By the Committee on Health Policy

588-01653A-14 2014862__

A bill to be entitled

An act relating to prescription drug monitoring; amending s. 893.055, F.S.; defining and redefining terms; revising provisions relating to the comprehensive electronic database system and prescription drug monitoring program maintained by the Department of Health; requiring a law enforcement agency to submit a court order as a condition of direct access to information in the program; requiring that the court order be predicated upon a showing of reasonable suspicion of criminal activity, fraud, or theft regarding prescribed controlled substances; providing that the court order may be issued without notice to the affected patients, subscribers, or dispensers; authorizing the department to provide relevant information that does not contain personal identifying information if the program manager determines a specified pattern exists; authorizing the department to provide a patient advisory report to any appropriate health care practitioner if the program manager determines a specified pattern exists; authorizing the law enforcement agency to use such information to support a court order; authorizing the department to fund the program with up to $500,000 of funds generated under ch. 465, F.S.; authorizing the department to seek federal or private funds to support the program; repealing language creating a direct-support organization to fund the program; deleting obsolete provisions; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 893.055, Florida Statutes, is amended to read:

893.055 Prescription drug monitoring program.—

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

(a) "Patient advisory report" or "advisory report" means information provided by the department ~~in writing, or as determined by the department,~~ to a prescriber, dispenser, pharmacy, or patient concerning the dispensing of controlled substances. ~~All~~ Advisory reports are for informational purposes only and do not impose any obligation ~~no obligations of any nature~~ or ~~any~~ legal duty on a prescriber, dispenser, pharmacy, or patient. An advisory report ~~The patient advisory report shall be provided in accordance with s. 893.13(7)(a)8. The advisory reports~~ issued by the department is ~~are~~ not subject to discovery or introduction into evidence in a ~~any~~ civil or administrative action against a prescriber, dispenser, pharmacy, or patient arising out of matters that are the subject of the report. A department employee~~; and a person~~ who participates in preparing, reviewing, issuing, or any other activity related to an advisory report is ~~may~~ not allowed ~~be permitted~~ or required to testify in any such civil action as to any findings, recommendations, evaluations, opinions, or other actions taken in connection with preparing, reviewing, or issuing such a report.

(b) "Controlled substance" means a controlled substance listed in Schedule II, Schedule III, or Schedule IV in s. 893.03.

(c) "Dispenser" means a pharmacy, dispensing pharmacist, or dispensing health care practitioner, and includes a pharmacy, dispensing pharmacist, or health care practitioner that is not located in this state but is otherwise subject to the jurisdiction of this state as to a particular dispensing transaction.

(d) "Health care practitioner" or "practitioner" means a ~~any~~ practitioner who is subject to licensure or regulation by the department under chapter 458, chapter 459, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, or chapter 466.

(e) "Health care regulatory board" means a ~~any~~ board for a practitioner or health care practitioner who is licensed or regulated by the department.

(f) "Pharmacy" means a ~~any~~ pharmacy that is subject to licensure or regulation by the department under chapter 465 and that dispenses or delivers a controlled substance to an individual or address in this state.

(g) "Prescriber" means a prescribing physician, prescribing practitioner, or other prescribing health care practitioner.

(h) "Active investigation" means an investigation that is being conducted with a reasonable, good faith belief that it will ~~could~~ lead to the filing of administrative, civil, or criminal proceedings~~,~~ or an investigation that is ongoing and continuing and for which there is a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future.

(i) "Law enforcement agency" means the Department of Law Enforcement, a Florida sheriff's department, a Florida police

department, or a law enforcement agency of the Federal Government which enforces the laws of this state or the United States relating to controlled substances, and whose ~~which its~~ agents and officers are empowered by law to conduct criminal investigations and make arrests.

(j) "Program manager" means an employee of or a person contracted by the Department of Health who is designated to ensure the integrity of the prescription drug monitoring program in accordance with the requirements established in paragraphs (2)(a) and (b).

(k) "Dispense" or "dispensing" means the transfer of possession of one or more doses of a medicinal drug by a health care practitioner to the ultimate consumer or to the ultimate consumer's agent, including, but not limited to, a transaction with a dispenser pursuant to chapter 465 and a dispensing transaction to an individual or address in this state with a dispenser that is located outside this state but is otherwise subject to the jurisdiction of this state as to that dispensing transaction.

(2)(a) The department shall maintain ~~design and establish~~ a comprehensive electronic database system in order to collect and store specified information from dispensed ~~that has~~ controlled substance prescriptions and shall release information to authorized recipients in accordance with subsection (6) and s. 893.0551 ~~provided to it and that provides prescription information to a patient's health care practitioner and pharmacist who inform the department that they wish the patient advisory report provided to them~~. ~~Otherwise, the patient advisory report will not be sent to the practitioner, pharmacy,~~

~~or pharmacist.~~ The system must ~~shall be designed to provide information regarding dispensed prescriptions of controlled substances and shall~~ not infringe upon the legitimate prescribing or dispensing of a controlled substance by a prescriber or dispenser acting in good faith and in the course of professional practice and must~~. The system shall~~ be consistent with standards of the American Society for Automation in Pharmacy (ASAP). The ~~electronic~~ system must ~~shall~~ also comply with the Health Insurance Portability and Accountability Act (HIPAA) as it pertains to protected health information (PHI), electronic protected health information (EPHI), and ~~all~~ other relevant state and federal privacy and security laws and regulations. ~~The department shall establish policies and procedures as appropriate regarding the reporting, accessing the database, evaluation, management, development, implementation, operation, storage, and security of information within the system. The reporting of prescribed controlled substances shall include a dispensing transaction with a dispenser pursuant to chapter 465 or through a dispensing transaction to an individual or address in this state with a pharmacy that is not located in this state but that is otherwise subject to the jurisdiction of this state as to that dispensing transaction. The reporting of patient advisory reports refers only to reports to patients, pharmacies, and practitioners. Separate reports that contain patient prescription history information and that are not patient advisory reports are provided to persons and entities as authorized in paragraphs (7)(b) and (c) and s. 893.0551.~~

(b) The department shall maintain the electronic system so that a patient's health care practitioner or pharmacist is able

to receive a patient advisory report upon request~~, when the direct support organization receives at least $20,000 in nonstate moneys or the state receives at least $20,000 in federal grants for the prescription drug monitoring program, shall adopt rules as necessary concerning the reporting, accessing the database, evaluation, management, development, implementation, operation, security, and storage of information within the system, including rules for when patient advisory reports are provided to pharmacies and prescribers~~. ~~The patient advisory report shall be provided in accordance with s. 893.13(7)(a)8. The department shall work with the professional health care licensure boards, such as the Board of Medicine, the Board of Osteopathic Medicine, and the Board of Pharmacy; other appropriate organizations, such as the Florida Pharmacy Association, the Florida Medical Association, the Florida Retail Federation, and the Florida Osteopathic Medical Association, including those relating to pain management; and the Attorney General, the Department of Law Enforcement, and the Agency for Health Care Administration to develop rules appropriate for the prescription drug monitoring program.~~

(c) The department shall:

1. Establish policies and procedures and adopt rules necessary to provide for access to and evaluation, management, and operation of the electronic system.

2. Establish policies and procedures and adopt rules necessary to provide for the reporting, storage, and security of information within the electronic system, including:

a. Any additional information, other than the information listed in subsection (3), which must be reported to the system.

b. The process by which dispensers must provide the required information concerning each controlled substance that it has dispensed in a secure methodology and format. Such approved formats may include, but are not limited to, submission via the Internet, on a disc, or by use of regular mail.

c. The process by which the department may approve an extended period of time for a dispenser to report a dispensed prescription to the system.

d. Procedures providing for reporting during a state-declared or nationally declared disaster.

e. Procedures for determining when a patient advisory report is required to be provided to a pharmacy or prescriber.

f. Procedures for determining whether a request for information under paragraph (6)(b) is authentic and authorized by the requesting agency.

3. Cooperate with professional health care licensure boards, such as the Board of Medicine, the Board of Osteopathic Medicine, and the Board of Pharmacy; other appropriate organizations, such as the Florida Pharmacy Association, the Florida Medical Association, the Florida Retail Federation, the Florida Osteopathic Medical Association, and those relating to pain management; and the Attorney General, the Department of Law Enforcement, and the Agency for Health Care Administration to develop rules appropriate for the prescription drug monitoring program ~~All dispensers and prescribers subject to these reporting requirements shall be notified by the department of the implementation date for such reporting requirements~~.

4.~~(d)~~ Cooperate ~~The program manager shall work~~ with professional health care licensure boards and the stakeholders

listed in subparagraph 3. ~~paragraph (b)~~ to develop rules appropriate for identifying indicators of controlled substance abuse.

(3) The dispenser of ~~The pharmacy dispensing the controlled substance and each prescriber who directly dispenses~~ a controlled substance shall submit to the electronic system, by a procedure and in a format established by the department and consistent with an ASAP-approved format, the following information for each prescription dispensed ~~inclusion in the database~~:

(a) The name of the prescribing practitioner, the practitioner's federal Drug Enforcement Administration registration number, the practitioner's National Provider Identification (NPI) or other appropriate identifier, and the date of the prescription.

(b) The date the prescription was filled and the method of payment, such as cash by an individual, insurance coverage through a third party, or Medicaid payment. This paragraph does not authorize the department to include individual credit card numbers or other account numbers in the database.

(c) The full name, address, and date of birth of the person for whom the prescription was written.

(d) The name, national drug code, quantity, and strength of the controlled substance dispensed.

(e) The full name, federal Drug Enforcement Administration registration number, and address of the pharmacy or other location from which the controlled substance was dispensed. If the controlled substance was dispensed by a practitioner other than a pharmacist, the practitioner's full name, federal Drug

Enforcement Administration registration number, and address.

(f) The name of the pharmacy or practitioner, other than a pharmacist, dispensing the controlled substance and the practitioner's National Provider Identification (NPI).

(g) Other appropriate identifying information as determined by department rule.

(4) Each time a controlled substance is dispensed to an individual, the information specified in subsection (3) ~~controlled substance~~ shall be reported by the dispenser to the department through the system using a department-approved process as soon thereafter as possible, but not more than 7 days after the date the controlled substance is dispensed unless an extension is approved by the department. Costs to the dispenser for submitting the information required by this section may not be material or extraordinary. Costs not considered to be material or extraordinary include, but are not limited to, regular postage, electronic media, regular electronic mail, and facsimile charges. A person who willfully and knowingly fails to report the dispensing of a controlled substance as required by this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083 ~~for cause as determined by rule~~. ~~A dispenser must meet the reporting requirements of this section by providing the required information concerning each controlled substance that it dispensed in a department-approved, secure methodology and format. Such approved formats may include, but are not limited to, submission via the Internet, on a disc, or by use of regular mail.~~

(5) ~~When the following acts of dispensing or administering~~

~~occur,~~ The following acts are exempt from the reporting ~~under~~ requirements of this section ~~for that specific act of dispensing or administration~~:

(a) The administration of ~~A health care practitioner when administering~~ a controlled substance directly to a patient by a health care practitioner if the amount of the controlled substance is adequate to treat the patient during that particular treatment session.

(b) The administration of ~~A pharmacist or health care practitioner when administering~~ a controlled substance by a health care practitioner to a patient or resident receiving care as a patient at a hospital, nursing home, ambulatory surgical center, hospice, or intermediate care facility for the developmentally disabled which is licensed in this state.

(c) The administration or dispensing of ~~A practitioner when administering or dispensing~~ a controlled substance by a health care practitioner within ~~in~~ the health care system of the Department of Corrections.

(d) The administration of ~~A practitioner when administering~~ a controlled substance by a health care practitioner in the emergency room of a licensed hospital.

(e) The administration or dispensing of ~~A health care practitioner when administering or dispensing~~ a controlled substance by a health care practitioner to a person under the age of 16.

(f) The ~~A pharmacist or a dispensing practitioner when~~ dispensing of a one-time, 72-hour emergency resupply of a controlled substance by a dispenser to a patient.

(6) Confidential and exempt information in the prescription

drug monitoring program's database may be released only as provided in this subsection and s. 893.0551 ~~The department may establish when to suspend and when to resume reporting information during a state-declared or nationally declared disaster~~.

~~(7)(a) A practitioner or pharmacist who dispenses a controlled substance must submit the information required by this section in an electronic or other method in an ASAP format approved by rule of the department unless otherwise provided in this section. The cost to the dispenser in submitting the information required by this section may not be material or extraordinary. Costs not considered to be material or extraordinary include, but are not limited to, regular postage, electronic media, regular electronic mail, and facsimile charges.~~

(a) ~~(b)~~ A pharmacy, prescriber, or dispenser shall have access to information in the prescription drug monitoring program's database which relates to a patient of that pharmacy, prescriber, or dispenser in a manner established by the department as needed for the purpose of reviewing the patient's controlled substance prescription history. A prescriber or dispenser acting in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for receiving or using information from the prescription drug monitoring program. This subsection does not create a private cause of action, and a person may not recover damages against a prescriber or dispenser authorized to access information under this subsection for accessing or failing to access such information ~~Other access to the program's database~~

~~shall be limited to the program's manager and to the designated program and support staff, who may act only at the direction of the program manager or, in the absence of the program manager, as authorized. Access by the program manager or such designated staff is for prescription drug program management only or for management of the program's database and its system in support of the requirements of this section and in furtherance of the prescription drug monitoring program. Confidential and exempt information in the database shall be released only as provided in paragraph (c) and s. 893.0551. The program manager, designated program and support staff who act at the direction of or in the absence of the program manager, and any individual who has similar access regarding the management of the database from the prescription drug monitoring program shall submit fingerprints to the department for background screening. The department shall follow the procedure established by the Department of Law Enforcement to request a statewide criminal history record check and to request that the Department of Law Enforcement forward the fingerprints to the Federal Bureau of Investigation for a national criminal history record check.~~

(b) ~~(c)~~ The following entities are ~~shall~~ not ~~be~~ allowed direct access to information in the prescription drug monitoring program database but may request from the program manager and, when authorized by the program manager, the program manager's program and support staff, information that is confidential and exempt under s. 893.0551. Before ~~Prior to~~ release, the request by the following entities shall be verified as authentic and authorized with the requesting organization by the program manager or~~,~~ the program manager's program and support staff~~, or~~

~~as determined in rules by the department as being authentic and as having been authorized by the requesting entity~~:

1. The department or its relevant health care regulatory boards responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances and who are involved in a specific controlled substance investigation involving a designated person for one or more prescribed controlled substances.

2. The Attorney General for Medicaid fraud cases involving prescribed controlled substances.

3. A law enforcement agency during active investigations and pursuant to the submission of a court order issued by a court of competent jurisdiction upon a showing of reasonable suspicion of ~~regarding~~ potential criminal activity, fraud, or theft regarding prescribed controlled substances. The court order may be issued without notice to the affected patients, prescribers, or dispensers.

4. A patient or the legal guardian or designated health care surrogate of an incapacitated patient as described in s. 893.0551 who, for the purpose of verifying the accuracy of the database information, submits a written and notarized request that includes the patient's full name, address, and date of birth~~, and includes the same information if the legal guardian or health care surrogate submits the request~~. If the patient's legal guardian or health care surrogate is the requestor, the request shall be validated by the department to verify the identity of the patient and the legal guardian or health care surrogate~~, if the patient's legal guardian or health care~~

~~surrogate is the requestor~~. Such verification is also required for any request to change a patient's prescription history or other information related to his or her information in the electronic database.

Information in or released from the prescription drug monitoring program database ~~for the electronic prescription drug monitoring system~~ is not discoverable or admissible in any civil or administrative action~~,~~ except in an investigation and disciplinary proceeding by the department or the appropriate regulatory board.

(c)~~(d)~~ Other than the program manager and his or her program or support staff as authorized in paragraph (d), department staff are~~, for the purpose of calculating performance measures pursuant to subsection (8), shall~~ not ~~be~~ allowed direct access to information in the prescription drug monitoring program database but may request from the program manager and, when authorized by the program manager, the program manager's program and support staff, information that does not contain ~~contains no~~ identifying information of any patient, physician, health care practitioner, prescriber, or dispenser and that is not confidential and exempt for the purpose of calculating performance measures pursuant to subsection (7).

(d) The program manager and designated support staff, upon the direction of the program manager or as otherwise authorized during the program manager's absence, may access the prescription drug monitoring program database only to manage the program or to manage the program database and systems in support of the requirements of this section or as established by the

department in rule pursuant to subparagraph (2)(c)4. The program manager, designated program and support staff who act at the direction of or in the absence of the program manager, and any individual who has similar access regarding the management of the database from the prescription drug monitoring program shall submit fingerprints to the department for background screening. The department shall follow the procedure established by the Department of Law Enforcement to request a statewide criminal history record check and to request that the Department of Law Enforcement forward the fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(e) If the program manager determines a pattern consistent with the rules established under subparagraph (2)(c)4., the department may provide:

1. A patient advisory report to an appropriate health care practitioner; and

2. Relevant information that does not contain personal identifying information to the applicable law enforcement agency. A law enforcement agency may use such information to support a court order pursuant to subparagraph (b)3.

(f) ~~(e)~~ All transmissions of data required by this section must comply with relevant state and federal privacy and security laws and regulations. However, an ~~any~~ authorized agency or person under s. 893.0551 receiving such information as allowed by s. 893.0551 may maintain the information received for up to 24 months before purging it from his or her records or maintain it for longer than 24 months if the information is pertinent to ongoing health care or an active law enforcement investigation or prosecution.

~~(f) The program manager, upon determining a pattern consistent with the rules established under paragraph (2)(d) and having cause to believe a violation of s. 893.13(7)(a)8., (8)(a), or (8)(b) has occurred, may provide relevant information to the applicable law enforcement agency.~~

(7)~~(8)~~ To assist in fulfilling program responsibilities, performance measures shall be reported annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives by the department each December 1~~, beginning in 2011~~. Data that does not contain patient, physician, health care practitioner, prescriber, or dispenser identifying information may be requested during the year by department employees so that the department may undertake public health care and safety initiatives that take advantage of observed trends. Performance measures may include, but are not limited to, efforts to achieve the following outcomes:

(a) Reduction of the rate of inappropriate use of prescription drugs through department education and safety efforts.

(b) Reduction of the quantity of pharmaceutical controlled substances obtained by individuals attempting to engage in fraud and deceit.

(c) Increased coordination among partners participating in the prescription drug monitoring program.

(d) Involvement of stakeholders in achieving improved patient health care and safety and reduction of prescription drug abuse and prescription drug diversion.

~~(9) Any person who willfully and knowingly fails to report the dispensing of a controlled substance as required by this~~

~~section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~

(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 chapter 465. The department also may apply for and receive federal grants or private funding to fund the prescription drug monitoring program except that the department may not receive funds provided, directly or indirectly, by prescription drug manufacturers ~~applied for or received by the state~~. The department may not commit state funds for the monitoring program if such funds are necessary for the department's regulation of the practice of pharmacy under chapter 465 ~~without ensuring funding is available~~. ~~The prescription drug monitoring program and the implementation thereof are contingent upon receipt of the nonstate funding. The department and state government shall cooperate with the direct-support organization established pursuant to subsection (11) in seeking federal grant funds, other nonstate grant funds, gifts, donations, or other private moneys for the department if the costs of doing so are not considered material. Nonmaterial costs for this purpose include, but are not limited to, the costs of mailing and personnel assigned to research or apply for a grant.~~ Notwithstanding the exemptions to competitive-solicitation requirements under s. 287.057(3)(e), the department shall comply with the competitive-solicitation requirements under s. 287.057 for the procurement

of any goods or services required by this section. ~~Funds provided, directly or indirectly, by prescription drug manufacturers may not be used to implement the program.~~

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

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

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

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

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

~~(c) The State Surgeon General shall appoint a board of directors for the direct-support organization. Members of the board shall serve at the pleasure of the State Surgeon General. The State Surgeon General shall provide guidance to members of the board to ensure that moneys received by the direct-support organization are not received from inappropriate sources.~~

~~Inappropriate sources include, but are not limited to, donors, grantors, persons, or organizations that may monetarily or substantively benefit from the purchase of goods or services by the department in furtherance of the prescription drug monitoring program.~~

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

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

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

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

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

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

~~6. The disclosure of the material provisions of the contract to donors of gifts, contributions, or bequests,~~

~~including such disclosure on all promotional and fundraising publications, and an explanation to such donors of the distinction between the department and the direct-support organization.~~

~~7. The direct-support organization's collecting, expending, and providing of funds to the department for the development, implementation, and operation of the prescription drug monitoring program as described in this section and s. 2, chapter 2009-198, Laws of Florida, as long as the task force is authorized. The direct-support organization may collect and expend funds to be used for the functions of the direct-support organization's board of directors, as necessary and approved by the department. In addition, the direct-support organization may collect and provide funding to the department in furtherance of the prescription drug monitoring program by:~~

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

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

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

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

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

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

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

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

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

~~(g) The department may adopt rules under s. 120.54 to~~

~~govern the use of administrative services, property, or facilities of the department or office by the direct-support organization.~~

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

~~(i) The direct-support organization shall provide for an independent annual financial audit in accordance with s. 215.981. Copies of the audit shall be provided to the department and the Office of Policy and Budget in the Executive Office of the Governor.~~

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

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

(9) ~~(13)~~ To the extent that funding is provided for such

purpose through federal or private grants or gifts and other types of available moneys, the department shall study the feasibility of enhancing the prescription drug monitoring program for the purposes of public health initiatives and statistical reporting that respects the privacy of the patient, the prescriber, and the dispenser. Such a study shall be conducted in order to further improve the quality of health care services and safety by improving the prescribing and dispensing practices for prescription drugs, taking advantage of advances in technology, reducing duplicative prescriptions and the overprescribing of prescription drugs, and reducing drug abuse. The requirements of the National All Schedules Prescription Electronic Reporting (NASPER) Act are authorized in order to apply for federal NASPER funding. ~~In addition, the direct-support organization shall provide funding for the department to conduct training for health care practitioners and other appropriate persons in using the monitoring program to support the program enhancements.~~

(10)~~(14) A pharmacist, pharmacy, or dispensing health care practitioner or his or her agent,~~ Before releasing a controlled substance to any person not known to him or her ~~such dispenser~~, the dispenser shall require the person purchasing, receiving, or otherwise acquiring the controlled substance to present valid photographic identification or other verification of his or her identity ~~to the dispenser~~. If the person does not have proper identification, the dispenser may verify the validity of the prescription and the identity of the patient with the prescriber or his or her authorized agent. Verification of health plan eligibility through a real-time inquiry or adjudication system

is ~~will be~~ considered to be proper identification. This subsection does not apply in an institutional setting or to a long-term care facility, including, but not limited to, an assisted living facility or a hospital to which patients are admitted. As used in this subsection, the term "proper identification" means an identification that is issued by a state or the Federal Government containing the person's photograph, printed name, and signature or a document considered acceptable under 8 C.F.R. s. 274a.2(b)(1)(v)(A) and (B).

~~(15) The Agency for Health Care Administration shall continue the promotion of electronic prescribing by health care practitioners, health care facilities, and pharmacies under s. 408.0611.~~

~~(16) The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer the provisions of this section, which shall include as necessary the reporting, accessing, evaluation, management, development, implementation, operation, and storage of information within the monitoring program's system.~~

Section 2. This act shall take effect July 1, 2014.