

1                   A bill to be entitled  
2           An act relating to controlled substance prescription;  
3           amending ss. 458.331, 459.015, 461.013, 462.14, and  
4           466.028, F.S.; providing for disciplinary action under  
5           the relevant practice acts for a licensed  
6           practitioner's failure to review a patient's  
7           controlled substance prescription history before  
8           prescribing a controlled substance to the patient;  
9           amending s. 893.055, F.S.; reducing the number of days  
10          within which a dispenser must report to the Department  
11          of Health that a controlled substance has been  
12          dispensed; providing that a prescriber of controlled  
13          substances who willfully and knowingly fails to access  
14          a certain electronic database to review a patient's  
15          controlled substance prescription history before  
16          prescribing a controlled substance to the patient may  
17          be administratively disciplined; removing a  
18          prohibition against certain funding by prescription  
19          drug manufacturers; requiring a prescriber to access a  
20          specified electronic database before prescribing a  
21          controlled substance to a patient; providing an  
22          effective date.

23  
24   Be It Enacted by the Legislature of the State of Florida:

25  
26           Section 1. Paragraph (tt) is added to subsection (1) of  
27           section 458.331, Florida Statutes, to read:

28           458.331 Grounds for disciplinary action; action by the

29 board and department.—

30 (1) The following acts constitute grounds for denial of a  
31 license or disciplinary action, as specified in s. 456.072(2):

32 (tt) Failing to review a patient's controlled substance  
33 prescription history before prescribing a controlled substance  
34 to the patient, as required under s. 893.055.

35 Section 2. Paragraph (vv) is added to subsection (1) of  
36 section 459.015, Florida Statutes, to read:

37 459.015 Grounds for disciplinary action; action by the  
38 board and department.—

39 (1) The following acts constitute grounds for denial of a  
40 license or disciplinary action, as specified in s. 456.072(2):

41 (vv) Failing to review a patient's controlled substance  
42 prescription history before prescribing a controlled substance  
43 to the patient, as required under s. 893.055.

44 Section 3. Paragraph (dd) is added to subsection (1) of  
45 section 461.013, Florida Statutes, to read:

46 461.013 Grounds for disciplinary action; action by the  
47 board; investigations by department.—

48 (1) The following acts constitute grounds for denial of a  
49 license or disciplinary action, as specified in s. 456.072(2):

50 (dd) Failing to review a patient's controlled substance  
51 prescription history before prescribing a controlled substance  
52 to the patient, as required under s. 893.055.

53 Section 4. Paragraph (ff) is added to subsection (1) of  
54 section 462.14, Florida Statutes, to read:

55 462.14 Grounds for disciplinary action; action by the  
56 department.—

57 (1) The following acts constitute grounds for denial of a  
 58 license or disciplinary action, as specified in s. 456.072(2):

59 (ff) Failing to review a patient's controlled substance  
 60 prescription history before prescribing a controlled substance  
 61 to the patient, as required under s. 893.055.

62 Section 5. Paragraph (nn) is added to subsection (1) of  
 63 section 466.028, Florida Statutes, to read:

64 466.028 Grounds for disciplinary action; action by the  
 65 board.—

66 (1) The following acts constitute grounds for denial of a  
 67 license or disciplinary action, as specified in s. 456.072(2):

68 (nn) Failing to review a patient's controlled substance  
 69 prescription history before prescribing a controlled substance  
 70 to the patient, as required under s. 893.055.

71 Section 6. Subsections (4), (9), (10), and (12) of section  
 72 893.055, Florida Statutes, are amended to read:

73 893.055 Prescription drug monitoring program.—

74 (4) Each time a controlled substance is dispensed to an  
 75 individual, the controlled substance shall be reported to the  
 76 department through the system as soon thereafter as possible,  
 77 but not more than 2 7 days after the date the controlled  
 78 substance is dispensed unless an extension is approved by the  
 79 department for cause as determined by rule. A dispenser must  
 80 meet the reporting requirements of this section by providing the  
 81 required information concerning each controlled substance that  
 82 it dispensed in a department-approved, secure methodology and  
 83 format. Such approved formats may include, but are not limited  
 84 to, submission via the Internet, on a disc, or by use of regular

85 mail.

86 (9) (a) Any prescriber who willfully and knowingly fails to  
 87 access the electronic database, as required under subsection  
 88 (12), may be disciplined pursuant to the practice act under  
 89 which the prescriber is licensed.

90 (b) Any person who willfully and knowingly fails to report  
 91 the dispensing of a controlled substance as required by this  
 92 section commits a misdemeanor of the first degree, punishable as  
 93 provided in s. 775.082 or s. 775.083.

94 (10) All costs incurred by the department in administering  
 95 the prescription drug monitoring program shall be funded through  
 96 federal grants or private funding applied for or received by the  
 97 state. The department may not commit funds for the monitoring  
 98 program without ensuring funding is available. The prescription  
 99 drug monitoring program and the implementation thereof are  
 100 contingent upon receipt of the nonstate funding. The department  
 101 and state government shall cooperate with the direct-support  
 102 organization established pursuant to subsection (11) in seeking  
 103 federal grant funds, other nonstate grant funds, gifts,  
 104 donations, or other private moneys for the department so long as  
 105 the costs of doing so are not considered material. Nonmaterial  
 106 costs for this purpose include, but are not limited to, the  
 107 costs of mailing and personnel assigned to research or apply for  
 108 a grant. Notwithstanding the exemptions to competitive-  
 109 solicitation requirements under s. 287.057(3)(f), the department  
 110 shall comply with the competitive-solicitation requirements  
 111 under s. 287.057 for the procurement of any goods or services  
 112 required by this section. ~~Funds provided, directly or~~

CS/HB 831

2013

113 ~~indirectly, by prescription drug manufacturers may not be used~~  
114 ~~to implement the program.~~

115 (12) A prescriber shall access the electronic database  
116 established under this section to review the controlled  
117 substance prescription history of the prescriber's patient  
118 before prescribing a controlled substance to the patient. A ~~or~~  
119 dispenser may have access to the electronic database established  
120 ~~information under this section, which relates to a patient of~~  
121 ~~that prescriber or dispenser as needed,~~ for the purpose of  
122 reviewing the ~~patient's~~ controlled substance drug prescription  
123 history of the patient requesting a prescription from the  
124 dispenser. A prescriber or dispenser acting in good faith is  
125 immune from any civil, criminal, or administrative liability  
126 that might otherwise be incurred or imposed for receiving or  
127 using information from the prescription drug monitoring program.  
128 This subsection does not create a private cause of action, and a  
129 person may not recover damages against a prescriber required to  
130 access or dispenser authorized to access information under this  
131 subsection for accessing or failing to access such information.

132 Section 7. This act shall take effect July 1, 2013.