



PRESCRIPTION MONITORING PROGRAM STATE PROFILES – FLORIDA

Research current through July 2014.

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FLORIDA

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- Status of Program – operational
- Housing Entity – Department of Health
- Advisory Commission – no
- Funding – federal grants or private funding; direct support organization
- Drugs Monitored – Schedules II – IV
- Who’s Required to Report Dispensing Information – pharmacies and prescribers who directly dispense a controlled substance
- Exemptions from Reporting – administration of controlled substance directly to a patient in an amount adequate to treat the patient during that particular treatment session; administration to a patient or resident receiving care in a hospital, nursing home, ambulatory surgical center, hospice, or intermediate care facility; administration to patient in the care of the Department of Corrections; administration to patient in the emergency department of a hospital; administration to patient under the age of 16; dispensing of a one-time, 72 hour emergency resupply
- Nonresident Pharmacies Required to Report – yes
- Veterinarians Required to Report - no
- Data Collection Interval – weekly/7 days
- Notice to Consumers – no
- Interstate Sharing – none
- Persons Authorized to Receive Information – law enforcement and judicial/prosecutorial officials; licensing/regulatory boards; Attorney General when investigating Medicaid fraud cases; patient or parent of minor child; health care agent; prescribers; dispensers
- Delegates Allowed – no
- De-identified Data Provided – no
- Unsolicited Reports – to prescribers, pharmacists, law enforcement, and licensing boards
- Training Required – no
- Mandatory Enrollment – no
- Mandatory Access – no

West's Florida Statutes Annotated (2014)
Title XLVI. Crimes (Chapters 775-899)
Chapter 893. Drug Abuse Prevention and Control

§ 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 impose no obligations of any nature or any legal duty on a prescriber, dispenser, pharmacy, or patient. The patient advisory report shall be provided in accordance with s. 893.13(7)(a)8. The advisory reports issued by the department are not subject to discovery or introduction into evidence in any civil or administrative action against a prescriber, dispenser, pharmacy, or patient arising out of matters that are the subject of the report; and a person who participates in preparing, reviewing, issuing, or any other activity related to an advisory report may not 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.

(d) “Health care practitioner” or “practitioner” means 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 any board for a practitioner or health care practitioner who is licensed or regulated by the department.

(f) “Pharmacy” means 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 could lead to the filing of administrative, civil, or criminal proceedings, or 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 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).

(2)(a) The department shall design and establish a comprehensive electronic database system that has controlled substance prescriptions 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 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. The system shall be consistent with standards of the American Society for Automation in Pharmacy (ASAP). The electronic system 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, 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) All dispensers and prescribers subject to these reporting requirements shall be notified by the department of the implementation date for such reporting requirements.

(d) The program manager shall work with professional health care licensure boards and the stakeholders listed in paragraph (b) to develop rules appropriate for identifying indicators of controlled substance abuse.

(3) 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 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 controlled substance shall be reported to the department through the system 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 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 are exempt from reporting under this section for that specific act of dispensing or administration:

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

(b) A pharmacist or health care practitioner when administering a controlled substance 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) A practitioner when administering or dispensing a controlled substance in the health care system of the Department of Corrections.

(d) A practitioner when administering a controlled substance in the emergency room of a licensed hospital.

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

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

(6) 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.

(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. 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

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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.

(c) The following entities 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. Prior to release, the request shall be verified as authentic and authorized with the requesting organization by the program manager, 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 regarding potential criminal activity, fraud, or theft regarding prescribed controlled substances.
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. 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 the 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.

(d) Department staff, 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 contains no identifying information of any patient, physician, health care practitioner, prescriber, or dispenser and that is not confidential and exempt.

(e) All transmissions of data required by this section must comply with relevant state and federal privacy and security laws and regulations. However, 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.

(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. 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.

(10) All costs incurred by the department in administering the prescription drug monitoring program shall be funded through federal grants or private funding applied for or received by the state. The department may not commit funds for the monitoring program without ensuring

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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.

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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).

(k) This subsection is repealed October 1, 2017, unless reviewed and saved from repeal by the Legislature.

(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.

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(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.

(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 such 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 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.

West's Florida Statutes Annotated (2014)
Title XLVI. Crimes (Chapters 775-899)
Chapter 893. Drug Abuse Prevention and Control

§ 893.0551. Public records exemption for the prescription drug monitoring program

<Text of Section Effective October 1, 2014>

(1) For purposes of this section, the terms used in this section have the same meanings as provided in s. 893.055.

(2) The following information of a patient or patient's agent, a health care practitioner, a dispenser, an employee of the practitioner who is acting on behalf of and at the direction of the practitioner, a pharmacist, or a pharmacy that is contained in records held by the department under s. 893.055 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

- (a) Name.
- (b) Address.
- (c) Telephone number.
- (d) Insurance plan number.
- (e) Government-issued identification number.
- (f) Provider number.
- (g) Drug Enforcement Administration number.
- (h) Any other unique identifying information or number.

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

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

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

(c) A law enforcement agency that has initiated an active investigation involving a specific violation of law regarding prescription drug abuse or diversion of prescribed controlled substances and that has entered into a user agreement with the department. A law enforcement agency may request information from the department but may not have direct access to its database. The law enforcement agency may disclose to a criminal justice agency, as defined in s. 119.011, only confidential and exempt information received from the department that is relevant to an identified active investigation that prompted the request for such information.

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

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

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

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

(4) If the department determines consistent with its rules that a pattern of controlled substance abuse exists, the department may disclose such confidential and exempt information to the applicable law enforcement agency in accordance with s. 893.055. The law enforcement agency may disclose to a criminal justice agency, as defined in s. 119.011, only confidential and exempt information received from the department that is relevant to an identified active investigation that is specific to a violation of s. 893.13(7)(a)8., s. 893.13(8)(a), or s. 893.13(8)(b).

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

(6) An agency or person who obtains any confidential and exempt information pursuant to this section must maintain the confidential and exempt status of that information and may not disclose such information unless authorized by law. Information shared with a state attorney

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pursuant to paragraph (3)(a) or paragraph (3)(c) may be released only in response to a discovery demand if such information is directly related to the criminal case for which the information was requested. Unrelated information may be released only upon an order of a court of competent jurisdiction.

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

West's Florida Administrative Code (2014)
Title 64. Department of Health
Subtitle 64K. Prescription Drug Monitoring Program
Chapter 64K-1. Prescription Drug Monitoring Program

64K-1.001. Patient Advisory Alerts and Reports.

(1) A patient advisory report is a document in electronic or paper format containing information related to the dispensing of controlled substances listed in Schedules II through IV in Section 893.03, F.S. The patient advisory report is created from dispensing information reported to the Prescription Drug Monitoring Program database by pharmacies and dispensing practitioners. The advisory report will be accessible online to the practitioner or the pharmacist.

(2) A patient advisory report available only upon request in accordance with Section 893.055(2)(a), F.S., will indicate to a health care practitioner when a patient may have been prescribed or received controlled substances from multiple health care practitioners in a strength, amount, or frequency that may be contrary to law.

West's Florida Administrative Code (2014)
Title 64. Department of Health
Subtitle 64K. Prescription Drug Monitoring Program
Chapter 64K-1. Prescription Drug Monitoring Program

64K-1.003. Accessing Database.

(1) The following entities have direct access to the information contained in the Program database:

(a) A pharmacist, prescriber, or dispenser if the information relates to a patient of that pharmacy, prescriber, or dispenser for purposes of reviewing the patient's controlled substance prescription history. Those entities who are authorized to prescribe or dispense controlled substances, Schedules II-IV, and are licensed in the State of Florida may access the database through the secure web portal to request and receive information electronically, or may submit a written request to the Program manager if information must be received by an alternate means.

(b) The Program manager and designated Program support staff acting at the direction of or as authorized by the Program manager for purposes of management of the Program database.

(2) The following entities do not have direct access to the information in the database, but may request access from the Program manager or authorized staff:

(a) The Department or the health care regulatory boards in Section 893.005(7)(c)1., F.S., when involved in a specific controlled substance investigation involving a designated person for one or more prescribed controlled substances.

(b) The Attorney General or designee for Medicaid Fraud cases involving prescribed controlled substances.

(c) A law enforcement agency during an active investigation regarding potential criminal activity, fraud, or theft relating to prescribed controlled substances.

(d) A patient or the legal guardian or designated health care surrogate of an incapacitated patient as described in Section 893.0551, F.S., who, for the purpose of verifying the accuracy of the database information, contacts the Prescription Drug Monitoring Program at 4052 Bald Cypress Way, Bin C-16, Tallahassee, FL 32399-3254 or by telephone at (850) 245-4797 to request form DH 2143 "Patient Information Request," effective December, 2010, which is incorporated by reference and located at <http://www.flrules.org/Gateway/reference.asp?No=Ref-00721>. To receive the requested information, the patient or other authorized person must make an appointment, appear in person at the Program office, and produce a valid government issued identification, which includes a photograph.

(3) The Program manager or designated staff must ensure that the entity requesting access to information is permitted by law to receive access and must document steps taken to verify the request as authentic.

West's Florida Administrative Code (2014)
Title 64. Department of Health
Subtitle 64K. Prescription Drug Monitoring Program
Chapter 64K-1. Prescription Drug Monitoring Program

64K-1.004. Management and Operation of Database.

(1) All entities that dispense controlled substances, Schedules II-IV, are required to report to the Program database. These entities include:

(a) Any pharmacy with a permit issued under Chapter 465, F.S., that dispenses controlled substances, whether located in or out of the State of Florida, including mail order or Internet pharmacies.

(b) Any health care practitioner, practicing in Florida, who dispenses any controlled substances, Schedules II-IV, and who is licensed under Chapter 458, 459, 461, 462 or 466, F.S.

(c) Exemptions from reporting are as stated in Section 893.055(5), F.S.

(2) All dispensers will electronically submit data to the Program's database as soon thereafter as possible, but not more than 7 days after the controlled substance is dispensed to an individual. Extensions of the time within which a dispenser must report the dispensing of a controlled substance shall be granted for no more than 30 days upon request to the Program by any dispenser unable to submit data by electronic means for good cause if the dispenser provides evidence of having suffered a mechanical or electronic failure or cannot report for reasons beyond the control of the dispenser or if the database is unable to receive submissions.

(3) Data not accepted by the database system due to a substantial number of errors or omissions shall be corrected and resubmitted to the database by the reporting dispenser within ten business days of receiving written notice that the submitted data was unacceptable.

(4) Failure to report the dispensing of Schedules II-IV controlled substances will result in the Program filing a complaint with the Department for investigation and a referral to law enforcement.

(5) All information from the database disseminated in any form by the Program to any entity is considered protected health information and the use of it is governed by any and all applicable federal and state laws.

(6)(a) A patient, health care provider, prescriber, or dispenser is authorized to submit to the Program an electronic request for the correction of erroneous information in the database. The request shall include:

1. A statement explaining in detail the basis for the requested correction;

2. The precise change requested;
3. Documentation establishing the error and the correct information;
4. The requester's name, address, telephone number, and license number if licensed as a health care provider in Florida.

(b) The Program manager or designated staff will review all requests to correct information in the database and will contact the entity that provided the data under review. If the reporter of the data concurs that the data should be corrected as requested, the reporter will make the correction. If the reporter does not agree, the reporter will not enter the correction. The entity or person requesting the correction will be notified of whether the correction has been made.

West's Florida Administrative Code (2014)
Title 64. Department of Health
Subtitle 64K. Prescription Drug Monitoring Program
Chapter 64K-1. Prescription Drug Monitoring Program

64K-1.007. Indicators of Controlled Substance Abuse.

(1) The following behavior indicates controlled substance abuse:

A patient who within a 90-day time period: (1) obtains a prescription for a controlled substance in Schedules II, III, or IV, as defined in Section 893.03, F.S., from more than one prescriber; and (2) is dispensed a controlled substance in Schedules II, III, or IV, as defined in Section 893.03, F.S., from five or more pharmacies.

(2) Upon identifying a patient who exhibits or for whom the behavior outlined in subsection (1) has been exhibited, the Program Manager may provide relevant information to the identified health care practitioners who have prescribed or dispensed controlled substances to the identified patient within the 90-day period.