statutes, or a pharmacist as defined in s. 465.003, Florida
119 Statutes, contained in records reported under s. 893.055,
120 Florida Statutes, must be confidential and exempt from
121 disclosure.

122 Section 3. This act shall take effect July 1, 2009, if
123 Senate Bill 462, or similar legislation establishing an
124 electronic system to monitor the prescribing of controlled
125 substances, is adopted in the same legislative session or an
126 extension thereof and becomes law.
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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to public records; creating s. 893.056, F.S.;
exempting from public-records requirements information and
records reported to the Department of Health under the
prescription drug validation program for the tracking of
prescriptions of controlled substances listed in Schedules II-
IV; authorizing certain persons and entities access to patient-
identifying information; providing guidelines for the use of
such information and penalties for violations; providing for
future legislative review and repeal of the exemption under the
Open Government Sunset Review Act; providing a finding of public
necessity; providing a contingent effective date.