

By the Committee on Health Policy; and Senator Grimsley

588-02886-16

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1 A bill to be entitled

2 An act relating to the prescription drug monitoring
3 program; amending s. 893.055, F.S.; providing that
4 certain acts of dispensing controlled substances in
5 specified facilities are not required to be reported
6 to the prescription drug monitoring program;
7 authorizing an impaired practitioner consultant to
8 access an impaired practitioner program participant's
9 or referral's record in the prescription drug
10 monitoring program's database; amending s. 893.0551,
11 F.S.; requiring the Department of Health to disclose
12 certain information from the prescription drug
13 monitoring program to an impaired practitioner
14 consultant under certain circumstances; providing an
15 effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Paragraph (g) is added to subsection (5) of
20 section 893.055, Florida Statutes, and paragraph (c) of
21 subsection (7) of that section is amended, to read:

22 893.055 Prescription drug monitoring program.—

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

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

30 (7)

31 (c) The following entities are ~~shall~~ not be allowed direct
32 access to information in the prescription drug monitoring

588-02886-16

2016964c1

33 program database but may request from the program manager and,
34 when authorized by the program manager, the program manager's
35 program and support staff, information that is confidential and
36 exempt under s. 893.0551. Before ~~Prior to~~ release, a ~~the~~ request
37 by the following entities shall be verified as authentic and
38 authorized with the requesting organization by the program
39 manager, the program manager's program and support staff, or as
40 determined in rules by the department as being authentic and as
41 having been authorized by the requesting entity:

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

49 2. The Attorney General for Medicaid fraud cases involving
50 prescribed controlled substances.

51 3. A law enforcement agency during active investigations of
52 ~~regarding~~ potential criminal activity, fraud, or theft regarding
53 prescribed controlled substances.

54 4. A patient or the legal guardian or designated health
55 care surrogate of an incapacitated patient as described in s.
56 893.0551 who, for the purpose of verifying the accuracy of the
57 database information, submits a written and notarized request
58 that includes the patient's full name, address, and date of
59 birth, and includes the same information if the legal guardian
60 or health care surrogate submits the request. The request shall
61 be validated by the department to verify the identity of the

588-02886-16

2016964c1

62 patient and the legal guardian or health care surrogate, if the
63 patient's legal guardian or health care surrogate is the
64 requestor. Such verification is also required for any request to
65 change a patient's prescription history or other information
66 related to his or her information in the electronic database.

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

74
75 Information in the database for the electronic prescription drug
76 monitoring system is not discoverable or admissible in any civil
77 or administrative action, except in an investigation and
78 disciplinary proceeding by the department or the appropriate
79 regulatory board.

80 Section 2. Paragraph (h) is added to subsection (3) of
81 section 893.0551, Florida Statutes, and subsections (6) and (7)
82 of that section are republished, to read:

83 893.0551 Public records exemption for the prescription drug
84 monitoring program.—

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

89 (h) An impaired practitioner consultant who has been
90 authorized in writing by a participant in, or by a referral to,

588-02886-16

2016964c1

91 the impaired practitioner program to access and review
92 information as provided in s. 893.055(7)(c)5.

93 (6) An agency or person who obtains any confidential and
94 exempt information pursuant to this section must maintain the
95 confidential and exempt status of that information and may not
96 disclose such information unless authorized by law. Information
97 shared with a state attorney pursuant to paragraph (3)(a) or
98 paragraph (3)(c) may be released only in response to a discovery
99 demand if such information is directly related to the criminal
100 case for which the information was requested. Unrelated
101 information may be released only upon an order of a court of
102 competent jurisdiction.

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

106 Section 3. This act shall take effect July 1, 2016.