

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Bill No. 15, Page 2, Section 190.220, Line 42, by inserting after all of
2 said line the following:

3
4 "192.530. 1. As used in this section, the following terms mean:

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

6 (2) "Health care provider", as such term is defined in section 376.1350.

7 2. In consultation with the board of registration for the healing arts and the board of
8 pharmacy, the department shall develop and publish a uniform voluntary nonopioid directive form,
9 which may be used by a patient to deny or refuse the administration or prescription of a controlled
10 substance containing an opioid by a health care provider.

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

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

16 5. (1) A patient may execute and file a voluntary nonopioid directive form with a health
17 care provider. Each health care provider shall sign and date the form in the presence of the patient
18 as evidence of acceptance, and shall provide a signed copy of the form to the patient.

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

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

26 6. The department shall promulgate regulations for the implementation of the voluntary
27 nonopioid directive form, which shall include, but not be limited to:

28 (1) A standard form for the recording and transmission of the voluntary nonopioid directive
29 form, which shall include verification by the patient's health care provider and which shall comply
30 with the written consent requirements of the Public Health Service Act, 42 U.S.C. Section 290dd-
31 2(b), and 42 CFR Part 2, relating to confidentiality of alcohol and drug abuse patient records,
32 provided that the voluntary nonopioid directive form also shall provide the basic procedures
33 necessary to revoke the voluntary nonopioid directive form;

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

36 (3) Requirements and procedures for a patient to appoint a duly authorized guardian or

Action Taken _____ Date _____

1 health care proxy to override a previously filed voluntary nonopioid directive form and
2 circumstances under which an attending health care provider may override a previously filed
3 voluntary nonopioid directive form based on documented medical judgment, which shall be
4 recorded in the patient's medical record;

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

7 (5) Appropriate exemptions for health care providers and emergency medical personnel to
8 prescribe or administer a controlled substance containing an opioid when, in their professional
9 medical judgment, a controlled substance containing an opioid is necessary.

10
11 The department shall develop and publish guidelines on its publicly accessible website, which shall
12 address, at a minimum, the content of the regulations promulgated under this subsection. Any rule
13 or portion of a rule, as that term is defined in section 536.010, that is created under the authority
14 delegated in this section shall become effective only if it complies with and is subject to all of the
15 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
16 nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to
17 review, to delay the effective date, or to disapprove and annul a rule are subsequently held
18 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
19 August 28, 2018, shall be invalid and void.

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

25 8. (1) A health care provider or an employee of a health care provider acting in good faith
26 is not subject to criminal or civil liability and shall not be considered to have engaged in
27 unprofessional conduct for failing to offer or administer a prescription or medication order for a
28 controlled substance containing an opioid under the voluntary nonopioid directive form.

29 (2) A person acting as a representative or an agent pursuant to a health care proxy is not
30 subject to criminal or civil liability for making a decision under subdivision (3) of subsection 6 of
31 this section in good faith.

32 (3) Notwithstanding any other provision of law, a professional licensing board in its
33 discretion may limit, condition, or suspend the license of, or assess fines against, a health care
34 provider who recklessly or negligently fails to comply with a patient's voluntary nonopioid directive
35 form."; and

36
37 Further amend said bill by amending the title, enacting clause, and intersectional references
38 accordingly.