



ENROLLED

HB 7177, Engrossed 1

2014 Legislature

1
2 An act relating to a review under the Open Government
3 Sunset Review Act; amending s. 893.0551, F.S.,
4 relating to an exemption from public record
5 requirements for certain information held by the
6 Department of Health pursuant to the prescription drug
7 monitoring program; specifying that the Attorney
8 General, health care regulatory boards, and law
9 enforcement agencies may disclose confidential and
10 exempt information in certain instances if such
11 information is relevant to an active investigation;
12 requiring a law enforcement agency to enter into a
13 user agreement before such agency may receive
14 information from the prescription drug monitoring
15 database; requiring the Attorney General, health care
16 regulatory boards, and law enforcement agencies to
17 take certain steps to ensure the continued
18 confidentiality of all nonrelevant confidential and
19 exempt information before disclosing such information;
20 authorizing the department to disclose, under certain
21 circumstances, relevant information to a law
22 enforcement agency, rather than requiring the
23 department to disclose confidential and exempt
24 information; prohibiting an agency or person who
25 obtains specified confidential and exempt information
26 from disclosing such information except under certain

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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circumstances; saving the exemption from repeal under the Open Government Sunset Review Act; providing an effective date.

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

Section 1. Section 893.0551, Florida Statutes, is amended to read:

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

(1) For purposes of this section, the terms used in this section have the same meanings as provided in s. 893.055 ~~term:~~

~~(a) "Active investigation" has the same meaning as provided in s. 893.055.~~

~~(b) "Dispenser" has the same meaning as provided in s. 893.055.~~

~~(c) "Health care practitioner" or "practitioner" has the same meaning as provided in s. 893.055.~~

~~(d) "Health care regulatory board" has the same meaning as provided in s. 893.055.~~

~~(e) "Law enforcement agency" has the same meaning as provided in s. 893.055.~~

~~(f) "pharmacist" means any person licensed under chapter 465 to practice the profession of pharmacy.~~

~~(g) "Pharmacy" has the same meaning as provided in s. 893.055.~~



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53 ~~(h) "Prescriber" has the same meaning as provided in s.~~
54 ~~893.055.~~

55 (2) The following information of a patient or patient's
56 agent, a health care practitioner, a dispenser, an employee of
57 the practitioner who is acting on behalf of and at the direction
58 of the practitioner, a pharmacist, or a pharmacy that is
59 contained in records held by the department under s. 893.055 is
60 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
61 of the State Constitution:

- 62 (a) Name.
- 63 (b) Address.
- 64 (c) Telephone number.
- 65 (d) Insurance plan number.
- 66 (e) Government-issued identification number.
- 67 (f) Provider number.
- 68 (g) Drug Enforcement Administration number.
- 69 (h) Any other unique identifying information or number.

70 (3) The department shall disclose such confidential and
71 exempt information to the following persons or entities upon
72 request and ~~entities~~ after using a verification process to
73 ensure the legitimacy of the ~~that person's or entity's~~ request
74 as provided in s. 893.055 ~~for the information:~~

75 (a) The Attorney General or ~~and~~ his or her designee when
76 working on Medicaid fraud cases involving prescription drugs or
77 when the Attorney General has initiated a review of specific
78 identifiers of Medicaid fraud regarding prescription drugs. The



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79 Attorney General's Medicaid fraud investigators may not have
80 direct access to the department's database. The Attorney General
81 or his or her designee may disclose to a criminal justice
82 agency, as defined in s. 119.011, only the confidential and
83 exempt information received from the department that is relevant
84 ~~to a criminal justice agency as defined in s. 119.011 as part of~~
85 ~~an identified active investigation that prompted the request for~~
86 ~~the information is specific to a violation of prescription drug~~
87 ~~abuse or prescription drug diversion law as it relates to~~
88 ~~controlled substances. The Attorney General's Medicaid fraud~~
89 ~~investigators may not have direct access to the department's~~
90 ~~database.~~

91 (b) The department's relevant health care regulatory
92 boards responsible for the licensure, regulation, or discipline
93 of a practitioner, pharmacist, or other person who is authorized
94 to prescribe, administer, or dispense controlled substances and
95 who is involved in a specific controlled substances
96 investigation for prescription drugs involving a designated
97 person. The health care regulatory boards may request
98 information from the department but may not have direct access
99 to its database. The health care regulatory boards may provide
100 ~~such information~~ to a law enforcement agency pursuant to ss.
101 456.066 and 456.073 only information that is relevant to the
102 specific controlled substances investigation that prompted the
103 request for the information.

104 (c) A law enforcement agency that has initiated an active



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105 investigation involving a specific violation of law regarding
106 prescription drug abuse or diversion of prescribed controlled
107 substances and that has entered into a user agreement with the
108 department. A law enforcement agency may request information
109 from the department but may not have direct access to its
110 database. The law enforcement agency may disclose to a criminal
111 justice agency, as defined in s. 119.011, only ~~the~~ confidential
112 and exempt information received from the department that is
113 relevant ~~to a criminal justice agency as defined in s. 119.011~~
114 ~~as part of an~~ identified active investigation that prompted the
115 request for such information ~~is specific to a violation of~~
116 ~~prescription drug abuse or prescription drug diversion law as it~~
117 ~~relates to controlled substances. A law enforcement agency may~~
118 ~~request information from the department but may not have direct~~
119 ~~access to its database.~~

120 (d) A health care practitioner who certifies that the
121 information is necessary to provide medical treatment to a
122 current patient in accordance with ss. 893.05 and 893.055.

123 (e) A pharmacist who certifies that the requested
124 information will be used to dispense controlled substances to a
125 current patient in accordance with ss. 893.04 and 893.055.

126 (f) A patient or the legal guardian or designated health
127 care surrogate for an incapacitated patient, if applicable,
128 making a request as provided in s. 893.055(7)(c)4.

129 (g) The patient's pharmacy, prescriber, or dispenser who
130 certifies that the information is necessary to provide medical



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131 treatment to his or her current patient in accordance with s.
132 893.055.

133 (4) If the department determines consistent with its rules
134 that a pattern of controlled substance abuse exists, the
135 department may ~~shall~~ disclose such confidential and exempt
136 information to the applicable law enforcement agency in
137 accordance with s. 893.055(7)(f). The law enforcement agency may
138 disclose to a criminal justice agency, as defined in s. 119.011,
139 only the confidential and exempt information received from the
140 department that is relevant to a criminal justice agency as
141 defined in s. 119.011 as part of an identified active
142 investigation that is specific to a violation of s.
143 893.13(7)(a)8., s. 893.13(8)(a), or s. 893.13(8)(b).

144 (5) Before disclosing confidential and exempt information
145 to a criminal justice agency or a law enforcement agency
146 pursuant to this section, the disclosing person or entity must
147 take steps to ensure the continued confidentiality of all
148 confidential and exempt information. At a minimum, these steps
149 must include redacting any nonrelevant information.

150 (6) ~~(5)~~ An ~~Any~~ agency or person who obtains any ~~such~~
151 confidential and exempt information pursuant to this section
152 must maintain the confidential and exempt status of that
153 information and may not disclose such information unless
154 authorized by law. Information shared with a state attorney
155 pursuant to paragraph (3)(a) or paragraph (3)(c) may be released
156 only in response to a discovery demand if such information is



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157 directly related to the criminal case for which the information
158 was requested. Unrelated information may be released only upon
159 an order of a court of competent jurisdiction.

160 (7)(6) A ~~Any~~ person who willfully and knowingly violates
161 this section commits a felony of the third degree, punishable as
162 provided in s. 775.082, s. 775.083, or s. 775.084.

163 ~~(7) This section is subject to the Open Government Sunset~~
164 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
165 ~~on October 2, 2014, unless reviewed and saved from repeal~~
166 ~~through reenactment by the Legislature.~~

167 Section 2. This act shall take effect October 1, 2014.