

By the Committee on Health Policy; and Senator Lee

588-03691-19

20191700c1

1 A bill to be entitled
2 An act relating to prescribed controlled substances;
3 amending s. 893.055, F.S.; expanding the circumstances
4 under which the Attorney General may request
5 information from the prescription drug monitoring
6 program to include an active investigation or pending
7 civil or criminal litigation involving prescribed
8 controlled substances; requiring the Department of
9 Health to assign each patient a unique identifying
10 number when releasing certain information; limiting
11 the information of a patient the department may
12 release; authorizing the Attorney General to introduce
13 as evidence in certain actions specified information
14 that is released to the Attorney General from the
15 program's records system; authorizing certain persons
16 to testify as to the authenticity of certain records;
17 amending s. 893.0551, F.S.; expanding the
18 circumstances under which the department must disclose
19 certain information to the Attorney General to include
20 active investigations or pending civil or criminal
21 litigation involving prescribed controlled substances;
22 requiring the department to assign each patient a
23 unique identifying number when releasing certain
24 information; providing an exception; limiting the
25 information of a patient the department may release;
26 authorizing the release of specified information
27 shared with a state attorney only in response to a
28 discovery demand under certain circumstances;
29 providing an effective date.

588-03691-19

20191700c1

30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58

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

Section 1. Paragraph (b) of subsection (5) and subsection (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 information from the program manager or designated program and support staff:

(b) The Attorney General for:

1. Medicaid fraud cases involving prescribed controlled substances.

2. An active investigation or pending civil or criminal litigation involving prescribed controlled substances other than Medicaid fraud cases. When releasing information pursuant to this subparagraph, the department must assign each patient whose information is released a unique identifying number that does not identify, or provide a reasonable basis to identify, the patient to whom the identifying number is assigned. The department may not release any patient information pursuant to this subparagraph other than the patient's unique identifying number, year of birth, and the county, city, and zip code where the patient resides.

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

(a) Except as provided in paragraph (b), the content of the system is intended to be informational only. Information in the system is not subject to discovery or introduction into evidence

588-03691-19

20191700c1

59 in any civil or administrative action against a prescriber,
60 dispenser, pharmacy, or patient arising out of matters that are
61 the subject of information in the system. The program manager
62 and authorized persons who participate in preparing, reviewing,
63 issuing, or any other activity related to management of the
64 system may not be permitted or required to testify in any such
65 civil or administrative action as to any findings,
66 recommendations, evaluations, opinions, or other actions taken
67 in connection with management of the system.

68 (b) The Attorney General may introduce information from the
69 system released to him or her pursuant to subparagraph (5)(b)2.
70 as evidence in a civil, criminal, or administrative action
71 against a dispenser or a pharmacy. The program manager and
72 authorized persons who participate in preparing, reviewing,
73 issuing, or any other activity related to the management of the
74 system may testify for purposes of authenticating the records
75 introduced into evidence pursuant to this paragraph.

76 Section 2. Paragraph (e) of subsection (3) and subsection
77 (6) of section 893.0551, Florida Statutes, are amended to read:

78 893.0551 Public records exemption for the prescription drug
79 monitoring program.—

80 (3) The department shall disclose such information to the
81 following persons or entities upon request and after using a
82 verification process to ensure the legitimacy of the request as
83 provided in s. 893.055:

84 (e) The Attorney General or his or her designee:

85 1. When working on Medicaid fraud cases involving
86 prescribed controlled substances or when the Attorney General
87 has initiated a review of specific identifiers of Medicaid fraud

588-03691-19

20191700c1

88 or specific identifiers that warrant a Medicaid investigation
89 regarding prescribed controlled substances. The Attorney
90 General's Medicaid fraud investigators may not have direct
91 access to the department's system. The Attorney General or his
92 or her designee may disclose to a criminal justice agency, as
93 defined in s. 119.011, only the information received from the
94 department that is relevant to an identified active
95 investigation that prompted the request for the information.

96 2. When pursuing an active investigation or pending civil
97 or criminal litigation involving prescribed controlled
98 substances. Except for Medicaid fraud cases, when releasing
99 information pursuant to this subparagraph, the department must
100 assign each patient whose information is released a unique
101 identifying number that does not identify, or provide a
102 reasonable basis to identify, the patient to whom the
103 identifying number is assigned. The department may not release
104 any patient information pursuant to this subparagraph other than
105 the patient's unique identifying number, year of birth, and the
106 county, city, and zip code where the patient resides.

107 (6) An agency or person who obtains any information
108 pursuant to this section must maintain the confidential and
109 exempt status of that information and may not disclose such
110 information unless authorized by law. Information shared with a
111 state attorney pursuant to paragraph (3) (f), ~~or~~ paragraph
112 (3) (h), or with the Attorney General or his or her designee
113 pursuant to subparagraph (3) (e)2. may be released only in
114 response to a discovery demand if such information is directly
115 related to the ~~criminal~~ case for which the information was
116 requested. Unrelated information may be released only upon an

588-03691-19

20191700c1

117 order of a court of competent jurisdiction.

118 Section 3. This act shall take effect upon becoming a law.