

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for
2 Senate Bill Nos. 63 & 111, Pages 1 through 7, Sections 195.015, 195.450, 195.453, 195.456,
3 195.459, 195.462, 195.465, 195.468, and 195.471, by deleting all of said sections from the bill and
4 inserting in lieu thereof the following:

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6 "195.650. 1. For the purposes of sections 195.650 to 195.665, the following terms shall
7 mean:

8 (1) "Controlled substance", the same meaning ascribed to it in section 195.010;

9 (2) "Department", the department of health and senior services;

10 (3) "Health care provider", the same meaning ascribed to it in section 376.1350;

11 (4) "Registry", the prescription abuse registry established under sections 195.650 to 195.665;

12 (5) "Rehabilitation facility", any facility where residential prevention, evaluation, care,
13 treatment, habilitation, or rehabilitation is provided for individuals affected by alcohol or drug abuse.

14 2. The department shall promulgate rules and regulations to implement the provisions of
15 sections 195.650 to 195.665. Any rule or portion of a rule, as that term is defined in section 536.010,
16 that is created under the authority delegated in this section shall become effective only if it complies
17 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This
18 section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly
19 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
20 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or
21 adopted after August 28, 2015, shall be invalid and void.

22 195.655. 1. There is hereby established within the department of health and senior services a
23 "Prescription Abuse Registry", which shall be available by January 1, 2017.

24 2. The following individuals who are eighteen years of age or older shall be listed in the
25 prescription abuse registry:

26 (1) Individuals who have been found guilty under federal law, the laws of this state, or under
27 the laws of another state of a crime involving possession or use of a controlled substance;

28 (2) Individuals who request to be listed in the registry;

29 (3) Any individual reported to the department by a relative within the first degree of
30 consanguinity of such individual who has reason to believe that such individual has illicitly used or
31 abused controlled substances;

32 (4) Any individual reported to the department by a health care provider who has a reasonable
33 suspicion that such individual has illicitly used or abused controlled substances. A health care
34 provider may report an individual under this section if the individual has ever attempted to acquire
35 controlled substances or a prescription for controlled substances from the health care provider
36 regardless of whether the individual is a patient of the health care provider. If an individual contacts

Action Taken _____ Date _____

Action Taken _____ Date _____

1 a health care provider seeking rehabilitation services only, the health care provider shall not report
 2 the individual to the department without the individual's written consent; and

3 (5) Any individual reported to the department by an employee of a rehabilitation facility if
 4 the employee has obtained the informed written consent of the individual.

5 3. Information regarding individuals in the prescription abuse registry shall include, but not
 6 be limited to, the following:

7 (1) The individual's name;

8 (2) The individual's date of birth;

9 (3) The individual's social security number; and

10 (4) The method by which and the date on which the individual was reported to the
 11 department under subsection 2 of this section.

12 4. When an individual has been reported to the department for listing in the registry, the
 13 department shall notify the individual by certified mail that his or her name has been submitted for
 14 entry into the registry. The department shall not disclose the method by which the individual was
 15 reported or any identifying information of any reporter in such notice. Such notice shall inform the
 16 individual of his or her right to appeal the listing under section 195.665 within thirty days. If no
 17 appeal is filed with the department within thirty days, the individual shall be listed in the registry. If
 18 the individual timely files an appeal, his or her name shall not be listed in the registry until the
 19 conclusion of the administrative appeal process.

20 195.660. 1. Information contained in the prescription abuse registry shall be confidential
 21 and not subject to public disclosure under chapter 610 except as provided in subsection 3 of this
 22 section.

23 2. The department shall maintain procedures to ensure the privacy and confidentiality of
 24 personal information reported to, collected by, and maintained in the registry and to ensure such
 25 information is not disclosed except as provided in subsection 3 of this section.

26 3. The department shall establish procedures to enable health care providers to access the
 27 prescription abuse registry for the sole purpose of determining whether an individual is listed in the
 28 registry. A health care provider may submit a request to determine if an individual is listed in the
 29 registry by submitting the individual's name and date of birth or social security number. The health
 30 care provider shall receive a response that only confirms or denies the individual's listing in the
 31 registry. No health care provider shall have access to any other personal information contained in the
 32 registry.

33 4. No department, agency, instrumentality, political subdivision, or law enforcement agency
 34 of this state including the bureau of narcotics and dangerous drugs, federal law enforcement agency,
 35 or individual other than a health care provider under the provisions of subsection 3 of this section
 36 shall have access to the prescription abuse registry.

37 5. Nothing in this section shall be construed to require a health care provider to obtain
 38 information about an individual or patient from the registry. No health care provider shall be held
 39 liable for damages to any person in any civil action for injury, death, or loss to person or property on
 40 the basis of the health care provider accessing or not accessing the registry. No health care provider
 41 in compliance with the provisions of sections 195.650 to 195.665 shall be subject to discipline by
 42 any licensing board or state agency for acting in good faith with regards to the registry.

43 195.665. 1. Any individual listed in the prescription abuse registry under subdivisions (2) to
 44 (5) of subsection 2 of section 195.655 shall have a right to appeal his or her listing in the registry and
 45 any information contained in the registry. Any such appeal shall be filed in writing with the
 46 department within thirty days of the individual's receipt of notice that he or she was listed in the
 47 registry. An administrative appeal shall be set within thirty days of the filing of the appeal and a
 48 decision shall be made within sixty days. If the department determines by a preponderance of the

1 evidence that the individual was wrongfully listed in the registry, the department shall find in favor
2 of such individual and the individual shall be removed from the registry. If the appeal is decided
3 against such person, the person may seek judicial review of such decision under sections 536.100 to
4 536.150. An individual's right to appeal under this section is in addition to any other appeal rights
5 granted by state law.

6 2. Individuals listed in the registry under subdivisions (2) to (5) of subsection 2 of section
7 195.655 may submit a petition to the department to be removed from the registry after seven years
8 from the date such individual was placed in the registry. An administrative hearing shall be set
9 within thirty days of the filing of the petition and a decision shall be made within sixty days. If the
10 department determines that the individual has been drug free for seven years and is a contributing
11 member of society, the department shall find in favor of the individual and the department shall
12 remove the individual from the registry and his or her file shall be closed. If the department decides
13 against the individual, he or she may seek judicial review of such decision under sections 536.100 to
14 536.150.

15 3. Any person who unlawfully and knowingly accesses or discloses, or a person authorized
16 to have information in the prescription abuse registry under sections 195.650 to 195.665 who
17 knowingly discloses, such information in violation of sections 195.650 to 195.665 or knowingly uses
18 such information in a manner and for a purpose in violation of sections 195.650 to 195.665 is guilty
19 of a class D felony until December 31, 2016, and a class E felony starting January 1, 2017.

20 4. If a person unlawfully and knowingly accesses or discloses, or if a person authorized to
21 have information in the prescription abuse registry under sections 195.650 to 195.665 knowingly
22 discloses such information in violation of sections 195.650 to 195.665 or knowingly uses such
23 information in a manner and for a purpose in violation of sections 195.650 to 195.665, the person
24 whose information was disclosed shall have a cause of action to recover liquidated damages in the
25 amount of two thousand five hundred dollars in addition to compensatory economic and
26 noneconomic damages, attorney fees, and court costs. If it is determined by a court of competent
27 jurisdiction that such disclosure was done intentionally and maliciously, then the person shall be
28 entitled to punitive damages in addition to the damages above. The total amount of damages that
29 may be recovered from the department shall be ten million dollars per incident if the individual's
30 information in the prescription abuse registry was disclosed by an employee of the department
31 without the knowledge or consent of the employee's supervisor."; and

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33 Further amend said bill by amending the title, enacting clause, and intersectional references
34 accordingly.