



963500

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/05/2014	.	
	.	
	.	
	.	

The Committee on Health Policy (Bean) recommended the following:

Senate Amendment (with title amendment)

Delete lines 458 - 640

and insert:

(8) ~~(10)~~ Notwithstanding s. 456.025 and subject to the General Appropriations Act, up to \$500,000 of ~~all~~ costs incurred by the department in administering the prescription drug monitoring program ~~may shall~~ be funded through funds available in the Medical Quality Assurance Trust Fund that are related to the regulation of the practice of pharmacy under ch. 465. The department may also apply for and receive federal grants or



963500

12 private funding to fund the prescription drug monitoring program
13 except that the department may not receive funds provided,
14 directly or indirectly, by prescription drug manufacturers
15 ~~applied for or received by the state.~~ The department may not
16 commit state funds for the monitoring program if such funds are
17 necessary for the department's regulation of the practice of
18 pharmacy under ch. 465 without ensuring funding is available.

19 ~~The prescription drug monitoring program and the implementation~~
20 ~~thereof are contingent upon receipt of the nonstate funding. The~~
21 ~~department and state government shall cooperate with the direct-~~
22 ~~support organization established pursuant to subsection (11) in~~
23 ~~seeking federal grant funds, other nonstate grant funds, gifts,~~
24 ~~donations, or other private moneys for the department if the~~
25 ~~costs of doing so are not considered material. Nonmaterial costs~~
26 ~~for this purpose include, but are not limited to, the costs of~~
27 ~~mailing and personnel assigned to research or apply for a grant.~~
28 Notwithstanding the exemptions to competitive-solicitation
29 requirements under s. 287.057(3)(e), the department shall comply
30 with the competitive-solicitation requirements under s. 287.057
31 for the procurement of any goods or services required by this
32 section. ~~Funds provided, directly or indirectly, by prescription~~
33 ~~drug manufacturers may not be used to implement the program.~~

34 ~~(11) The department may establish a direct-support~~
35 ~~organization that has a board consisting of at least five~~
36 ~~members to provide assistance, funding, and promotional support~~
37 ~~for the activities authorized for the prescription drug~~
38 ~~monitoring program.~~

39 ~~(a) As used in this subsection, the term "direct-support~~
40 ~~organization" means an organization that is:~~



963500

41 ~~1. A Florida corporation not for profit incorporated under~~
42 ~~chapter 617, exempted from filing fees, and approved by the~~
43 ~~Department of State.~~

44 ~~2. Organized and operated to conduct programs and~~
45 ~~activities; raise funds; request and receive grants, gifts, and~~
46 ~~bequests of money; acquire, receive, hold, and invest, in its~~
47 ~~own name, securities, funds, objects of value, or other~~
48 ~~property, either real or personal; and make expenditures or~~
49 ~~provide funding to or for the direct or indirect benefit of the~~
50 ~~department in the furtherance of the prescription drug~~
51 ~~monitoring program.~~

52 ~~(b) The direct support organization is not considered a~~
53 ~~lobbying firm within the meaning of s. 11.045.~~

54 ~~(c) The State Surgeon General shall appoint a board of~~
55 ~~directors for the direct support organization. Members of the~~
56 ~~board shall serve at the pleasure of the State Surgeon General.~~
57 ~~The State Surgeon General shall provide guidance to members of~~
58 ~~the board to ensure that moneys received by the direct support~~
59 ~~organization are not received from inappropriate sources.~~
60 ~~Inappropriate sources include, but are not limited to, donors,~~
61 ~~grantors, persons, or organizations that may monetarily or~~
62 ~~substantively benefit from the purchase of goods or services by~~
63 ~~the department in furtherance of the prescription drug~~
64 ~~monitoring program.~~

65 ~~(d) The direct support organization shall operate under~~
66 ~~written contract with the department. The contract must, at a~~
67 ~~minimum, provide for:~~

68 ~~1. Approval of the articles of incorporation and bylaws of~~
69 ~~the direct support organization by the department.~~



963500

70 ~~2. Submission of an annual budget for the approval of the~~
71 ~~department.~~

72 ~~3. Certification by the department that the direct support~~
73 ~~organization is complying with the terms of the contract in a~~
74 ~~manner consistent with and in furtherance of the goals and~~
75 ~~purposes of the prescription drug monitoring program and in the~~
76 ~~best interests of the state. Such certification must be made~~
77 ~~annually and reported in the official minutes of a meeting of~~
78 ~~the direct support organization.~~

79 ~~4. The reversion, without penalty, to the state of all~~
80 ~~moneys and property held in trust by the direct support~~
81 ~~organization for the benefit of the prescription drug monitoring~~
82 ~~program if the direct support organization ceases to exist or if~~
83 ~~the contract is terminated.~~

84 ~~5. The fiscal year of the direct support organization,~~
85 ~~which must begin July 1 of each year and end June 30 of the~~
86 ~~following year.~~

87 ~~6. The disclosure of the material provisions of the~~
88 ~~contract to donors of gifts, contributions, or bequests,~~
89 ~~including such disclosure on all promotional and fundraising~~
90 ~~publications, and an explanation to such donors of the~~
91 ~~distinction between the department and the direct support~~
92 ~~organization.~~

93 ~~7. The direct support organization's collecting, expending,~~
94 ~~and providing of funds to the department for the development,~~
95 ~~implementation, and operation of the prescription drug~~
96 ~~monitoring program as described in this section and s. 2,~~
97 ~~chapter 2009-198, Laws of Florida, as long as the task force is~~
98 ~~authorized. The direct support organization may collect and~~



963500

99 ~~expend funds to be used for the functions of the direct support~~
100 ~~organization's board of directors, as necessary and approved by~~
101 ~~the department. In addition, the direct support organization may~~
102 ~~collect and provide funding to the department in furtherance of~~
103 ~~the prescription drug monitoring program by:~~

104 ~~a. Establishing and administering the prescription drug~~
105 ~~monitoring program's electronic database, including hardware and~~
106 ~~software.~~

107 ~~b. Conducting studies on the efficiency and effectiveness~~
108 ~~of the program to include feasibility studies as described in~~
109 ~~subsection (13).~~

110 ~~c. Providing funds for future enhancements of the program~~
111 ~~within the intent of this section.~~

112 ~~d. Providing user training of the prescription drug~~
113 ~~monitoring program, including distribution of materials to~~
114 ~~promote public awareness and education and conducting workshops~~
115 ~~or other meetings, for health care practitioners, pharmacists,~~
116 ~~and others as appropriate.~~

117 ~~e. Providing funds for travel expenses.~~

118 ~~f. Providing funds for administrative costs, including~~
119 ~~personnel, audits, facilities, and equipment.~~

120 ~~g. Fulfilling all other requirements necessary to implement~~
121 ~~and operate the program as outlined in this section.~~

122 ~~(c) The activities of the direct-support organization must~~
123 ~~be consistent with the goals and mission of the department, as~~
124 ~~determined by the department, and in the best interests of the~~
125 ~~state. The direct-support organization must obtain a written~~
126 ~~approval from the department for any activities in support of~~
127 ~~the prescription drug monitoring program before undertaking~~



963500

128 ~~those activities.~~

129 ~~(f) The department may permit, without charge, appropriate~~
130 ~~use of administrative services, property, and facilities of the~~
131 ~~department by the direct support organization, subject to this~~
132 ~~section. The use must be directly in keeping with the approved~~
133 ~~purposes of the direct support organization and may not be made~~
134 ~~at times or places that would unreasonably interfere with~~
135 ~~opportunities for the public to use such facilities for~~
136 ~~established purposes. Any moneys received from rentals of~~
137 ~~facilities and properties managed by the department may be held~~
138 ~~in a separate depository account in the name of the direct-~~
139 ~~support organization and subject to the provisions of the letter~~
140 ~~of agreement with the department. The letter of agreement must~~
141 ~~provide that any funds held in the separate depository account~~
142 ~~in the name of the direct support organization must revert to~~
143 ~~the department if the direct support organization is no longer~~
144 ~~approved by the department to operate in the best interests of~~
145 ~~the state.~~

146 ~~(g) The department may adopt rules under s. 120.54 to~~
147 ~~govern the use of administrative services, property, or~~
148 ~~facilities of the department or office by the direct support~~
149 ~~organization.~~

150 ~~(h) The department may not permit the use of any~~
151 ~~administrative services, property, or facilities of the state by~~
152 ~~a direct support organization if that organization does not~~
153 ~~provide equal membership and employment opportunities to all~~
154 ~~persons regardless of race, color, religion, gender, age, or~~
155 ~~national origin.~~

156 ~~(i) The direct support organization shall provide for an~~



963500

157 ~~independent annual financial audit in accordance with s.~~
158 ~~215.981. Copies of the audit shall be provided to the department~~
159 ~~and the Office of Policy and Budget in the Executive Office of~~
160 ~~the Governor.~~

161 ~~(j) The direct support organization may not exercise any~~
162 ~~power under s. 617.0302(12) or (16).~~

163 ~~(12) A prescriber or dispenser may have access to the~~
164 ~~information under this section which relates to a patient of~~
165 ~~that prescriber or dispenser as needed for the purpose of~~
166 ~~reviewing the patient's controlled drug prescription history. A~~
167 ~~prescriber or dispenser acting in good faith is immune from any~~
168 ~~civil, criminal, or administrative liability that might~~
169 ~~otherwise be incurred or imposed for receiving or using~~
170 ~~information from the prescription drug monitoring program. This~~
171 ~~subsection does not create a private cause of action, and a~~
172 ~~person may not recover damages against a prescriber or dispenser~~
173 ~~authorized to access information under this subsection for~~
174 ~~accessing or failing to access such information.~~

175 ~~(9)~~ (13) To the extent that funding is provided for such
176 purpose through federal or private grants or gifts and other
177 types of available moneys, the department shall study the
178 feasibility of enhancing the prescription drug monitoring
179 program for the purposes of public health initiatives and
180 statistical reporting that respects the privacy of the patient,
181 the prescriber, and the dispenser. Such a study shall be
182 conducted in order to further improve the quality of health care
183 services and safety by improving the prescribing and dispensing
184 practices for prescription drugs, taking advantage of advances
185 in technology, reducing duplicative prescriptions and the



963500

186 overprescribing of prescription drugs, and reducing drug abuse.
187 The requirements of the National All Schedules Prescription
188 Electronic Reporting (NASPER) Act are authorized in order to
189 apply for federal NASPER funding. ~~In addition, the direct-~~
190 ~~support organization shall provide funding for the department to~~
191 ~~conduct training for health care practitioners and other~~
192 ~~appropriate persons in using the monitoring program to support~~
193 ~~the program enhancements.~~

194 ~~(10)(14) A Pharmacist, pharmacy, or dispensing health care~~
195

196 ===== T I T L E A M E N D M E N T =====

197 And the title is amended as follows:

198 Delete line 20

199 and insert:

200 Support a subpoena; authorizing the department to fund
201 the program with up to \$500,000 of funds generated
202 under ch. 465, F.S.; authorizing the department to see
203 federal or private funds to support the program;
204 repealing language creating a direct-support
205 organization to fund the program; deleting obsolete
206 provisions;