

1 A bill to be entitled

2 An act relating to the prescription drug monitoring
3 program; amending s. 893.055, F.S.; requiring the
4 Department of Health to develop a unique identifier
5 for each patient in the system; prohibiting the unique
6 identifier from identifying or providing a basis for
7 identification by unauthorized individuals;
8 authorizing the Attorney General to receive
9 information in any case involving controlled
10 substances; limiting the information the department
11 may provide to the Attorney General in cases other
12 than Medicaid fraud; repealing a prohibition on using
13 system information in civil or administrative cases
14 against dispensers and pharmacies; authorizing the
15 program manager and other individuals to testify for
16 the purpose of authenticating records; amending s.
17 893.0551, F.S.; authorizing the Attorney General to
18 have access to records for cases involving controlled
19 substances; limiting the information the department
20 may provide to the Attorney General in cases other
21 than Medicaid fraud cases; authorizing the Attorney
22 General to use information regardless of the date
23 compiled; providing that certain information may only
24 be released pursuant to discovery request; providing
25 an effective date.

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

Section 1. Paragraph (b) of subsection (2) of section 893.055, Florida Statutes, is redesignated as paragraph (c), paragraph (b) of subsection (5) and subsection (10) of that section are amended, and a new paragraph (b) is added to subsection (2) of that section, to read:

893.055 Prescription drug monitoring program.—

(2)

(b) To protect personally identifiable information, the department shall assign a unique identifier to each patient for whom a record exists in the system. Such identifier may not identify or provide a reasonable basis to identify a patient by any person not authorized under this section to access personally identifiable information in the system.

(5) The following entities may not directly access information in the system, but may request information from the program manager or designated program and support staff:

(b) The Attorney General for active criminal or civil investigations or pending criminal or civil litigation ~~Medicaid fraud cases~~ involving prescribed controlled substances. Other than for Medicaid fraud cases, the department may not provide personally identifiable patient information, but may provide the unique identifier assigned pursuant to paragraph (2) (b) and the

51 patient's year of birth, gender, and county, city, and zip code
52 of residence.

53 (10) Information in the prescription drug monitoring
54 program's system may be released only as provided in this
55 section and s. 893.0551. The content of the system is intended
56 to be informational only. Information in the system is not
57 subject to discovery or introduction into evidence in any civil
58 or administrative action against a prescriber, ~~dispenser,~~
59 ~~pharmacy,~~ or patient arising out of matters that are the subject
60 of information in the system. The program manager and authorized
61 persons who participate in preparing, reviewing, issuing, or any
62 other activity related to management of the system may not be
63 permitted or required to testify in any such civil or
64 administrative action as to any findings, recommendations,
65 evaluations, opinions, or other actions taken in connection with
66 management of the system. The program manager and authorized
67 persons who participate in preparing, reviewing, or issuing
68 information from the system or engaging in any other activity
69 related to management of the system may testify for purposes of
70 authenticating the records contained in the system.

71 Section 2. Paragraph (e) of subsection (3) and subsection
72 (6) of section 893.0551, Florida Statutes, are amended to read:

73 893.0551 Public records exemption for the prescription
74 drug monitoring program.—

75 (3) The department shall disclose such information to the

76 following persons or entities upon request and after using a
77 verification process to ensure the legitimacy of the request as
78 provided in s. 893.055:

79 (e) The Attorney General or his or her designee when
80 working on ~~Medicaid fraud~~ cases involving prescribed controlled
81 substances or when the Attorney General has initiated a review
82 of ~~specific identifiers of Medicaid fraud or~~ specific
83 identifiers that warrant an a Medicaid investigation regarding
84 prescribed controlled substances. The Attorney General's
85 ~~Medicaid fraud~~ investigators may not have direct access to the
86 department's system. Other than for Medicaid fraud cases, the
87 department may not provide personally identifiable patient
88 information, but may provide the unique identifier assigned
89 pursuant to s. 893.055(2) (b) and a patient's year of birth,
90 gender, and county, city, and zip code of residence. The
91 Attorney General or his or her designee may disclose to a
92 criminal justice agency, as defined in s. 119.011, only the
93 information received from the department that is relevant to an
94 identified active investigation that prompted the request for
95 the information. The Attorney General or his or her designee may
96 use information maintained by the department, whether compiled
97 before or after the effective date of this section, to
98 investigate or to pursue criminal or civil litigation.

99 (6) An agency or person who obtains any information
100 pursuant to this section must maintain the confidential and

101 exempt status of that information and may not disclose such
102 information unless authorized by law. Information in the system
103 is not subject to discovery or introduction into evidence in any
104 civil or administrative action against a prescriber or patient
105 arising out of matters that are the subject of information in
106 the system. Information shared with a state attorney pursuant to
107 paragraph (3) (f) or paragraph (3) (h) or the Attorney General or
108 his or her designee pursuant to paragraph (3) (e) may be released
109 only in response to a discovery demand if such information is
110 directly related to the ~~criminal~~ case for which the information
111 was requested. Unrelated information may be released only upon
112 an order of a court of competent jurisdiction.

113 Section 3. This act shall take effect upon becoming a law.