

By Senator Perry

8-00755-19

2019630\_\_

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

8-00755-19

2019630\_\_

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 nonopioid  
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  
43 nonopioid directive form a duly authorized guardian or health  
44 care proxy who may revoke the directive by written or verbal  
45 means at any time and for any reason. A person acting in good  
46 faith as a duly authorized guardian or health care proxy is not  
47 liable for damages in a civil action or subject to criminal  
48 prosecution for revoking a voluntary nonopioid 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 nonopioid  
52 directive form to any patient to whom an opioid drug may be  
53 prescribed, ordered, or administered in the course of treatment  
54 before prescribing, ordering, or administering the opioid drug.

55       (e) For purposes of this subsection, a pharmacist shall  
56 presume that an electronically transmitted prescription for an  
57 opioid drug is valid and is authorized to dispense an opioid  
58 drug in contradiction of a voluntary nonopioid directive. A

8-00755-19

2019630\_\_

59 pharmacist who exercises reasonable care is not liable for  
60 damages in a civil action, subject to criminal prosecution, or  
61 deemed to have violated the standard of care for dispensing an  
62 opioid drug in contradiction of a voluntary nonopioid directive.

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

71 (g) A registrant employed by a hospital emergency  
72 department, acting either as the patient's physician or as the  
73 emergency medical services director, who exercises reasonable  
74 care is not liable for damages in a civil action, subject to  
75 criminal prosecution, or deemed to have violated the standard of  
76 care for prescribing, ordering, or administering an opioid drug  
77 to a person who has a voluntary nonopioid directive when the  
78 registrant has reasonable cause to believe that an opioid drug  
79 is necessary and the registrant had no knowledge of the  
80 patient's voluntary nonopioid directive at the time of  
81 prescribing, ordering, or administering the opioid drug.

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