

CHAPTER 2019-70

Committee Substitute for Committee Substitute for House Bill No. 375

An act relating to the prescription drug monitoring program; amending s. 893.055, F.S.; defining the term “electronic health recordkeeping system”; authorizing the Department of Health to enter into reciprocal agreements to share prescription drug monitoring information with the United States Department of Veterans Affairs, the United States Department of Defense, or the Indian Health Service; providing requirements for such agreements; providing an exemption from the requirement to check a patient’s dispensing history before the prescribing of or dispensing of a controlled substance for prescribing for or dispensing to patients admitted to hospice for the alleviation of pain related to a terminal condition or to patients receiving palliative care for terminal illnesses; providing an effective date.

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

Section 1. Paragraphs (f) through (k) of subsection (1) of section 893.055, Florida Statutes, are redesignated as paragraphs (g) through (l), respectively, subsections (6) and (8), are amended, and a new paragraph (f) is added to subsection (1) of that section, to read:

893.055 Prescription drug monitoring program.—

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

(f) “Electronic health recordkeeping system” means an electronic or computer-based information system used by health care practitioners or providers to create, collect, store, manipulate, exchange, or make available personal health information for the delivery of patient care.

(6) The department may enter into one or more reciprocal agreements or contracts to share prescription drug monitoring information with other states, districts, ~~or territories,~~ the United States Department of Veterans Affairs, the United States Department of Defense, or the Indian Health Service if the prescription drug monitoring programs of such other states, districts, ~~or territories,~~ the United States Department of Veterans Affairs, the United States Department of Defense, or the Indian Health Service are compatible with the Florida program.

(a) In determining compatibility, the department shall consider:

1. The safeguards for privacy of patient records and the success of the program in protecting patient privacy.

2. The persons authorized to view the data collected by the program. Comparable entities and licensed health care practitioners in other states,

districts, or territories of the United States; law enforcement agencies; the Attorney General's Medicaid Fraud Control Unit; medical regulatory boards; the United States Department of Veterans Affairs; the United States Department of Defense; the Indian Health Service; and, as needed, management staff who have similar duties as management staff who work with the prescription drug monitoring program as authorized in s. 893.0551 are authorized access upon approval by the department.

3. The schedules of the controlled substances that are monitored by the program.

4. The data reported to or included in the program's system.

5. Any implementing criteria deemed essential for a thorough comparison.

6. The costs and benefits to the state of sharing prescription information.

(b) The department shall assess the prescription drug monitoring program's continued compatibility every 4 years with programs from other states states', districts districts', territories, the United States Department of Veterans Affairs, the United States Department of Defense, or the Indian Health Service ~~or territories' programs every 4 years.~~

(c) Any agreements or contracts for sharing of prescription drug monitoring information between the department and other states, districts, ~~or territories, the United States Department of Veterans Affairs, the United States Department of Defense, or the Indian Health Service~~ shall contain the same restrictions and requirements as this section or s. 893.0551, and the information must be provided according to the department's determination of compatibility.

(8) A prescriber or dispenser or a designee of a prescriber or dispenser must consult the system to review a patient's controlled substance dispensing history before prescribing or dispensing a controlled substance for a patient age 16 or older. This requirement does not apply when prescribing or dispensing a nonopioid controlled substance listed in Schedule V of s. 893.03 or 21 U.S.C. 812 or prescribing or dispensing a controlled substance to a patient who has been admitted to hospice pursuant to s. 400.6095. For purposes of this subsection, a "nonopioid controlled substance" is a controlled substance that does not contain any amount of a substance listed as an opioid in s. 893.03 or 21 U.S.C. 812.

(a) The duty to consult the system does not apply when the system:

1. Is determined by the department to be nonoperational; or

2. Cannot be accessed by the prescriber or dispenser or a designee of the prescriber or dispenser because of a temporary technological or electrical failure.

(b) A prescriber or dispenser or designee of a prescriber or dispenser who does not consult the system under this subsection shall document the reason he or she did not consult the system in the patient's medical record or prescription record and shall not prescribe or dispense greater than a 3-day supply of a controlled substance to the patient.

(c) The department shall issue a nondisciplinary citation to any prescriber or dispenser who fails to consult the system as required by this subsection for an initial offense. Each subsequent offense is subject to disciplinary action pursuant to s. 456.073.

Section 2. This act shall take effect July 1, 2019.

Approved by the Governor June 7, 2019.

Filed in Office Secretary of State June 7, 2019.