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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/08/2019	.	
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The Committee on Judiciary (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 33 - 106

and insert:

Section 1. Subsections (5) and (10) of section 893.055, Florida Statutes, are amended to read:

893.055 Prescription drug monitoring program.—

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



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12 (a) The department and its health care regulatory boards,
13 as appropriate, for investigations involving licensees
14 authorized to prescribe or dispense controlled substances.

15 (b) The Attorney General for:

16 1. Medicaid fraud cases involving prescribed controlled
17 substances.

18 2. An active investigation or pending civil or criminal
19 litigation involving prescribed controlled substances, other
20 than Medicaid fraud cases, but only pursuant to a subpoena
21 issued after a showing that the information is not available
22 through any other means and an order of a court of competent
23 jurisdiction. When releasing information pursuant to this
24 subparagraph, the department must assign each patient whose
25 information is released a unique identifying number that does
26 not identify, or provide a reasonable basis to identify, the
27 patient to whom the unique identifying number is assigned. The
28 department may not release any patient information pursuant to
29 this subparagraph other than the patient's unique identifying
30 number.

31 (c) A law enforcement agency during active investigations
32 of potential criminal activity, fraud, or theft regarding
33 prescribed controlled substances.

34 (d) A medical examiner when conducting an authorized
35 investigation under s. 406.11, to determine the cause of death
36 of an individual.

37 (e) An impaired practitioner consultant who is retained by
38 the department under s. 456.076 to review the system information
39 of an impaired practitioner program participant or a referral
40 who has agreed to be evaluated or monitored through the program



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41 and who has separately agreed in writing to the consultant's
42 access to and review of such information.

43 (f) A patient or the legal guardian or designated health
44 care surrogate of an incapacitated patient who submits a written
45 and notarized request that includes the patient's full name,
46 address, phone number, date of birth, and a copy of a
47 government-issued photo identification.

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

51 (a) Except as provided in paragraph (b), the content of the
52 system is intended to be informational only. Information in the
53 system is not subject to discovery or introduction into evidence
54 in any civil or administrative action against a prescriber,
55 dispenser, pharmacy, or patient arising out of matters that are
56 the subject of information in the system. The program manager
57 and authorized persons who participate in preparing, reviewing,
58 issuing, or any other activity related to management of the
59 system may not be permitted or required to testify in any such
60 civil or administrative action as to any findings,
61 recommendations, evaluations, opinions, or other actions taken
62 in connection with management of the system.

63 (b) The Attorney General may introduce information from the
64 system released to him or her pursuant to subparagraph (5) (b)2.
65 as evidence in a criminal or an administrative action against a
66 prescriber, dispenser, or pharmacy. The program manager and
67 authorized persons who participate in preparing, reviewing,
68 issuing, or any other activity related to the management of the
69 system may testify for purposes of authenticating the records



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70 introduced into evidence pursuant to this paragraph.

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 drug
74 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:

80 1. When working on Medicaid fraud cases involving
81 prescribed controlled substances or when the Attorney General
82 has initiated a review of specific identifiers of Medicaid fraud
83 or specific identifiers that warrant a Medicaid investigation
84 regarding prescribed controlled substances. The Attorney
85 General's Medicaid fraud investigators may not have direct
86 access to the department's system. The Attorney General or his
87 or her designee may disclose to a criminal justice agency, as
88 defined in s. 119.011, only the information received from the
89 department that is relevant to an identified active
90 investigation that prompted the request for the information.

91 2. When pursuing an active investigation or pending civil
92 or criminal litigation involving prescribed controlled
93 substances, but only pursuant to a subpoena or an order of a
94 court of competent jurisdiction. Except for Medicaid fraud
95 cases, when releasing information pursuant to this subparagraph,
96 the department must assign each patient whose information is
97 released a unique identifying number that does not identify, or
98 provide a reasonable basis to identify, the patient to whom the



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99 unique identifying number is assigned. The department may not
100 release any patient information pursuant to this subparagraph
101 other than the patient's unique identifying number.

102
103 ===== T I T L E A M E N D M E N T =====

104 And the title is amended as follows:

105 Delete line 3

106 and insert:

107 amending s. 893.055, F.S.; specifying that certain
108 entities that are prohibited from directly accessing
109 information in the system may request individual
110 records from the program manager or designated program
111 and support staff; expanding the circumstances