

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill  
2 No. 70, Page 1, Section A, Line 5, by deleting the word "are" and inserting in lieu thereof the following:

3  
4 "and section 192.530 as truly agreed to and finally passed by senate substitute for house bill no. 402,  
5 one hundred second general assembly, first regular session, are"; and

6  
7 Further amend said bill, Page 101, Section 337.1075, Line 10, by inserting after all of said section and line  
8 the following:

9  
10 "Section 1. The department of health and senior services shall include on its website an advance  
11 health care directive form and directions for completing such form as described in section 459.015. The  
12 department shall include a listing of possible uses for an advance health care directive, including to limit pain  
13 control to nonopioid measures."; and

14  
15 Further amend said bill, Page 103, Section 191.550, Line 2, by inserting after all of said section and line the  
16 following:

17  
18 ~~"[192.530. 1. As used in this section, the following terms mean:~~

19 ~~(1) "Department", the department of health and senior services;~~

20 ~~(2) "Health care provider", the same meaning given to the term in section 376.1350;~~

21 ~~(3) "Voluntary nonopioid directive form", a form that may be used by a patient to deny or refuse the~~  
22 ~~administration or prescription of a controlled substance containing an opioid by a health care provider.~~

23 ~~2. In consultation with the board of registration for the healing arts and the board of pharmacy, the~~  
24 ~~department shall develop and publish a uniform voluntary nonopioid directive form.~~

25 ~~3. The voluntary nonopioid directive form developed by the department shall indicate to all~~  
26 ~~prescribing health care providers that the named patient shall not be offered, prescribed, supplied with, or~~  
27 ~~otherwise administered a controlled substance containing an opioid.~~

28 ~~4. The voluntary nonopioid directive form shall be posted in a downloadable format on the~~  
29 ~~department's publicly accessible website.~~

30 ~~5. (1) A patient may execute and file a voluntary nonopioid directive form with a health care~~  
31 ~~provider. Each health care provider shall sign and date the form in the presence of the patient as evidence of~~  
32 ~~acceptance and shall provide a signed copy of the form to the patient.~~

33 ~~(2) The patient executing and filing a voluntary nonopioid directive form with a health care provider~~  
34 ~~shall sign and date the form in the presence of the health care provider or a designee of the health care~~  
35 ~~provider. In the case of a patient who is unable to execute and file a voluntary nonopioid directive form, the~~  
36 ~~patient may designate a duly authorized guardian or health care proxy to execute and file the form in~~  
37 ~~accordance with subdivision (1) of this subsection.~~

38 ~~(3) A patient may revoke the voluntary nonopioid directive form for any reason and may do so by~~  
39 ~~written or oral means.~~

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1           6. The department shall promulgate regulations for the implementation of the voluntary nonopioid  
2 directive form that shall include, but not be limited to:

3           (1) ~~A standard method for the recording and transmission of the voluntary nonopioid directive form,~~  
4 ~~which shall include verification by the patient's health care provider and shall comply with the written~~  
5 ~~consent requirements of the Public Health Service Act, 42 U.S.C. Section 290dd-2(b), and 42 CFR Part 2,~~  
6 ~~relating to confidentiality of alcohol and drug abuse patient records, provided that the voluntary nonopioid~~  
7 ~~directive form shall also provide the basic procedures necessary to revoke the voluntary nonopioid directive~~  
8 ~~form;~~

9           (2) ~~Procedures to record the voluntary nonopioid directive form in the patient's medical record or, if~~  
10 ~~available, the patient's interoperable electronic medical record;~~

11           (3) ~~Requirements and procedures for a patient to appoint a duly authorized guardian or health care~~  
12 ~~proxy to override a previously filed voluntary nonopioid directive form and circumstances under which an~~  
13 ~~attending health care provider may override a previously filed voluntary nonopioid directive form based on~~  
14 ~~documented medical judgment, which shall be recorded in the patient's medical record;~~

15           (4) ~~Procedures to ensure that any recording, sharing, or distributing of data relative to the voluntary~~  
16 ~~nonopioid directive form complies with all federal and state confidentiality laws; and~~

17           (5) ~~Appropriate exemptions for health care providers and emergency medical personnel to prescribe~~  
18 ~~or administer a controlled substance containing an opioid when, in their professional medical judgment, a~~  
19 ~~controlled substance containing an opioid is necessary, or the provider and medical personnel are acting in~~  
20 ~~good faith.~~

21  
22           The department shall develop and publish guidelines on its publicly accessible website that shall  
23 ~~address, at a minimum, the content of the regulations promulgated under this subsection. Any rule or portion~~  
24 ~~of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this~~  
25 ~~section shall become effective only if it complies with and is subject to all of the provisions of chapter 536~~  
26 ~~and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers~~  
27 ~~vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to~~  
28 ~~disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority~~  
29 ~~and any rule proposed or adopted after August 28, 2023, shall be invalid and void.~~

30           7. ~~A written prescription that is presented at an outpatient pharmacy or a prescription that is~~  
31 ~~electronically transmitted to an outpatient pharmacy is presumed to be valid for the purposes of this section,~~  
32 ~~and a pharmacist in an outpatient setting shall not be held in violation of this section for dispensing a~~  
33 ~~controlled substance in contradiction to a voluntary nonopioid directive form, except upon evidence that the~~  
34 ~~pharmacist acted knowingly against the voluntary nonopioid directive form.~~

35           8. (1) ~~A health care provider or an employee of a health care provider acting in good faith shall not~~  
36 ~~be subject to criminal or civil liability and shall not be considered to have engaged in unprofessional conduct~~  
37 ~~for failing to offer or administer a prescription or medication order for a controlled substance containing an~~  
38 ~~opioid under the voluntary nonopioid directive form.~~

39           (2) ~~A person acting as a representative or an agent pursuant to a health care proxy shall not be~~  
40 ~~subject to criminal or civil liability for making a decision under subdivision (3) of subsection 6 of this section~~  
41 ~~in good faith.~~

42           (3) ~~Notwithstanding any other provision of law, a professional licensing board, at its discretion, may~~  
43 ~~limit, condition, or suspend the license of, or assess fines against, a health care provider who recklessly or~~  
44 ~~negligently fails to comply with a patient's voluntary nonopioid directive form.]; and~~

45  
46 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.