

1                                   A bill to be entitled  
 2           An act relating to a review under the Open Government  
 3           Sunset Review Act; amending s. 893.0551, F.S.,  
 4           relating to an exemption from public record  
 5           requirements for certain information held by the  
 6           Department of Health pursuant to the prescription drug  
 7           monitoring program; specifying that the Attorney  
 8           General, health care regulatory boards, and law  
 9           enforcement agencies may disclose confidential and  
 10          exempt information in certain instances if such  
 11          information is relevant to an active investigation;  
 12          requiring the Attorney General, health care regulatory  
 13          boards, and law enforcement agencies to take certain  
 14          steps to ensure the continued confidentiality of all  
 15          nonrelevant confidential and exempt information before  
 16          disclosing such information; authorizing the  
 17          department to disclose, under certain circumstances,  
 18          relevant information to a law enforcement agency,  
 19          rather than requiring the department to disclose  
 20          confidential and exempt information; removing the  
 21          scheduled repeal of the exemption; providing an  
 22          effective date.

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

26           Section 1.   Section 893.0551, Florida Statutes, is amended

27 to read:

28 893.0551 Public records exemption for the prescription  
29 drug monitoring program.—

30 (1) For purposes of this section, terms have the same  
31 meaning as provided in s. 893.055. ~~the term:~~

32 ~~(a) "Active investigation" has the same meaning as~~  
33 ~~provided in s. 893.055.~~

34 ~~(b) "Dispenser" has the same meaning as provided in s.~~  
35 ~~893.055.~~

36 ~~(c) "Health care practitioner" or "practitioner" has the~~  
37 ~~same meaning as provided in s. 893.055.~~

38 ~~(d) "Health care regulatory board" has the same meaning as~~  
39 ~~provided in s. 893.055.~~

40 ~~(e) "Law enforcement agency" has the same meaning as~~  
41 ~~provided in s. 893.055.~~

42 ~~(f) "pharmacist" means any person licensed under chapter~~  
43 ~~465 to practice the profession of pharmacy.~~

44 ~~(g) "Pharmacy" has the same meaning as provided in s.~~  
45 ~~893.055.~~

46 ~~(h) "Prescriber" has the same meaning as provided in s.~~  
47 ~~893.055.~~

48 (2) The following information of a patient or patient's  
49 agent, a health care practitioner, a dispenser, an employee of  
50 the practitioner who is acting on behalf of and at the direction  
51 of the practitioner, a pharmacist, or a pharmacy that is  
52 contained in records held by the department under s. 893.055 is

53 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
 54 of the State Constitution:

- 55 (a) Name.
- 56 (b) Address.
- 57 (c) Telephone number.
- 58 (d) Insurance plan number.
- 59 (e) Government-issued identification number.
- 60 (f) Provider number.
- 61 (g) Drug Enforcement Administration number.
- 62 (h) Any other unique identifying information or number.

63 (3) The department shall disclose such confidential and  
 64 exempt information to the following person or entity upon  
 65 request and ~~entities~~ after using a verification process to  
 66 ensure the legitimacy of the ~~that person's or entity's~~ request  
 67 as provided in s. 893.055 ~~for the information:~~

68 (a) The Attorney General or ~~and~~ his or her designee when  
 69 working on Medicaid fraud cases involving prescription drugs or  
 70 when the Attorney General has initiated a review of specific  
 71 identifiers of Medicaid fraud regarding prescription drugs. The  
 72 Attorney General's Medicaid fraud investigators may not have  
 73 direct access to the department's database. The Attorney General  
 74 or his or her designee may disclose to a criminal justice agency  
 75 as defined in s. 119.011 only the confidential and exempt  
 76 information received from the department that is relevant to a  
 77 ~~eriminal justice agency as defined in s. 119.011 as part of an~~  
 78 identified active investigation that prompted the request for

79 ~~the information is specific to a violation of prescription drug~~  
 80 ~~abuse or prescription drug diversion law as it relates to~~  
 81 ~~controlled substances. The Attorney General's Medicaid fraud~~  
 82 ~~investigators may not have direct access to the department's~~  
 83 ~~database.~~

84 (b) The department's relevant health care regulatory  
 85 boards responsible for the licensure, regulation, or discipline  
 86 of a practitioner, pharmacist, or other person who is authorized  
 87 to prescribe, administer, or dispense controlled substances and  
 88 who is involved in a specific controlled substances  
 89 investigation for prescription drugs involving a designated  
 90 person. The health care regulatory boards may request  
 91 information from the department but may not have direct access  
 92 to its database. The health care regulatory boards may provide  
 93 ~~such information~~ to a law enforcement agency pursuant to ss.  
 94 456.066 and 456.073 only information that is relevant to the  
 95 specific controlled substances investigation that prompted the  
 96 request for the information.

97 (c) A law enforcement agency that has initiated an active  
 98 investigation involving a specific violation of law regarding  
 99 prescription drug abuse or diversion of prescribed controlled  
 100 substances. A law enforcement agency may request information  
 101 from the department but may not have direct access to its  
 102 database. The law enforcement agency may disclose to a criminal  
 103 justice agency as defined in s. 119.011 only ~~the~~ confidential  
 104 and exempt information received from the department that is

105 ~~relevant to a criminal justice agency as defined in s. 119.011~~  
 106 ~~as part of an identified active investigation that prompted the~~  
 107 ~~request for such information is specific to a violation of~~  
 108 ~~prescription drug abuse or prescription drug diversion law as it~~  
 109 ~~relates to controlled substances. A law enforcement agency may~~  
 110 ~~request information from the department but may not have direct~~  
 111 ~~access to its database.~~

112 (d) A health care practitioner who certifies that the  
 113 information is necessary to provide medical treatment to a  
 114 current patient in accordance with ss. 893.05 and 893.055.

115 (e) A pharmacist who certifies that the requested  
 116 information will be used to dispense controlled substances to a  
 117 current patient in accordance with ss. 893.04 and 893.055.

118 (f) A patient or the legal guardian or designated health  
 119 care surrogate for an incapacitated patient, if applicable,  
 120 making a request as provided in s. 893.055(7)(c)4.

121 (g) The patient's pharmacy, prescriber, or dispenser who  
 122 certifies that the information is necessary to provide medical  
 123 treatment to his or her current patient in accordance with s.  
 124 893.055.

125 (4) If the department determines that there exists a  
 126 pattern of controlled substance abuse consistent with department  
 127 rules, the department may ~~shall~~ disclose such confidential and  
 128 exempt information to the applicable law enforcement agency in  
 129 accordance with s. 893.055(7)(f). The law enforcement agency may  
 130 disclose to a criminal justice agency as defined in s. 119.011

131 only ~~the~~ confidential and exempt information received from the  
 132 department that is relevant to a criminal justice agency as  
 133 ~~defined in s. 119.011 as part of an identified~~ active  
 134 investigation that is specific to a violation of s.  
 135 893.13(7) (a)8., s. 893.13(8) (a), or s. 893.13(8) (b).

136 (5) Before disclosing confidential and exempt information  
 137 to a criminal justice agency or a law enforcement agency  
 138 pursuant to this section, the disclosing person or entity must  
 139 take steps to ensure the continued confidentiality of all  
 140 confidential and exempt information. At a minimum, these steps  
 141 must include redacting any nonrelevant information.

142 (6) An ~~Any~~ agency or person who obtains any such  
 143 confidential and exempt information pursuant to this section  
 144 must maintain the confidential and exempt status of that  
 145 information and may not disclose such information unless  
 146 authorized by law.

147 (7)-(6) Any person who willfully and knowingly violates  
 148 this section commits a felony of the third degree, punishable as  
 149 provided in s. 775.082, s. 775.083, or s. 775.084.

150 ~~(7) This section is subject to the Open Government Sunset~~  
 151 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~  
 152 ~~on October 2, 2014, unless reviewed and saved from repeal~~  
 153 ~~through reenactment by the Legislature.~~

154 Section 2. This act shall take effect October 1, 2014.  
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