

1 A bill to be entitled

2 An act relating to non-opioid directives; amending s.
3 456.44, F.S.; providing legislative intent; requiring
4 the Department of Health to establish a voluntary non-
5 opioid directive form; providing requirements for the
6 form; requiring the form to be posted on the
7 department website; requiring certain physicians to
8 document receipt of the form in a patient's medical
9 record; authorizing a patient to appoint a duly
10 authorized guardian or health care proxy who may
11 revoke a voluntary non-opioid directive; requiring
12 certain physicians to provide a copy of the form to
13 certain patients; requiring a pharmacist to presume
14 that an electronically transmitted prescription for an
15 opioid drug is valid; authorizing a pharmacist to
16 dispense an opioid drug in contradiction of a
17 voluntary non-opioid directive; providing that certain
18 persons are not liable for damages or subject to
19 criminal prosecution under certain circumstances;
20 providing that certain persons may be subject to
21 disciplinary action under certain circumstances;
22 providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:
25

26 Section 1. Subsection (7) is added to section 456.44,
 27 Florida Statutes, to read:

28 456.44 Controlled substance prescribing.—

29 (7) VOLUNTARY NON-OPIOID DIRECTIVE FORM.—

30 (a) The Legislature finds that every competent adult has
 31 the fundamental right of self-determination regarding decisions
 32 pertaining to his or her own health, including the right to
 33 refuse an opioid drug listed as a Schedule II controlled
 34 substance in s. 893.03 or 21 U.S.C. s. 812.

35 (b) The department shall establish a voluntary non-opioid
 36 directive form. The form shall inform registrants that a patient
 37 may not be prescribed, ordered, or administered an opioid drug.
 38 The form shall be posted on the department website. A patient
 39 may execute and file the form with a registrant. A registrant
 40 shall document receipt of the form in a patient's medical
 41 record.

42 (c) A patient may appoint and list on the voluntary non-
 43 opioid directive form a duly authorized guardian or health care
 44 proxy who may revoke the directive by written or verbal means at
 45 any time and for any reason. A person acting in good faith as a
 46 duly authorized guardian or health care proxy is not liable for
 47 damages in a civil action or subject to criminal prosecution for
 48 revoking a voluntary non-opioid directive.

49 (d) A registrant who prescribes, orders, or administers an
 50 opioid drug for the treatment of acute pain or chronic

51 nonmalignant pain must provide a copy of the voluntary non-
52 opioid directive form to any patient to whom an opioid drug may
53 be prescribed, ordered, or administered in the course of
54 treatment before prescribing, ordering, or administering the
55 opioid drug.

56 (e) For purposes of this subsection, a pharmacist shall
57 presume that an electronically transmitted prescription for an
58 opioid drug is valid and is authorized to dispense an opioid
59 drug in contradiction of a voluntary non-opioid directive. A
60 pharmacist who exercises reasonable care is not liable for
61 damages in a civil action, subject to criminal prosecution, or
62 deemed to have violated the standard of care for dispensing an
63 opioid drug in contradiction of a voluntary non-opioid
64 directive.

65 (f) A registrant who exercises reasonable care is not
66 liable for damages in a civil action, subject to criminal
67 prosecution, or deemed to have violated the standard of care for
68 refusing to prescribe, order, or administer an opioid drug
69 pursuant to a voluntary non-opioid directive. However, a
70 registrant who fails to comply with a patient's voluntary non-
71 opioid directive or the revocation thereof may be subject to
72 disciplinary action pursuant to s. 456.072.

73 (g) A registrant employed by a hospital emergency
74 department, acting either as the patient's physician or as the
75 emergency medical services director, who exercises reasonable

76 | care is not liable for damages in a civil action, subject to
77 | criminal prosecution, or deemed to have violated the standard of
78 | care for prescribing, ordering, or administering an opioid drug
79 | to a person who has a voluntary non-opioid directive when the
80 | registrant has reasonable cause to believe that an opioid drug
81 | is necessary and the registrant had no knowledge of the
82 | patient's voluntary non-opioid directive at the time of
83 | prescribing, ordering, or administering the opioid drug.

84 | Section 2. This act shall take effect July 1, 2019.