

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Pilon offered the following:

Amendment (with directory and title amendments)

Between lines 20 and 21, insert:

(7)

(b) A pharmacy, prescriber, or dispenser, or the designee of a pharmacy, prescriber, or dispenser, shall have access to information in the prescription drug monitoring program's database which relates to a patient of that pharmacy, prescriber, or dispenser in a manner established by the department as needed for the purpose of reviewing the patient's controlled substance prescription history. Other access to the program's database shall be limited to the program's manager and to the designated program and support staff, who may act only at

141215

Approved For Filing: 2/29/2016 1:14:48 PM

Amendment No.

15 the direction of the program manager or, in the absence of the
16 program manager, as authorized. Access by the program manager or
17 such designated staff is for prescription drug program
18 management only or for management of the program's database and
19 its system in support of the requirements of this section and in
20 furtherance of the prescription drug monitoring program.

21 Confidential and exempt information in the database shall be
22 released only as provided in paragraph (c) and s. 893.0551. The
23 program manager, designated program and support staff who act at
24 the direction of or in the absence of the program manager, and
25 any individual who has similar access regarding the management
26 of the database from the prescription drug monitoring program
27 shall submit fingerprints to the department for background
28 screening. The department shall follow the procedure established
29 by the Department of Law Enforcement to request a statewide
30 criminal history record check and to request that the Department
31 of Law Enforcement forward the fingerprints to the Federal
32 Bureau of Investigation for a national criminal history record
33 check.

34 (c) The following entities are ~~shall~~ not be allowed direct
35 access to information in the prescription drug monitoring
36 program database but may request from the program manager and,
37 when authorized by the program manager, the program manager's
38 program and support staff, information that is confidential and
39 exempt under s. 893.0551. Before ~~Prior to~~ release, a ~~the~~ request
40 by the following entities shall be verified as authentic and

141215

Approved For Filing: 2/29/2016 1:14:48 PM

Amendment No.

41 authorized with the requesting organization by the program
42 manager, the program manager's program and support staff, or as
43 determined in rules by the department as being authentic and as
44 having been authorized by the requesting entity:

45 1. The department or its relevant health care regulatory
46 boards responsible for the licensure, regulation, or discipline
47 of practitioners, pharmacists, or other persons who are
48 authorized to prescribe, administer, or dispense controlled
49 substances and who are involved in a specific controlled
50 substance investigation involving a designated person for one or
51 more prescribed controlled substances.

52 2. The Attorney General for Medicaid fraud cases involving
53 prescribed controlled substances.

54 3. A law enforcement agency during active investigations
55 of regarding potential criminal activity, fraud, or theft
56 regarding prescribed controlled substances.

57 4. A patient or the legal guardian or designated health
58 care surrogate of an incapacitated patient as described in s.
59 893.0551 who, for the purpose of verifying the accuracy of the
60 database information, submits a written and notarized request
61 that includes the patient's full name, address, and date of
62 birth, and includes the same information if the legal guardian
63 or health care surrogate submits the request. The request shall
64 be validated by the department to verify the identity of the
65 patient and the legal guardian or health care surrogate, if the
66 patient's legal guardian or health care surrogate is the

141215

Approved For Filing: 2/29/2016 1:14:48 PM

Amendment No.

67 requestor. Such verification is also required for any request to
68 change a patient's prescription history or other information
69 related to his or her information in the electronic database.

70 5. An impaired practitioner consultant who is retained by
71 the department under s. 456.076 for the purpose of reviewing the
72 database information of an impaired practitioner program
73 participant or a referral who has agreed to be evaluated or
74 monitored through the program and who has separately agreed in
75 writing to the consultant's access to and review of such
76 information.

77

78 Information in the database for the electronic prescription drug
79 monitoring system is not discoverable or admissible in any civil
80 or administrative action, except in an investigation and
81 disciplinary proceeding by the department or the appropriate
82 regulatory board.

83 (12) A prescriber or dispenser, or his or her designee,
84 may have access to the information under this section which
85 relates to a patient of that prescriber or dispenser as needed
86 for the purpose of reviewing the patient's controlled drug
87 prescription history. A prescriber or dispenser acting in good
88 faith is immune from any civil, criminal, or administrative
89 liability that might otherwise be incurred or imposed for
90 receiving or using information from the prescription drug
91 monitoring program. This subsection does not create a private
92 cause of action, and a person may not recover damages against a

141215

Approved For Filing: 2/29/2016 1:14:48 PM

Amendment No.

93 prescriber or dispenser authorized to access information under
94 this subsection for accessing or failing to access such
95 information.

96 Section 2. Paragraphs (d), (e), and (g) of subsection (3)
97 of section 893.0551, Florida Statutes, are amended, paragraph
98 (h) is added to subsection (3) of that section, and subsections
99 (6) and (7) of that section are republished, to read:

100 893.0551 Public records exemption for the prescription
101 drug monitoring program.—

102 (3) The department shall disclose such confidential and
103 exempt information to the following persons or entities upon
104 request and after using a verification process to ensure the
105 legitimacy of the request as provided in s. 893.055:

106 (d) A health care practitioner, or his or her designee,
107 who certifies that the information is necessary to provide
108 medical treatment to a current patient in accordance with ss.
109 893.05 and 893.055.

110 (e) A pharmacist, or his or her designee, who certifies
111 that the requested information will be used to dispense
112 controlled substances to a current patient in accordance with
113 ss. 893.04 and 893.055.

114 (g) The patient's pharmacy, prescriber, or dispenser, or
115 the designee of the pharmacy, prescriber, or dispenser, who
116 certifies that the information is necessary to provide medical
117 treatment to his or her current patient in accordance with s.
118 893.055.

141215

Approved For Filing: 2/29/2016 1:14:48 PM

Amendment No.

119 (h) An impaired practitioner consultant who has been
120 authorized in writing by a participant in, or by a referral to,
121 the impaired practitioner program to access and review
122 information as provided in s. 893.055(7)(c)5.

123 (6) An agency or person who obtains any confidential and
124 exempt information pursuant to this section must maintain the
125 confidential and exempt status of that information and may not
126 disclose such information unless authorized by law. Information
127 shared with a state attorney pursuant to paragraph (3)(a) or
128 paragraph (3)(c) may be released only in response to a discovery
129 demand if such information is directly related to the criminal
130 case for which the information was requested. Unrelated
131 information may be released only upon an order of a court of
132 competent jurisdiction.

133 (7) A person who willfully and knowingly violates this
134 section commits a felony of the third degree, punishable as
135 provided in s. 775.082, s. 775.083, or s. 775.084.

137 -----
138 **D I R E C T O R Y A M E N D M E N T**

139 Remove line 12 and insert:

140 section 893.055, Florida Statutes, and paragraphs (b) and (c) of
141 subsection (7) and subsection (12) of that section are amended,
142 to read:

143 -----
144 -----

141215

Approved For Filing: 2/29/2016 1:14:48 PM

Amendment No.

T I T L E A M E N D M E N T

145
146 Remove line 6 and insert:
147 to the prescription drug monitoring program;
148 authorizing the designee of a pharmacy, prescriber, or
149 dispenser to have access to a patient's record in the
150 prescription drug monitoring program's database for a
151 specified purpose; authorizing an impaired
152 practitioner consultant to access an impaired
153 practitioner program participant's or referral's
154 record in the prescription drug monitoring program's
155 database; amending s. 893.0551, F.S.; authorizing the
156 designee of a health care practitioner, pharmacist,
157 pharmacy, prescriber, or dispenser and an impaired
158 practitioner consultant to receive certain information
159 from the prescription drug monitoring program;
160 requiring the Department of Health to disclose certain
161 information from the prescription drug monitoring
162 program to an impaired practitioner consultant under
163 certain circumstances; providing

141215

Approved For Filing: 2/29/2016 1:14:48 PM