



757136

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/29/2016	.	
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The Committee on Fiscal Policy (Bean) recommended the following:

Senate Amendment (with title amendment)

Delete lines 20 - 88
and insert:
section 893.055, Florida Statutes, and paragraphs (b) and (c) of
subsection (7) and subsection (12) of that section are amended,
to read:

893.055 Prescription drug monitoring program.—

(5) When the following acts of dispensing or administering
occur, the following are exempt from reporting under this
section for that specific act of dispensing or administration:



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12 (g) A rehabilitative hospital, assisted living facility, or
13 nursing home dispensing a certain dosage of a controlled
14 substance, as needed, to a patient as ordered by the patient's
15 treating physician.

16 (7)

17 (b) A pharmacy, prescriber, or dispenser, or the designee
18 of a pharmacy, prescriber, or dispenser, shall have access to
19 information in the prescription drug monitoring program's
20 database which relates to a patient of that pharmacy,
21 prescriber, or dispenser in a manner established by the
22 department as needed for the purpose of reviewing the patient's
23 controlled substance prescription history. Other access to the
24 program's database shall be limited to the program's manager and
25 to the designated program and support staff, who may act only at
26 the direction of the program manager or, in the absence of the
27 program manager, as authorized. Access by the program manager or
28 such designated staff is for prescription drug program
29 management only or for management of the program's database and
30 its system in support of the requirements of this section and in
31 furtherance of the prescription drug monitoring program.
32 Confidential and exempt information in the database shall be
33 released only as provided in paragraph (c) and s. 893.0551. The
34 program manager, designated program and support staff who act at
35 the direction of or in the absence of the program manager, and
36 any individual who has similar access regarding the management
37 of the database from the prescription drug monitoring program
38 shall submit fingerprints to the department for background
39 screening. The department shall follow the procedure established
40 by the Department of Law Enforcement to request a statewide



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41 criminal history record check and to request that the Department
42 of Law Enforcement forward the fingerprints to the Federal
43 Bureau of Investigation for a national criminal history record
44 check.

45 (c) The following entities are ~~shall~~ not ~~be~~ allowed direct
46 access to information in the prescription drug monitoring
47 program database but may request from the program manager and,
48 when authorized by the program manager, the program manager's
49 program and support staff, information that is confidential and
50 exempt under s. 893.0551. Before ~~Prior to~~ release, a ~~the~~ request
51 by the following entities shall be verified as authentic and
52 authorized with the requesting organization by the program
53 manager, the program manager's program and support staff, or as
54 determined in rules by the department as being authentic and as
55 having been authorized by the requesting entity:

56 1. The department or its relevant health care regulatory
57 boards responsible for the licensure, regulation, or discipline
58 of practitioners, pharmacists, or other persons who are
59 authorized to prescribe, administer, or dispense controlled
60 substances and who are involved in a specific controlled
61 substance investigation involving a designated person for one or
62 more prescribed controlled substances.

63 2. The Attorney General for Medicaid fraud cases involving
64 prescribed controlled substances.

65 3. A law enforcement agency during active investigations of
66 ~~regarding~~ potential criminal activity, fraud, or theft regarding
67 prescribed controlled substances.

68 4. A patient or the legal guardian or designated health
69 care surrogate of an incapacitated patient as described in s.



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70 893.0551 who, for the purpose of verifying the accuracy of the
71 database information, submits a written and notarized request
72 that includes the patient's full name, address, and date of
73 birth, and includes the same information if the legal guardian
74 or health care surrogate submits the request. The request shall
75 be validated by the department to verify the identity of the
76 patient and the legal guardian or health care surrogate, if the
77 patient's legal guardian or health care surrogate is the
78 requestor. Such verification is also required for any request to
79 change a patient's prescription history or other information
80 related to his or her information in the electronic database.

81 5. An impaired practitioner consultant who is retained by
82 the department under s. 456.076 for the purpose of reviewing the
83 database information of an impaired practitioner program
84 participant or a referral who has agreed to be evaluated or
85 monitored through the program and who has separately agreed in
86 writing to the consultant's access to and review of such
87 information.

88
89 Information in the database for the electronic prescription drug
90 monitoring system is not discoverable or admissible in any civil
91 or administrative action, except in an investigation and
92 disciplinary proceeding by the department or the appropriate
93 regulatory board.

94 (12) A prescriber or dispenser, or his or her designee, may
95 have access to the information under this section which relates
96 to a patient of that prescriber or dispenser as needed for the
97 purpose of reviewing the patient's controlled drug prescription
98 history. A prescriber or dispenser acting in good faith is



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99 immune from any civil, criminal, or administrative liability
100 that might otherwise be incurred or imposed for receiving or
101 using information from the prescription drug monitoring program.
102 This subsection does not create a private cause of action, and a
103 person may not recover damages against a prescriber or dispenser
104 authorized to access information under this subsection for
105 accessing or failing to access such information.

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

110 893.0551 Public records exemption for the prescription drug
111 monitoring program.—

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

116 (d) A health care practitioner, or his or her designee, who
117 certifies that the information is necessary to provide medical
118 treatment to a current patient in accordance with ss. 893.05 and
119 893.055.

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

124 (g) The patient's pharmacy, prescriber, or dispenser, or
125 the designee of the pharmacy, prescriber, or dispenser, who
126 certifies that the information is necessary to provide medical
127 treatment to his or her current patient in accordance with s.



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128 893.055.

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

131 And the title is amended as follows:

132 Delete lines 7 - 11

133 and insert:

134 authorizing the designee of a pharmacy, prescriber, or
135 dispenser to have access to a patient's record in the
136 prescription drug monitoring program's database for a
137 specified purpose; authorizing an impaired
138 practitioner consultant to access an impaired
139 practitioner program participant's or referral's
140 record in the prescription drug monitoring program's
141 database; amending s. 893.0551, F.S.; authorizing the
142 designee of a health care practitioner, pharmacist,
143 pharmacy, prescriber, or dispenser and an impaired
144 practitioner consultant to receive certain information
145 from the prescription drug monitoring program;
146 requiring the Department of Health to disclose