

By Senator Ring

32-00404-10

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1                   A bill to be entitled  
2           An act relating to the prescription drug monitoring  
3           program; amending ss. 893.055 and 893.0551, F.S.;  
4           requiring that the confidential and exempt information  
5           in the program database which is disclosed to the  
6           Attorney General or a law enforcement agency by the  
7           Department of Health be disclosed pursuant to a search  
8           warrant based upon probable cause; providing an  
9           effective date.

10  
11 Be It Enacted by the Legislature of the State of Florida:

12  
13           Section 1. Paragraph (c) of subsection (7) of section  
14           893.055, Florida Statutes, is amended to read:

15           893.055 Prescription drug monitoring program.—

16           (7)

17           (c) The following entities shall not be allowed direct  
18           access to information in the prescription drug monitoring  
19           program database but may request from the program manager and,  
20           when authorized by the program manager, the program manager's  
21           program and support staff, information that is confidential and  
22           exempt under s. 893.0551. Prior to release, the request shall be  
23           verified as authentic and authorized with the requesting  
24           organization by the program manager, the program manager's  
25           program and support staff, or as determined in rules by the  
26           department as being authentic and as having been authorized by  
27           the requesting entity:

28           1. The department or its relevant health care regulatory  
29           boards responsible for the licensure, regulation, or discipline

32-00404-10

2010616\_\_

30 of practitioners, pharmacists, or other persons who are  
31 authorized to prescribe, administer, or dispense controlled  
32 substances and who are involved in a specific controlled  
33 substance investigation involving a designated person for one or  
34 more prescribed controlled substances.

35 2. Pursuant to a search warrant based upon probable cause,  
36 the Attorney General for Medicaid fraud cases involving  
37 prescribed controlled substances.

38 3. Pursuant to a search warrant based upon probable cause,  
39 a law enforcement agency during active investigations regarding  
40 potential criminal activity, fraud, or theft regarding  
41 prescribed controlled substances.

42 4. A patient or the legal guardian or designated health  
43 care surrogate of an incapacitated patient as described in s.  
44 893.0551 who, for the purpose of verifying the accuracy of the  
45 database information, submits a written and notarized request  
46 that includes the patient's full name, address, and date of  
47 birth, and includes the same information if the legal guardian  
48 or health care surrogate submits the request. The request shall  
49 be validated by the department to verify the identity of the  
50 patient and the legal guardian or health care surrogate, if the  
51 patient's legal guardian or health care surrogate is the  
52 requestor. Such verification is also required for any request to  
53 change a patient's prescription history or other information  
54 related to his or her information in the electronic database.

55  
56 Information in the database for the electronic prescription drug  
57 monitoring system is not discoverable or admissible in any civil  
58 or administrative action, except in an investigation and

32-00404-10

2010616\_\_

59 disciplinary proceeding by the department or the appropriate  
60 regulatory board.

61 Section 2. Paragraphs (a) and (c) of subsection (3) of  
62 section 893.0551, Florida Statutes, are amended to read:

63 893.0551 Public records exemption for the prescription drug  
64 monitoring program.—

65 (3) The department shall disclose such confidential and  
66 exempt information to the following entities after using a  
67 verification process to ensure the legitimacy of that person's  
68 or entity's request for the information:

69 (a) Pursuant to a search warrant based upon probable cause,  
70 the Attorney General and his or her designee when working on  
71 Medicaid fraud cases involving prescription drugs or when the  
72 Attorney General has initiated a review of specific identifiers  
73 of Medicaid fraud regarding prescription drugs. The Attorney  
74 General or his or her designee may disclose the confidential and  
75 exempt information received from the department to a criminal  
76 justice agency as defined in s. 119.011 as part of an active  
77 investigation that is specific to a violation of prescription  
78 drug abuse or prescription drug diversion law as it relates to  
79 controlled substances. The Attorney General's Medicaid fraud  
80 investigators may not have direct access to the department's  
81 database.

82 (c) Pursuant to a search warrant based upon probable cause,  
83 a law enforcement agency that has initiated an active  
84 investigation involving a specific violation of law regarding  
85 prescription drug abuse or diversion of prescribed controlled  
86 substances. The law enforcement agency may disclose the  
87 confidential and exempt information received from the department

32-00404-10

2010616\_\_

88 to a criminal justice agency as defined in s. 119.011 as part of  
89 an active investigation that is specific to a violation of  
90 prescription drug abuse or prescription drug diversion law as it  
91 relates to controlled substances. A law enforcement agency may  
92 request information from the department but may not have direct  
93 access to its database.

94 Section 3. This act shall take effect July 1, 2010.