

FOR CONSIDERATION By the Committee on Health Policy

588-00915-14

20147016__

1 A bill to be entitled
2 An act relating to prescription drug monitoring;
3 amending s. 893.055, F.S.; defining and redefining
4 terms; revising provisions relating to the
5 comprehensive electronic database system and
6 prescription drug monitoring program maintained by the
7 Department of Health; requiring a law enforcement
8 agency to submit a subpoena as a condition of direct
9 access to information in the program; requiring that
10 the subpoena be predicated upon a showing of
11 reasonable suspicion of criminal activity, fraud, or
12 theft regarding prescribed controlled substances;
13 providing that the subpoena may be issued without
14 notice to the affected patients, subscribers, or
15 dispensers; authorizing the department to provide
16 relevant information that does not contain personal
17 identifying information if the program manager
18 determines a specified pattern exists; authorizing the
19 law enforcement agency to use such information to
20 support a subpoena; deleting obsolete provisions;
21 providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 893.055, Florida Statutes, is amended to
26 read:

27 893.055 Prescription drug monitoring program.—

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

29 (a) "Patient advisory report" or "advisory report" means

588-00915-14

20147016__

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

49 (b) "Controlled substance" means a controlled substance
50 listed in Schedule II, Schedule III, or Schedule IV in s.
51 893.03.

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

58 (d) "Health care practitioner" or "practitioner" means a

588-00915-14

20147016__

59 ~~any~~ practitioner who is subject to licensure or regulation by
60 the department under chapter 458, chapter 459, chapter 461,
61 chapter 462, chapter 463, chapter 464, chapter 465, or chapter
62 466.

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

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

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

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

79 (i) "Law enforcement agency" means the Department of Law
80 Enforcement, a Florida sheriff's department, a Florida police
81 department, or a law enforcement agency of the Federal
82 Government which enforces the laws of this state or the United
83 States relating to controlled substances, and whose ~~which its~~
84 agents and officers are empowered by law to conduct criminal
85 investigations and make arrests.

86 (j) "Program manager" means an employee of or a person
87 contracted by the Department of Health who is designated to

588-00915-14

20147016__

88 ensure the integrity of the prescription drug monitoring program
89 in accordance with the requirements established in paragraphs
90 (2) (a) and (b).

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

100 (2) (a) The department shall maintain ~~design and establish~~ a
101 comprehensive electronic database system in order to collect and
102 store specified information from dispensed ~~that has~~ controlled
103 substance prescriptions and shall release information to
104 authorized recipients in accordance with subsection (6) and s.
105 893.0551 provided to it and that provides prescription
106 ~~information to a patient's health care practitioner and~~
107 ~~pharmacist who inform the department that they wish the patient~~
108 ~~advisory report provided to them. Otherwise, the patient~~
109 ~~advisory report will not be sent to the practitioner, pharmacy,~~
110 ~~or pharmacist.~~ The system must ~~shall be designed to provide~~
111 ~~information regarding dispensed prescriptions of controlled~~
112 ~~substances and shall not infringe upon the legitimate~~
113 ~~prescribing or dispensing of a controlled substance by a~~
114 ~~prescriber or dispenser acting in good faith and in the course~~
115 ~~of professional practice and must.~~ The system shall be
116 consistent with standards of the American Society for Automation

588-00915-14

20147016__

117 in Pharmacy (ASAP). The ~~electronic~~ system must ~~shall~~ also comply
118 with the Health Insurance Portability and Accountability Act
119 (HIPAA) as it pertains to protected health information (PHI),
120 electronic protected health information (EPHI), and ~~all~~ other
121 relevant state and federal privacy and security laws and
122 regulations. ~~The department shall establish policies and~~
123 ~~procedures as appropriate regarding the reporting, accessing the~~
124 ~~database, evaluation, management, development, implementation,~~
125 ~~operation, storage, and security of information within the~~
126 ~~system. The reporting of prescribed controlled substances shall~~
127 ~~include a dispensing transaction with a dispenser pursuant to~~
128 ~~chapter 465 or through a dispensing transaction to an individual~~
129 ~~or address in this state with a pharmacy that is not located in~~
130 ~~this state but that is otherwise subject to the jurisdiction of~~
131 ~~this state as to that dispensing transaction. The reporting of~~
132 ~~patient advisory reports refers only to reports to patients,~~
133 ~~pharmacies, and practitioners. Separate reports that contain~~
134 ~~patient prescription history information and that are not~~
135 ~~patient advisory reports are provided to persons and entities as~~
136 ~~authorized in paragraphs (7)(b) and (c) and s. 893.0551.~~

137 (b) The department shall maintain the electronic system so
138 that a patient's health care practitioner or pharmacist is able
139 to receive a patient advisory report upon request, ~~when the~~
140 ~~direct support organization receives at least \$20,000 in~~
141 ~~nonstate moneys or the state receives at least \$20,000 in~~
142 ~~federal grants for the prescription drug monitoring program,~~
143 ~~shall adopt rules as necessary concerning the reporting,~~
144 ~~accessing the database, evaluation, management, development,~~
145 ~~implementation, operation, security, and storage of information~~

588-00915-14

20147016__

146 ~~within the system, including rules for when patient advisory~~
147 ~~reports are provided to pharmacies and prescribers. The patient~~
148 ~~advisory report shall be provided in accordance with s.~~
149 ~~893.13(7)(a)8. The department shall work with the professional~~
150 ~~health care licensure boards, such as the Board of Medicine, the~~
151 ~~Board of Osteopathic Medicine, and the Board of Pharmacy; other~~
152 ~~appropriate organizations, such as the Florida Pharmacy~~
153 ~~Association, the Florida Medical Association, the Florida Retail~~
154 ~~Federation, and the Florida Osteopathic Medical Association,~~
155 ~~including those relating to pain management; and the Attorney~~
156 ~~General, the Department of Law Enforcement, and the Agency for~~
157 ~~Health Care Administration to develop rules appropriate for the~~
158 ~~prescription drug monitoring program.~~

159 (c) The department shall:

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

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

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

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

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

588-00915-14

20147016__

175 prescription to the system.

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

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

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

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

195 4.(d) Cooperate ~~The program manager shall work with~~
196 ~~professional health care licensure boards and the stakeholders~~
197 ~~listed in subparagraph 3. paragraph (b) to develop rules~~
198 ~~appropriate for identifying indicators of controlled substance~~
199 ~~abuse.~~

200 (3) The dispenser of ~~The pharmacy dispensing the controlled~~
201 ~~substance and each prescriber who directly dispenses a~~
202 ~~controlled substance shall submit to the electronic system, by a~~
203 ~~procedure and in a format established by the department and~~

588-00915-14

20147016__

204 consistent with an ASAP-approved format, the following
205 information for each prescription dispensed ~~inclusion in the~~
206 ~~database~~:

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

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

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

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

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

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

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

232 (4) Each time a controlled substance is dispensed to an

588-00915-14

20147016__

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

254 (5) ~~When the following acts of dispensing or administering~~
255 ~~occur,~~ The following acts are exempt from the reporting under
256 requirements of this section for that specific act of dispensing
257 or administration:

258 (a) The administration of ~~A health care practitioner when~~
259 ~~administering~~ a controlled substance directly to a patient by a
260 health care practitioner if the amount of the controlled
261 substance is adequate to treat the patient during that

588-00915-14

20147016__

262 particular treatment session.

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

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

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

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

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

283 (6) Confidential and exempt information in the prescription
284 drug monitoring program's database may be released only as
285 provided in this subsection and s. 893.0551 ~~The department may~~
286 ~~establish when to suspend and when to resume reporting~~
287 ~~information during a state-declared or nationally declared~~
288 ~~disaster.~~

289 ~~(7) (a) A practitioner or pharmacist who dispenses a~~
290 ~~controlled substance must submit the information required by~~

588-00915-14

20147016__

291 ~~this section in an electronic or other method in an ASAP format~~
292 ~~approved by rule of the department unless otherwise provided in~~
293 ~~this section. The cost to the dispenser in submitting the~~
294 ~~information required by this section may not be material or~~
295 ~~extraordinary. Costs not considered to be material or~~
296 ~~extraordinary include, but are not limited to, regular postage,~~
297 ~~electronic media, regular electronic mail, and facsimile~~
298 ~~charges.~~

299 (a) ~~(b)~~ A pharmacy, prescriber, or dispenser shall have
300 access to information in the prescription drug monitoring
301 program's database which relates to a patient of that pharmacy,
302 prescriber, or dispenser in a manner established by the
303 department as needed for the purpose of reviewing the patient's
304 controlled substance prescription history. A prescriber or
305 dispenser acting in good faith is immune from any civil,
306 criminal, or administrative liability that might otherwise be
307 incurred or imposed for receiving or using information from the
308 prescription drug monitoring program. This subsection does not
309 create a private cause of action, and a person may not recover
310 damages against a prescriber or dispenser authorized to access
311 information under this subsection for accessing or failing to
312 access such information ~~Other access to the program's database~~
313 ~~shall be limited to the program's manager and to the designated~~
314 ~~program and support staff, who may act only at the direction of~~
315 ~~the program manager or, in the absence of the program manager,~~
316 ~~as authorized. Access by the program manager or such designated~~
317 ~~staff is for prescription drug program management only or for~~
318 ~~management of the program's database and its system in support~~
319 ~~of the requirements of this section and in furtherance of the~~

588-00915-14

20147016__

320 ~~prescription drug monitoring program. Confidential and exempt~~
321 ~~information in the database shall be released only as provided~~
322 ~~in paragraph (c) and s. 893.0551. The program manager,~~
323 ~~designated program and support staff who act at the direction of~~
324 ~~or in the absence of the program manager, and any individual who~~
325 ~~has similar access regarding the management of the database from~~
326 ~~the prescription drug monitoring program shall submit~~
327 ~~fingerprints to the department for background screening. The~~
328 ~~department shall follow the procedure established by the~~
329 ~~Department of Law Enforcement to request a statewide criminal~~
330 ~~history record check and to request that the Department of Law~~
331 ~~Enforcement forward the fingerprints to the Federal Bureau of~~
332 ~~Investigation for a national criminal history record check.~~

333 (b)(e) The following entities are shall not be allowed
334 direct access to information in the prescription drug monitoring
335 program database but may request from the program manager and,
336 when authorized by the program manager, the program manager's
337 program and support staff, information that is confidential and
338 exempt under s. 893.0551. Before ~~Prior to~~ release, the request
339 by the following entities shall be verified as authentic and
340 authorized with the requesting organization by the program
341 manager or, the program manager's program and support staff, ~~or~~
342 ~~as determined in rules by the department as being authentic and~~
343 ~~as having been authorized by the requesting entity:~~

344 1. The department or its relevant health care regulatory
345 boards responsible for the licensure, regulation, or discipline
346 of practitioners, pharmacists, or other persons who are
347 authorized to prescribe, administer, or dispense controlled
348 substances and who are involved in a specific controlled

588-00915-14

20147016__

349 substance investigation involving a designated person for one or
350 more prescribed controlled substances.

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

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

360 4. A patient or the legal guardian or designated health
361 care surrogate of an incapacitated patient as described in s.
362 893.0551 who, for the purpose of verifying the accuracy of the
363 database information, submits a written and notarized request
364 that includes the patient's full name, address, and date of
365 birth, ~~and includes the same information if the legal guardian~~
366 ~~or health care surrogate submits the request.~~ If the patient's
367 legal guardian or health care surrogate is the requestor, the
368 request shall be validated by the department to verify the
369 identity of the patient and the legal guardian or health care
370 surrogate, ~~if the patient's legal guardian or health care~~
371 ~~surrogate is the requestor.~~ Such verification is also required
372 for any request to change a patient's prescription history or
373 other information related to his or her information in the
374 electronic database.

375

376 Information in or released from the prescription drug monitoring
377 program database ~~for the electronic prescription drug monitoring~~

588-00915-14

20147016__

378 ~~system~~ is not discoverable or admissible in any civil or
379 administrative action, except in an investigation and
380 disciplinary proceeding by the department or the appropriate
381 regulatory board.

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

394 (d) The program manager and designated support staff, upon
395 the direction of the program manager or as otherwise authorized
396 during the program manager's absence, may access the
397 prescription drug monitoring program's database only to manage
398 the program or to manage the program's database and systems in
399 support of the requirements of this section or as established by
400 the department in rule pursuant to subparagraph (2)(c)4. The
401 program manager, designated program and support staff who act at
402 the direction of or in the absence of the program manager, and
403 any individual who has similar access regarding the management
404 of the database from the prescription drug monitoring program
405 shall submit fingerprints to the department for background
406 screening. The department shall follow the procedure established

588-00915-14

20147016__

407 by the Department of Law Enforcement to request a statewide
408 criminal history record check and to request that the Department
409 of Law Enforcement forward the fingerprints to the Federal
410 Bureau of Investigation for a national criminal history record
411 check.

412 (e) If the program manager determines a pattern consistent
413 with the rules established under subparagraph (2)(c)4., the
414 department may provide relevant information that does not
415 contain personal identifying information to the applicable law
416 enforcement agency. A law enforcement agency may use such
417 information to support a subpoena pursuant to subparagraph (b)3.

418 (f)~~(e)~~ All transmissions of data required by this section
419 must comply with relevant state and federal privacy and security
420 laws and regulations. However, an ~~any~~ authorized agency or
421 person under s. 893.0551 receiving such information as allowed
422 by s. 893.0551 may maintain the information received for up to
423 24 months before purging it from his or her records or maintain
424 it for longer than 24 months if the information is pertinent to
425 ongoing health care or an active law enforcement investigation
426 or prosecution.

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

432 (7)~~(8)~~ To assist in fulfilling program responsibilities,
433 performance measures shall be reported annually to the Governor,
434 the President of the Senate, and the Speaker of the House of
435 Representatives by the department each December 1, ~~beginning in~~

588-00915-14

20147016__

436 2011. Data that does not contain patient, physician, health care
437 practitioner, prescriber, or dispenser identifying information
438 may be requested during the year by department employees so that
439 the department may undertake public health care and safety
440 initiatives that take advantage of observed trends. Performance
441 measures may include, but are not limited to, efforts to achieve
442 the following outcomes:

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

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

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

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

454 ~~(9) Any person who willfully and knowingly fails to report~~
455 ~~the dispensing of a controlled substance as required by this~~
456 ~~section commits a misdemeanor of the first degree, punishable as~~
457 ~~provided in s. 775.082 or s. 775.083.~~

458 (8) ~~(10)~~ All costs incurred by the department in
459 administering the prescription drug monitoring program shall be
460 funded through federal grants or private funding applied for or
461 received by the state. The department may not commit funds for
462 the monitoring program without ensuring funding is available.
463 ~~The prescription drug monitoring program and the implementation~~
464 ~~thereof are contingent upon receipt of the nonstate funding. The~~

588-00915-14

20147016__

465 department and state government shall cooperate with the direct-
466 support organization established pursuant to subsection (9) ~~(11)~~
467 in seeking federal grant funds, other nonstate grant funds,
468 gifts, donations, or other private moneys for the department if
469 the costs of doing so are not considered material. Nonmaterial
470 costs for this purpose include, but are not limited to, the
471 costs of mailing and personnel assigned to research or apply for
472 a grant. Notwithstanding the exemptions to competitive-
473 solicitation requirements under s. 287.057(3)(e), the department
474 shall comply with the competitive-solicitation requirements
475 under s. 287.057 for the procurement of any goods or services
476 required by this section. ~~Funds provided, directly or~~
477 ~~indirectly, by prescription drug manufacturers may not be used~~
478 ~~to implement the program.~~

479 (9) ~~(11)~~ The department may establish a direct-support
480 organization that has a board consisting of at least five
481 members to provide assistance, funding, and promotional support
482 for the activities authorized for the prescription drug
483 monitoring program.

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

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

489 2. Organized and operated to conduct programs and
490 activities; raise funds; request and receive grants, gifts, and
491 bequests of money; acquire, receive, hold, and invest, in its
492 own name, securities, funds, objects of value, or other
493 property, either real or personal; and make expenditures or

588-00915-14

20147016__

494 provide funding to or for the direct or indirect benefit of the
495 department in the furtherance of the prescription drug
496 monitoring program.

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

499 (c) The State Surgeon General shall appoint a board of
500 directors for the direct-support organization. Members of the
501 board shall serve at the pleasure of the State Surgeon General.
502 The State Surgeon General shall provide guidance to members of
503 the board to ensure that moneys received by the direct-support
504 organization are not received from inappropriate sources.
505 Inappropriate sources include, but are not limited to, donors,
506 grantors, persons, or organizations that may monetarily or
507 substantively benefit from the purchase of goods or services by
508 the department in furtherance of the prescription drug
509 monitoring program and any funds provided, directly or
510 indirectly, by prescription drug manufacturers.

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

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

516 2. Submission of an annual budget for the approval of the
517 department.

518 3. Certification by the department that the direct-support
519 organization is complying with the terms of the contract in a
520 manner consistent with and in furtherance of the goals and
521 purposes of the prescription drug monitoring program and in the
522 best interests of the state. Such certification must be made

588-00915-14

20147016__

523 annually and reported in the official minutes of a meeting of
524 the direct-support organization.

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

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

533 6. The disclosure of the material provisions of the
534 contract to donors of gifts, contributions, or bequests,
535 including such disclosure on all promotional and fundraising
536 publications, and an explanation to such donors of the
537 distinction between the department and the direct-support
538 organization.

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

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

588-00915-14

20147016__

552 software.

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

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

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

563 e. Providing funds for travel expenses.

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

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

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

575 (f) The department may permit, without charge, appropriate
576 use of administrative services, property, and facilities of the
577 department by the direct-support organization, subject to this
578 section. The use must be directly in keeping with the approved
579 purposes of the direct-support organization and may not be made
580 at times or places that would unreasonably interfere with

588-00915-14

20147016__

581 opportunities for the public to use such facilities for
582 established purposes. Any moneys received from rentals of
583 facilities and properties managed by the department may be held
584 in a separate depository account in the name of the direct-
585 support organization and subject to the provisions of the letter
586 of agreement with the department. The letter of agreement must
587 provide that any funds held in the separate depository account
588 in the name of the direct-support organization must revert to
589 the department if the direct-support organization is no longer
590 approved by the department to operate in the best interests of
591 the state.

592 (g) The department may adopt rules under s. 120.54 to
593 govern the use of administrative services, property, or
594 facilities of the department or office by the direct-support
595 organization.

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

602 (i) The direct-support organization shall provide for an
603 independent annual financial audit in accordance with s.
604 215.981. Copies of the audit shall be provided to the department
605 and the Office of Policy and Budget in the Executive Office of
606 the Governor.

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

609 ~~(12) A prescriber or dispenser may have access to the~~

588-00915-14

20147016__

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

621 (10) ~~(13)~~ To the extent that funding is provided for such
622 purpose through federal or private grants or gifts and other
623 types of available moneys, the department shall study the
624 feasibility of enhancing the prescription drug monitoring
625 program for the purposes of public health initiatives and
626 statistical reporting that respects the privacy of the patient,
627 the prescriber, and the dispenser. Such a study shall be
628 conducted in order to further improve the quality of health care
629 services and safety by improving the prescribing and dispensing
630 practices for prescription drugs, taking advantage of advances
631 in technology, reducing duplicative prescriptions and the
632 overprescribing of prescription drugs, and reducing drug abuse.
633 The requirements of the National All Schedules Prescription
634 Electronic Reporting (NASPER) Act are authorized in order to
635 apply for federal NASPER funding. In addition, the direct-
636 support organization shall provide funding for the department to
637 conduct training for health care practitioners and other
638 appropriate persons in using the monitoring program to support

588-00915-14

20147016__

639 the program enhancements.

640 ~~(11)(14) A pharmacist, pharmacy, or dispensing health care~~
641 ~~practitioner or his or her agent,~~ Before releasing a controlled
642 substance to any person not known to him or her ~~such dispenser,~~
643 the dispenser shall require the person purchasing, receiving, or
644 otherwise acquiring the controlled substance to present valid
645 photographic identification or other verification of his or her
646 identity ~~to the dispenser~~. If the person does not have proper
647 identification, the dispenser may verify the validity of the
648 prescription and the identity of the patient with the prescriber
649 or his or her authorized agent. Verification of health plan
650 eligibility through a real-time inquiry or adjudication system
651 is ~~will be~~ considered to be proper identification. This
652 subsection does not apply in an institutional setting or to a
653 long-term care facility, including, but not limited to, an
654 assisted living facility or a hospital to which patients are
655 admitted. As used in this subsection, the term "proper
656 identification" means an identification that is issued by a
657 state or the Federal Government containing the person's
658 photograph, printed name, and signature or a document considered
659 acceptable under 8 C.F.R. s. 274a.2(b)(1)(v)(A) and (B).

660 ~~(15) The Agency for Health Care Administration shall~~
661 ~~continue the promotion of electronic prescribing by health care~~
662 ~~practitioners, health care facilities, and pharmacies under s.~~
663 ~~408.0611.~~

664 ~~(16) The department shall adopt rules pursuant to ss.~~
665 ~~120.536(1) and 120.54 to administer the provisions of this~~
666 ~~section, which shall include as necessary the reporting,~~
667 ~~accessing, evaluation, management, development, implementation,~~

588-00915-14

20147016__

668 ~~operation, and storage of information within the monitoring~~
669 ~~program's system.~~

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