

1 A bill to be entitled
2 An act relating to the prescription drug monitoring
3 program; amending s. 893.055, F.S.; defining the term
4 "electronic health recordkeeping system"; requiring
5 the Department of Health to develop a unique
6 identifier for each patient in the system; prohibiting
7 the unique identifier from identifying or providing a
8 basis for identification by unauthorized individuals;
9 authorizing the Attorney General to request
10 information for an active investigation or pending
11 civil or criminal litigation involving prescribed
12 controlled substances; limiting the patient
13 information the department may provide; authorizing
14 the Attorney General to introduce as evidence in
15 certain actions specified information that is released
16 to the Attorney General from the prescription drug
17 monitoring program; authorizing certain persons to
18 testify as to the authenticity of certain records;
19 amending s. 893.0551, F.S.; authorizing the Attorney
20 General to have access to records for active
21 investigations or pending civil or criminal litigation
22 involving controlled substances; limiting the patient
23 information the department may provide; authorizing
24 the release of specified information shared with a
25 state attorney only in response to a discovery demand

26 | under certain circumstances; providing an effective
 27 | date.

28 |
 29 | Be It Enacted by the Legislature of the State of Florida:

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 31 | Section 1. Paragraphs (f) through (k) of subsection (1) of
 32 | section 893.055, Florida Statutes, are redesignated as
 33 | paragraphs (g) through (l), respectively, paragraph (b) of
 34 | subsection (2) is redesignated as paragraph (c), paragraph (b)
 35 | of subsection (5) and subsection (10) are amended, a new
 36 | paragraph (f) is added to subsection (1), and a new paragraph
 37 | (b) is added to subsection (2) of that section, to read:

38 | 893.055 Prescription drug monitoring program.—

39 | (1) As used in this section, the term:

40 | (f) "Electronic health recordkeeping system" means an
 41 | electronic or computer-based information system used by health
 42 | care practitioners or providers to create, collect, store,
 43 | manipulate, exchange, or make available personal health
 44 | information for the delivery of patient care.

45 | (2)

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

51 personally identifiable information in the system.

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

55 (b) The Attorney General for:

56 1. Medicaid fraud cases involving prescribed controlled
57 substances.

58 2. An active investigation or pending civil or criminal
59 litigation involving prescribed controlled substances, other
60 than Medicaid fraud cases. The department may not release any
61 information pursuant to this subparagraph other than the
62 patient's unique identifier assigned pursuant to paragraph
63 (2) (b), year of birth, and the county, city, and zip code where
64 the patient resides.

65 (10) Information in the prescription drug monitoring
66 program's system may be released only as provided in this
67 section and s. 893.0551.

68 (a) Except as provided in paragraph (b), the content of
69 the system is intended to be informational only. Information in
70 the system is not subject to discovery or introduction into
71 evidence in any civil or administrative action against a
72 prescriber, dispenser, pharmacy, or patient arising out of
73 matters that are the subject of information in the system. The
74 program manager and authorized persons who participate in
75 preparing, reviewing, issuing, or any other activity related to

76 management of the system may not be permitted or required to
 77 testify in any such civil or administrative action as to any
 78 findings, recommendations, evaluations, opinions, or other
 79 actions taken in connection with management of the system.

80 (b) The Attorney General may introduce information from
 81 the system released pursuant to subparagraph (5) (b)2. as
 82 evidence in a civil, criminal, or administrative action against
 83 a dispenser or a pharmacy. The program manager and authorized
 84 persons who participate in preparing, reviewing, issuing, or any
 85 other activity related to the management of the system may
 86 testify for purposes of authenticating the records introduced
 87 into evidence pursuant to this paragraph.

88 Section 2. Paragraph (e) of subsection (3) and subsection
 89 (6) of section 893.0551, Florida Statutes, are amended to read:
 90 893.0551 Public records exemption for the prescription
 91 drug monitoring program.—

92 (3) The department shall disclose such information to the
 93 following persons or entities upon request and after using a
 94 verification process to ensure the legitimacy of the request as
 95 provided in s. 893.055:

96 (e) The Attorney General or his or her designee:

97 1. When working on Medicaid fraud cases involving
 98 prescribed controlled substances or when the Attorney General
 99 has initiated a review of specific identifiers of Medicaid fraud
 100 or specific identifiers that warrant a Medicaid investigation

101 regarding prescribed controlled substances. The Attorney
102 General's Medicaid fraud investigators may not have direct
103 access to the department's system. The Attorney General or his
104 or her designee may disclose to a criminal justice agency, as
105 defined in s. 119.011, only the information received from the
106 department that is relevant to an identified active
107 investigation that prompted the request for the information.

108 2. When pursuing an active investigation or pending civil
109 or criminal litigation involving prescribed controlled
110 substances, other than Medicaid fraud cases. The department may
111 not release any information pursuant to this subparagraph other
112 than the patient's unique identifier assigned pursuant to s.
113 893.055(2)(b), year of birth, and the county, city, and zip code
114 where the patient resides.

115 (6) An agency or person who obtains any information
116 pursuant to this section must maintain the confidential and
117 exempt status of that information and may not disclose such
118 information unless authorized by law. Information shared with a
119 state attorney pursuant to paragraph (3)(f), ~~or~~ paragraph
120 (3)(h), or with the Attorney General or his or her designee
121 pursuant to subparagraph (3)(e)2. may be released only in
122 response to a discovery demand if such information is directly
123 related to the ~~criminal~~ case for which the information was
124 requested. Unrelated information may be released only upon an
125 order of a court of competent jurisdiction.

126 | Section 3. This act shall take effect July 1, 2019. |