

By the Committees on Fiscal Policy; and Health Policy; and
Senator Grimsley

594-04396-16

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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 the designee of a pharmacy, prescriber, or
8 dispenser to have access to a patient's record in the
9 prescription drug monitoring program's database for a
10 specified purpose; authorizing an impaired
11 practitioner consultant to access an impaired
12 practitioner program participant's or referral's
13 record in the prescription drug monitoring program's
14 database; amending s. 893.0551, F.S.; authorizing the
15 designee of a health care practitioner, pharmacist,
16 pharmacy, prescriber, or dispenser or an impaired
17 practitioner consultant to receive certain information
18 from the prescription drug monitoring program;
19 providing an effective date.
20

21 Be It Enacted by the Legislature of the State of Florida:
22

23 Section 1. Paragraph (g) is added to subsection (5) of
24 section 893.055, Florida Statutes, and paragraphs (b) and (c) of
25 subsection (7) and subsection (12) of that section are amended,
26 to read:

27 893.055 Prescription drug monitoring program.—

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

31 (g) A rehabilitative hospital, assisted living facility, or

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32 nursing home dispensing a certain dosage of a controlled
33 substance, as needed, to a patient as ordered by the patient's
34 treating physician.

35 (7)

36 (b) A pharmacy, prescriber, or dispenser, or the designee
37 of a pharmacy, prescriber, or dispenser, shall have access to
38 information in the prescription drug monitoring program's
39 database which relates to a patient of that pharmacy,
40 prescriber, or dispenser in a manner established by the
41 department as needed for the purpose of reviewing the patient's
42 controlled substance prescription history. Other access to the
43 program's database shall be limited to the program's manager and
44 to the designated program and support staff, who may act only at
45 the direction of the program manager or, in the absence of the
46 program manager, as authorized. Access by the program manager or
47 such designated staff is for prescription drug program
48 management only or for management of the program's database and
49 its system in support of the requirements of this section and in
50 furtherance of the prescription drug monitoring program.

51 Confidential and exempt information in the database shall be
52 released only as provided in paragraph (c) and s. 893.0551. The
53 program manager, designated program and support staff who act at
54 the direction of or in the absence of the program manager, and
55 any individual who has similar access regarding the management
56 of the database from the prescription drug monitoring program
57 shall submit fingerprints to the department for background
58 screening. The department shall follow the procedure established
59 by the Department of Law Enforcement to request a statewide
60 criminal history record check and to request that the Department

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61 of Law Enforcement forward the fingerprints to the Federal
62 Bureau of Investigation for a national criminal history record
63 check.

64 (c) The following entities are ~~shall~~ not ~~be~~ allowed direct
65 access to information in the prescription drug monitoring
66 program database but may request from the program manager and,
67 when authorized by the program manager, the program manager's
68 program and support staff, information that is confidential and
69 exempt under s. 893.0551. Before ~~Prior to~~ release, a ~~the~~ request
70 by the following entities shall be verified as authentic and
71 authorized with the requesting organization by the program
72 manager, the program manager's program and support staff, or as
73 determined in rules by the department as being authentic and as
74 having been authorized by the requesting entity:

75 1. The department or its relevant health care regulatory
76 boards responsible for the licensure, regulation, or discipline
77 of practitioners, pharmacists, or other persons who are
78 authorized to prescribe, administer, or dispense controlled
79 substances and who are involved in a specific controlled
80 substance investigation involving a designated person for one or
81 more prescribed controlled substances.

82 2. The Attorney General for Medicaid fraud cases involving
83 prescribed controlled substances.

84 3. A law enforcement agency during active investigations of
85 ~~regarding~~ potential criminal activity, fraud, or theft regarding
86 prescribed controlled substances.

87 4. A patient or the legal guardian or designated health
88 care surrogate of an incapacitated patient as described in s.
89 893.0551 who, for the purpose of verifying the accuracy of the

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90 database information, submits a written and notarized request
91 that includes the patient's full name, address, and date of
92 birth, and includes the same information if the legal guardian
93 or health care surrogate submits the request. The request shall
94 be validated by the department to verify the identity of the
95 patient and the legal guardian or health care surrogate, if the
96 patient's legal guardian or health care surrogate is the
97 requestor. Such verification is also required for any request to
98 change a patient's prescription history or other information
99 related to his or her information in the electronic database.

100 5. An impaired practitioner consultant who is retained by
101 the department under s. 456.076 for the purpose of reviewing the
102 database information of an impaired practitioner program
103 participant or a referral who has agreed to be evaluated or
104 monitored through the program and who has separately agreed in
105 writing to the consultant's access to and review of such
106 information.

107
108 Information in the database for the electronic prescription drug
109 monitoring system is not discoverable or admissible in any civil
110 or administrative action, except in an investigation and
111 disciplinary proceeding by the department or the appropriate
112 regulatory board.

113 (12) A prescriber or dispenser, or his or her designee, may
114 have access to the information under this section which relates
115 to a patient of that prescriber or dispenser as needed for the
116 purpose of reviewing the patient's controlled drug prescription
117 history. A prescriber or dispenser acting in good faith is
118 immune from any civil, criminal, or administrative liability

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119 that might otherwise be incurred or imposed for receiving or
120 using information from the prescription drug monitoring program.
121 This subsection does not create a private cause of action, and a
122 person may not recover damages against a prescriber or dispenser
123 authorized to access information under this subsection for
124 accessing or failing to access such information.

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

129 893.0551 Public records exemption for the prescription drug
130 monitoring program.—

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

135 (d) A health care practitioner, or his or her designee, who
136 certifies that the information is necessary to provide medical
137 treatment to a current patient in accordance with ss. 893.05 and
138 893.055.

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

143 (g) The patient's pharmacy, prescriber, or dispenser, or
144 the designee of the pharmacy, prescriber, or dispenser, who
145 certifies that the information is necessary to provide medical
146 treatment to his or her current patient in accordance with s.
147 893.055.

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

152 (6) An agency or person who obtains any confidential and
153 exempt information pursuant to this section must maintain the
154 confidential and exempt status of that information and may not
155 disclose such information unless authorized by law. Information
156 shared with a state attorney pursuant to paragraph (3)(a) or
157 paragraph (3)(c) may be released only in response to a discovery
158 demand if such information is directly related to the criminal
159 case for which the information was requested. Unrelated
160 information may be released only upon an order of a court of
161 competent jurisdiction.

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

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