

**HOUSE OF REPRESENTATIVES  
FINAL BILL ANALYSIS**

<b>BILL #:</b>	CS/CS/HB 249	<b>FINAL HOUSE FLOOR ACTION:</b>		
<b>SUBJECT/SHORT TITLE</b>	Drug Overdoses	117	Y's 0	N's
<b>SPONSOR(S):</b>	Health & Human Services Committee; Health Quality Subcommittee; Rommel; Lee	<b>GOVERNOR'S ACTION:</b>	Approved	
<b>COMPANION BILLS:</b>	CS/CS/CS/SB 588			

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**SUMMARY ANALYSIS**

CS/CS/HB 249 passed the House on April 26, 2017, and subsequently passed the Senate on May 3, 2017.

Currently, the Department of Health (DOH) maintains the Emergency Medical Services Tracking and Reporting System (EMSTARS) to collect data on prehospital emergency care from emergency medical services (EMS) providers. Participation in EMSTARS, and the transmission of electronic incident level data from EMS providers to DOH, is voluntary. EMSTARS data includes demographic elements for the provider agency, situation and scene information, patient care information, and outcome and disposition information. Additionally, EMSTARS may collect data elements for overdoses if EMS administers an opioid antagonist.

The bill creates s. 401.253, F.S., which allows EMTs and paramedics who provide basic and advanced live support services to report controlled substances overdoses to DOH. If a report is made, it must contain the date and time of the overdose, the address of where the patient was picked up or where the overdose took place, whether an emergency opioid antagonist was administered, and whether the overdose was fatal or non-fatal. Additionally, a report must include the gender and approximate age of the patient and the suspected controlled substances involved only if permitted by the reporting mechanism. Reporters must make best efforts to make the report within 120 hours.

If a report is made, it must be filed with DOH using EMSTARS or other appropriate method. Within 120 hours of receiving the report, DOH must make it available to law enforcement, public health, fire rescue, and EMS agencies in each county. Additionally, DOH must make quarterly reports that summarize the data it receives, which may be used to maximize the utilization of funding programs for licensed basic and advanced life support service providers, and to disseminate available federal, state, and, private funds for local substance abuse treatment services.

The bill requires a hospital with an emergency department to develop a best practices policy to promote the prevention of unintentional drug overdoses by connecting patients who have experienced unintentional overdoses with substance abuse treatment services. The bill allows hospitals to determine what should be included in the policy, but expressly authorizes several items.

The bill will have an insignificant negative fiscal impact on DOH and may have an insignificant negative fiscal impact on county and municipal EMS providers.

The bill was approved by the Governor on June 2, 2017, ch. 2017-54, L.O.F., and will become effective on October 1, 2017.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h0249z1.HQS

**DATE:** June 5, 2017

# I. SUBSTANTIVE INFORMATION

## A. EFFECT OF CHANGES:

### Background

#### Substance Abuse

Substance abuse refers to the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs.<sup>1</sup> Substance abuse disorders occur when the chronic use of alcohol or drugs causes significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.<sup>2</sup> Repeated drug use leads to changes in the brain's structure and function that can make a person more susceptible to developing a substance abuse disorder.<sup>3</sup> Brain imaging studies of persons with substance abuse disorders show physical changes in areas of the brain that are critical to judgment, decision making, learning and memory, and behavior control.<sup>4</sup>

According to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, a diagnosis of substance abuse disorder is based on evidence of impaired control, social impairment, risky use, and pharmacological criteria.<sup>5</sup> The most common substance abuse disorders in the United States are from the use of alcohol, tobacco, cannabis, stimulants, hallucinogens, and opioids.<sup>6</sup>

#### *Opioid Abuse*

Opioids are commonly abused, with an estimated 15 million people worldwide suffering from opioid dependence.<sup>7</sup> Drug overdose is now the leading cause of injury-related death in the United States.<sup>8</sup> In 2015, Florida ranked fourth in the nation with 3,228 deaths from drug overdoses<sup>9</sup>, and at least one opioid caused 2,530 of those deaths.<sup>10</sup> Statewide, in 2015, heroin caused 733 deaths, fentanyl caused 705, oxycodone caused 565, and hydrocodone caused 236; deaths caused by heroin and fentanyl increased more than 75% statewide when compared with 2014.<sup>11</sup>

Drug overdose deaths doubled in Florida from 1999 to 2012.<sup>12</sup> Over the same time period, drug overdose deaths occurred at a rate 13.2 deaths per 100,000 persons.<sup>13</sup> The crackdown on "pill mills" dispensing prescription opioid drugs, such as oxycodone and hydrocodone, reduced the rate of death

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<sup>1</sup> World Health Organization. *Substance Abuse*, [http://www.who.int/topics/substance\\_abuse/en/](http://www.who.int/topics/substance_abuse/en/) (last visited March 23, 2017).

<sup>2</sup> Substance Abuse and Mental Health Services Administration, *Substance Use Disorders*, <http://www.samhsa.gov/disorders/substance-use> (last visited May 3, 2017).

<sup>3</sup> National Institute on Drug Abuse, *Drugs, Brains, and Behavior: The Science of Addiction*, <https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/drug-abuse-addiction> (last visited May 3, 2017).

<sup>4</sup> Id.

<sup>5</sup> Supra, FN 2.

<sup>6</sup> Id.

<sup>7</sup> World Health Organization, *Information Sheet on Opioid Overdose*, November 2014. [http://www.who.int/substance\\_abuse/information-sheet/en/](http://www.who.int/substance_abuse/information-sheet/en/) (last visited March 23, 2107).

<sup>8</sup> Trust for America's Health, *The Facts Hurt: A State-by-State Injury Prevention Policy Report 2015*, <http://healthyamericans.org/reports/injuryprevention15/> (last visited May 3, 2017).

<sup>9</sup> Centers for Disease Control and Prevention, *Drug Overdose Death Data*, <https://www.cdc.gov/drugoverdose/data/statedeaths.html> (last visited May 3, 2017).

<sup>10</sup> Florida Department of Law Enforcement. *Drugs Identified in Deceased Persons by Florida Medical Examiners-2015 Annual Report*, available at: <https://www.fdle.state.fl.us/cms/MEC/Publications-and-Forms/Documents/Drugs-in-Deceased-Persons/2015-Annual-Drug-Report.aspx> (last visited on May 3, 2017).

<sup>11</sup> Id. at pg. 3.

<sup>12</sup> Florida Department of Health, *Special Emphasis Report: Drug Poisoning (Overdose) Deaths, 1999-2012*, available at: [http://www.floridahealth.gov/statistics-and-data/florida-injury-surveillance-system/\\_documents/CDC-Special-Emphasis-Drug-poisoning-overdose-1999-2012-B-Poston-FINAL.pdf](http://www.floridahealth.gov/statistics-and-data/florida-injury-surveillance-system/_documents/CDC-Special-Emphasis-Drug-poisoning-overdose-1999-2012-B-Poston-FINAL.pdf) (last visited on May 3, 2017).

<sup>13</sup> Id.

attributable to prescription drugs,<sup>14</sup> but may have generated a shift to heroin use, contributing to the rise in heroin addiction.<sup>15</sup>

On May 3, 2017, Governor Scott, following the Centers for Disease Control and Prevention declaring a national opioid epidemic, signed Executive Order 17-146.<sup>16</sup> The executive order directs the Surgeon General to declare a statewide public health emergency pursuant to s. 381.00315, F.S., and to take any action necessary to protect the public health.<sup>17</sup>

### *Emergency Response to Overdose*

Opioid overdose can occur when an individual deliberately misuses a prescription opioid or an illicit drug such as heroin.<sup>18</sup> It can also occur when a patient takes an opioid as directed, but the prescriber miscalculated the opioid dose, an error was made by the dispensing pharmacist, or the patient misunderstood the directions for use.<sup>19</sup> Opioid overdose is life threatening and requires immediate emergency attention.<sup>20</sup>

To treat an opioid overdose, emergency personnel or a physician may administer an opioid antagonist such as Narcan or Naloxone. An opioid antagonist is a drug that blocks the effects of exogenously administered opioids. Opioid antagonists are used in opioid overdoses to counteract life-threatening depression of the central nervous system and respiratory system, thereby allowing an overdose victim to breathe normally.<sup>21</sup> This occurs because opioid antagonists create a stronger bond with opioid receptors than opioids. This forces the opioids from the opioid receptors and allows the transmission of signals for respiration to resume.<sup>22</sup>

From 2004 through 2009, emergency department visits nationally involving the nonmedical use of pharmaceuticals increased 98.4%, from 627,291 visits to 1,244,679 visits.<sup>23</sup> In 2009, almost one million emergency room visits nationally involved illicit drugs, either alone or in combination with other drugs.<sup>24</sup> From 2008 to 2011, about half of all emergency department visits nationally for both unintentional and self-inflicted drug poisoning involved drugs in the categories of analgesics<sup>25</sup>, antipyretics<sup>26</sup>, and antirheumatics<sup>27</sup> or sedatives, hypnotics, tranquilizers, and other psychotropic agents.<sup>28</sup>

Opiates or related narcotics, including heroin and methadone, accounted for 14% of emergency department visits nationally for unintentional drug poisoning from 2008 to 2011.<sup>29</sup> In Florida, there were approximately 21,700 opioid-related emergency department visits in 2014.<sup>30</sup>

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<sup>14</sup> *Supra*, FN 10.

<sup>15</sup> World Health Organization. *Substance Abuse*, [http://www.who.int/topics/substance\\_abuse/en/](http://www.who.int/topics/substance_abuse/en/) (last visited May 3, 2017).

<sup>16</sup> Office of the Governor, Executive Order no. 17-149 (Opioid Epidemic), May 3, 2017, available at: <http://www.flgov.com/wp-content/uploads/2017/05/17146.pdf> (last visited May 3, 2017).

<sup>17</sup> *Id.*

<sup>18</sup> Substance Abuse and Mental Health Services Administration, *Opioid Overdose Prevention Toolkit*, Rev. 2016, available at: <http://store.samhsa.gov/shin/content//SMA16-4742/SMA16-4742.pdf> (last visited May 3, 2017).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> Harm Reduction Coalition, *Understanding Naloxone*, available at: <http://harmreduction.org/issues/overdose-prevention/overview/overdose-basics/understanding-naloxone/> (last visited May 3, 2017).

<sup>22</sup> Harm Reduction Coalition, *Guide to Developing and Managing Overdose Prevention and Take-Home Naloxone Projects*, Fall 2012, available at: <http://harmreduction.org/our-work/overdose-prevention/> (last visited May, 2017).

<sup>23</sup> National Institute on Drug Abuse, *Drug-Related Hospital Emergency Room Visits*, <https://www.drugabuse.gov/publications/drugfacts/drug-related-hospital-emergency-room-visits> (last visited May 3, 2017).

<sup>24</sup> *Id.*

<sup>25</sup> Analgesics are drugs that produce insensibility to pain.

<sup>26</sup> Antipyretics are drugs that reduce fever.

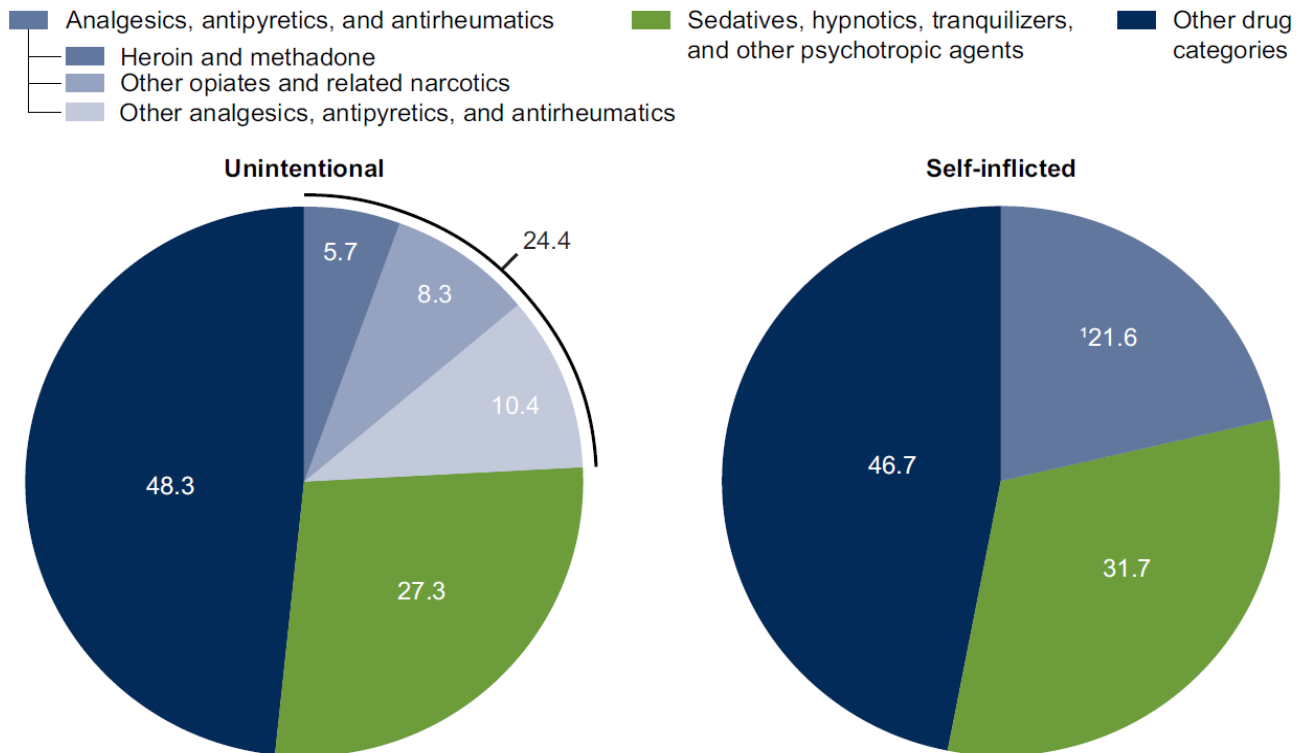
<sup>27</sup> Antirheumatics are drugs that alleviate or prevent inflammation or pain in muscles, joints, or fibrous tissue.

<sup>28</sup> Albert, M. et al. *Emergency Department Visits for Drug Poisoning: United States, 2008–2011*, NCHS Data Brief No. 196, April 2015, <https://www.cdc.gov/nchs/data/databriefs/db196.htm> (last visited May 3, 2017).

<sup>29</sup> *Id.*

<sup>30</sup> Weiss, A.J., et al., *Opioid-Related Inpatient Stays and Emergency Department Visits by State, 2009-2014*, HCUP Statistical Brief #219, January 2017, available at: <https://www.hcup-us.ahrq.gov/reports/statbriefs/sb219-Opioid-Hospital-Stays-ED-Visits-by-State.pdf> (last visited May 3, 2017).

Percentage of Emergency Department Visits for Drug Poisoning, By Intent and Drug Category:  
United States, 2008–2011<sup>31</sup>



SOURCE: CDC/NCHS, National Hospital Ambulatory Medical Care Survey, 2008–2011.

Privacy Rights of Individuals Receiving Substance Abuse Treatment

*Florida Protections*

Section 397.501, F.S., establishes statutory rights for individuals receiving substance abuse services, including the right to dignity, non-discriminatory services, quality services, confidentiality, counsel and habeas corpus. In particular, s. 397.501(7), F.S. prohibits service providers from disclosing records containing the identity, diagnosis, and prognosis of and services provided to any individual without written consent of the individual, with certain exceptions.<sup>32</sup> The law makes service providers who violate these rights liable for damages, unless acting in good faith, reasonably, and without negligence.

*Federal Protections of Personal Health Information*

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) protects personal health information. Privacy rules were initially issued in 2000 by the U.S. Department of Health and Human Services and later modified in 2002.<sup>33</sup> The rules address the use and disclosure of an individual’s personal health information and create standards for information security. Only certain entities, “covered entities”, are subject to HIPAA’s provisions. Covered entities are obligated to meet HIPAA’s

<sup>31</sup> Id.  
<sup>32</sup> Disclosure is permitted to: health service providers in cases of medical emergency if the information is necessary to provide services to the individual; DCF for the purposes of scientific research; comply with state-mandated child abuse and neglect reporting; comply with a valid court order; report crimes that occur on program premises or against staff; federal, state or local governments for audit purposes; or third party payors providing financial assistance or reimbursement.  
<sup>33</sup> United States Department of Health and Human Services, *The Privacy Rule*, <http://www.hhs.gov/ocr/privacy/hipaa/administrative/privacyrule/> (last visited on May 3, 2017).

requirements to ensure privacy and confidentiality personal health information. These “covered entities” include.<sup>34</sup>

- Health plans;
- Health care providers;
- Health care clearinghouses; and
- Business associates of any of the above.

Additionally, federal law restricts the disclosure of alcohol and drug patient records maintained by federally assisted alcohol and drug abuse programs which identify a patient as an alcohol or drug abuser.<sup>35</sup> Disclosure of patient-identifying information is permitted in certain cases and patients may consent in writing to the disclosure of such information.<sup>36</sup>

### Statewide Drug Policy Advisory Council

In 1999, the Legislature created the Office of Drug Control and the Drug Policy Advisory Council<sup>37</sup> in the Executive Office of the Governor, which the Legislature replaced with the Statewide Drug Policy Advisory Council (Council)<sup>38</sup> under the Florida Department of Health (DOH) in 2011. Among other things, the Council submits a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives with recommendations.<sup>39</sup>

The Council's 2016 Annual Report concluded that a key problem in combating drug overdoses Florida is that there is “no sustainable process to compile massive amounts of data and information, perform analysis and develop an evidence-based call to action.”<sup>40</sup> To improve data collection and surveillance, the Council recommends that DOH collaborate with other agencies, organizations, and institutions to create a comprehensive statewide strategy addressing the fentanyl and heroin overdoses in the state.<sup>41</sup>

### Data Systems

#### *Florida Injury Surveillance Data System*

DOH's Injury Surveillance Data System is a passive data reporting mechanism that utilizes data resources from several other agencies and systems, including emergency medical services (EMS).<sup>42</sup> The Injury Surveillance Data System is used to monitor the frequency of fatal and non-fatal injuries, determine the risk factors for these injuries, evaluate the completeness, timeliness, and quality of data sources, provide information to Florida's injury prevention community for program planning and evaluation, and provide a foundation for injury prevention strategies.<sup>43</sup> One of the injury mechanisms it

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<sup>34</sup>United States Department of Health and Human Services, *For Covered Entities and Business Associates*, <http://www.hhs.gov/ocr/privacy/hipaa/understanding/coverentities/> (last visited on May 3, 2017).

<sup>35</sup> 42 C.F.R. part 2.

<sup>36</sup> Disclosure is allowed to comply with state-mandated child abuse and neglect reporting; to report the cause of death; to comply with a valid court order; in cases of medical emergency; to report crimes that occur on program premises or against staff; to entities having administrative control; to qualified service organizations and to outside auditors, evaluators, central registries, and researchers.

<sup>37</sup> S. 397.332, F.S., created by s. 3, ch. 99-187, Laws of Fla.

<sup>38</sup> S. 397.333, F.S., created by s. 8, ch. 2011-51, Laws of Fla.

<sup>39</sup> S. 397.333(3), F.S.

<sup>40</sup> Florida Department of Health, *Statewide Drug Policy Advisory Council 2016 Annual Report*, (Dec. 1, 2016), p. 4, available at: <http://www.floridahealth.gov/provider-and-partner-resources/dpac/DPAC-Annual-Report-2016-FINAL.pdf> (last visited May 3, 2017).

<sup>41</sup> Id. at 14.

<sup>42</sup> Florida Department of Health, *Florida Injury Surveillance Data System*, <http://www.floridahealth.gov/statistics-and-data/florida-injury-surveillance-system/index.html> (last visited May 3, 2017).

<sup>43</sup> Id.

receives information on is poisoning, which includes drug overdoses;<sup>44</sup> however it is not currently set up to actively receive data regarding overdoses, or any other injury mechanism.<sup>45</sup>

### *Emergency Medical Services Tracking and Reporting System (EMSTARS)*

DOH maintains<sup>46</sup> the Emergency Medical Services Tracking and Reporting System (EMSTARS) to collect data on pre-hospital emergency care from EMS providers.<sup>47</sup> This system allows for the collection and analysis of incident level data from EMS agencies for benchmarking and quality improvement initiatives.<sup>48</sup> Participation in the EMSTARS system and the transmission of electronic incident level data from EMS providers<sup>49</sup> to DOH is voluntary.<sup>50</sup> However, the complete provision of incident level data and full participation in the EMSTARS Program fulfills EMS provider prehospital reporting requirements in rule 64J-1.014(1), F.A.C. The data collected by EMSTARS includes:

- All NHTSA “national” data elements for demographic data and EMS event data;
- Other selected elements identified by participants and other stakeholders;
- Demographic elements for the provider agency, its personnel, and patients;
- Incident and unit times;
- Situation and scene information;
- Patient care information including vital signs, injury assessment, trauma score, and intervention and procedural information; and
- Outcome and disposition information.<sup>51</sup>

Additionally, EMSTARS collects minimal data elements for overdoses if EMS administers an emergency opioid antagonist.<sup>52</sup> There are currently two versions of EMSTARS in use by EMS providers permitted by Rule 64J-1.014, F.A.C., versions 1.4.1 and 3.0. The more recent version allows EMS providers to capture the additional information about the patient, including his or her gender, as well as alcohol and drug use indicators.<sup>53</sup>

The electronic patient care records submitted by licensed EMS agencies to EMSTARS are confidential and exempt pursuant to s. 401.30(4), F.S.

### *Washington/ Baltimore High Intensity Drug Trafficking Overdose Detection Mapping Application Program*

The Washington/ Baltimore High Intensity Drug Trafficking Area (HIDTA) is a federal grant program administered by the White House Office of National Drug Control Policy which provides resources to assist federal, state, local and tribal agencies coordinate activities that address drug trafficking.<sup>54</sup> HIDTA created an app, known as the Overdose Detection Mapping Application Program, which allows

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<sup>44</sup> Florida Department of Health, *External Cause of Injury Intent and Mechanism Classifications and Descriptions*, (Sept. 8, 2008), available at, <http://www.floridahealth.gov/statistics-and-data/florida-injury-surveillance-system/documents/icd-code-explanations.pdf> (last visited May 3, 2017).

<sup>45</sup> Florida Department of Health, Agency Analysis of 2017 House Bill 249, p. 6, (Jan. 17, 2017) (on file with Health and Human Services Committee staff).

<sup>46</sup> In 2004, DOH signed a memorandum of understanding to participate in a national project that would standardize data collection for EMS agencies nationwide. The National Emergency Medical Services Information System is the national repository used to aggregate and analyze prehospital data from all participating states.

<sup>47</sup> Florida Department of Health, *The Basic Facts: Prehospital EMS Tracking and Reporting System*, p. 1, available at: [http://www.floridaemstars.com/docs/EMSTARSFactSheet\\_102314.pdf](http://www.floridaemstars.com/docs/EMSTARSFactSheet_102314.pdf) (last visited May 3, 2017).

<sup>48</sup> Id.

<sup>49</sup> There are 147 participating EMS agencies. Florida Department of Health, *Florida EMS Agencies Participating in EMSTARS*, available at, <http://www.floridaemstars.com/docs/partagencies.pdf> (last visited May 3, 2017).

<sup>50</sup> *Supra*, FN 47.

<sup>51</sup> Id.

<sup>52</sup> *Supra*, FN 45.

<sup>53</sup> Florida Department of Health, Bureau of Emergency Medical Oversight, *Emergency Medical Services Tracking and Reporting System, Version 2, EMS Data Standards*, (Oct. 2015), available at:

<http://www.floridaemstars.com/docs/flemstarsdatastandardsvers3.pdf> (last visited May 3, 2017)

<sup>54</sup> Washington/Baltimore High Intensity Drug Trafficking Area, <http://www.hidta.org/> (last visited May 3, 2017).

EMS agencies to report overdose incidents that are then transmitted in real time with an electronic map showing the location, date, time, and incident type. The app does not allow EMS agencies to report on the patient's age or gender or suspected controlled substance involved in the overdose.

### Emergency Medical Technicians and Paramedics

An emergency medical technician (EMT) is a person who is certified by DOH to perform basic life support.<sup>55</sup> A paramedic is a person who is certified by DOH to perform basic and advanced life support.<sup>56</sup> EMTs and paramedics are regulated by DOH, under ch. 401, Part III, F.S.

EMTs and paramedics care for sick or injured patients in an emergency medical setting and often work closely with police and firefighters during an emergency situation.<sup>57</sup> Some of the typical duties of an EMT or paramedic are:

- Responding to 911 calls for emergency medical assistance;
- Assessing a patient's condition and determining a course of treatment;
- Helping transfer patients to the emergency department of a healthcare facility and report their observations and treatment to the staff; and
- Creating a patient care report, documenting the medical care given to the patient.<sup>58</sup>

Currently, there are 35,315 certified EMTs and 29,731 certified paramedics in Florida.<sup>59</sup>

### Access to Emergency Services and Care

The Agency for Health Care Administration (AHCA) regulates hospitals under ch. 395, F.S. and the general licensure provisions of part II of ch. 408, F.S. AHCA must maintain a list of hospital providing emergency services and care and the services that the hospital is capable of providing.<sup>60</sup> Emergency services and care means medical screening, examination and evaluation by a physician, or by authorized personnel under the supervision of a physician, to determine if an emergency medical condition exists, and, if it does, the care, treatment, or surgery by a physician necessary to relieve or eliminate the emergency medical condition, within the service capability of the facility.<sup>61</sup>

Section 395.1041, F.S., requires all hospitals offering emergency services to provide care to every person presenting to the hospital requesting emergency care regardless of the person's race, ethnicity, religion, national origin, citizenship, age, sex, preexisting medical condition, physical or mental handicap, insurance status, economic status, or ability to pay for medical services. A hospital is prohibited from refusing to render emergency services unless a determination is made after screening, examining and evaluating the patient that he or she is not suffering from an emergency or the hospital does not have the capability or capacity to render emergency services. A hospital must transfer persons requiring care beyond the hospital's capability or capacity to another facility that can provide

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<sup>55</sup> S. 401.23(11), F.S.; s. 401.23(7), F.S., defines "basic life support" as, the assessment or treatment through the use of techniques described in the Emergency Medical Technician Basic National Standard Curriculum or the National EMS Education Standards of the U.S. Department of Transportation.

<sup>56</sup> S. 401.23(17), F.S.; s. 401.23(1), F.S., defines "advanced life support" as, the assessment or treatment by a qualified person through the use of techniques such as endotracheal intubation, the administration of drugs or intravenous fluids, telemetry, cardiac monitoring, cardiac defibrillation, and other techniques described in the EMT-Paramedic National Standard Curriculum or the National EMS Education Standards.

<sup>57</sup> U.S. Bureau of Labor Statistics, EMTs and Paramedics, <http://www.bls.gov/ooh/Healthcare/EMTs-and-paramedics.htm#tab-2> (last visited March 23, 2017).

<sup>58</sup> Id.

<sup>59</sup> Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan: Fiscal Year 2015-2016*, available at: <http://mqawebteam.com/annualreports/1516/#12> (last visited May 3, 2017).

<sup>60</sup> S. 395.1041(2), F.S.

<sup>61</sup> S. 395.002(9), F.S.

the needed services. AHCA may deny, revoke, or suspend the license of a hospital or impose an administrative fine up to \$10,000 for violating s. 395.1041, F.S. or any rules adopted thereunder.<sup>62</sup>

In addition, hospitals participating in the Medicare program must comply with the requirements of the federal Emergency Medical Treatment and Labor Act (EMTALA) to provide emergency services to anyone regardless of their insurance status or ability to pay.<sup>63</sup> EMTALA also requires hospitals that do not have the capability to treat the patient's medical condition to transfer the patient to a hospital with the capability to treat the patient. Florida's state law regarding access to emergency services and care is closely aligned with EMTALA.

### Screening, Brief Intervention, and Referral to Treatment

Screening, Brief Intervention, and Referral to Treatment (SBIRT) is an evidence-based practice used to identify, reduce, and prevent problematic use, abuse, and dependence on alcohol and illicit drugs.<sup>64</sup> SBIRT is an early intervention approach that targets those with nondependent substance use to provide effective strategies for intervention prior to the need for more extensive or specialized treatment.<sup>65</sup>

SBIRT consists of three major components<sup>66</sup>:

- Screening — a healthcare professional assesses a patient for risky substance use behaviors using standardized screening tools. Screening can occur in any healthcare setting.
- Brief Intervention — a healthcare professional engages a patient showing risky substance use behaviors in a short conversation, providing feedback and advice.
- Referral to Treatment — a healthcare professional provides a referral to brief therapy or additional treatment to patients who screen in need of additional services.

### **Effect of Proposed Changes**

#### Legislative Findings, Intent, and Goals

CS/CS/HB 249 makes a finding that substance abuse and drug overdose is a major health problem that affects the lives of many people, and multiple service systems that leads to profoundly disturbing consequences. The bill also makes a finding that these overdoses are a crisis and stress financial, health care, and public safety resources. Additionally, it makes a finding that a central databases that could quickly help address this problem does not currently exist.

The bill also states legislative intent to require the collaboration of local, regional, and state agencies, service systems, and program offices to address the needs of the public, to establish a comprehensive system addressing the problems associated with drug overdoses, and to reduce duplicative requirements across local, county, state, and health care agencies.

The bill also states a legislative intent to maximize the efficiency of financial, public education, health professional, and public safety resources and to utilize funding programs for the dissemination of available federal, state, and private funds through contractual agreements with licensed basic or advanced life support service providers, community-based organizations or units of state or local government that deliver local substance abuse services.

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<sup>62</sup> S. 395.1041(5), F.S.

<sup>63</sup> 42 U.S.C. s. 1395dd

<sup>64</sup> Substance Abuse and Mental Health Services Administration, *SBIRT: Screening, Brief Intervention, and Referral to Treatment* <http://www.integration.samhsa.gov/clinical-practice/sbirt> (last visited on May 3, 2017).

<sup>65</sup> Substance Abuse and Mental Health Services Administration, *SBIRT Factsheet*, October 2011, available at: [http://www.integration.samhsa.gov/sbirt/SBIRT\\_Factsheet\\_ICN904084.pdf](http://www.integration.samhsa.gov/sbirt/SBIRT_Factsheet_ICN904084.pdf) (last visited on March 9, 2017).

<sup>66</sup> *Supra*, FN 64.



The goals of the act are identified as:

- Discouraging substance abuse and overdoses by quickly identifying the type of drug involved, the age of the individual involved, and the areas where drug overdoses pose a potential risk to the public, schools, workplaces, and communities; and
- Providing a central data point so that data can be shared between the health care community and municipal, county, and state agencies to quickly identify needs and provide short and long term solutions while protecting and respecting the rights of individuals.

### Overdose Reporting

The bill creates s. 401.253, F.S., which allows EMTs and paramedics who provide basic and advanced life support services to report of controlled substances overdoses to DOH. The bill defines “overdose” as a condition which includes, but is not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, or death from the consumption or use of a controlled substance that requires medical attention, assistance, or treatment, and a clinical suspicion of a drug overdose such as respiratory depression, unconsciousness, or an altered mental state which is not explained by another condition.

An EMT or paramedic who treats and releases an individual, or treats and or transports an individual to a medical facility, in response to an emergency call for a suspected or actual overdose of a controlled substance, may voluntarily report. If they report, they must use best efforts to do so within 120 hours. The report must contain:

- The date and time of the overdose;
- The address of where the patient was picked up or where the overdose took place;
- Whether an emergency opioid antagonist was administered; and
- Whether the overdose was fatal or non-fatal.

Additionally, the report must include the approximate age and gender of the patient and the suspected controlled substances involved in the overdose only if permitted by its reporting mechanisms.

The bill requires reporters to use EMSTARS, the Washington/Baltimore High Intensity Drug Trafficking Overdose Detection Mapping Application Program, or other program identified by DOH in rule.

Anyone who files a report in good faith is not subject to civil or criminal liability for making the report. The bill also specifies that the failure to make a report is not grounds for licensure discipline against a basic or advanced life support service.

### *Use of Report*

The bill requires the report to be filed with DOH within 120 hours. Within 120 hours of receiving the report, DOH must make it available to law enforcement, public health, fire rescue, and EMS agencies in each county.

Additionally, DOH must make quarterly reports to the Council, the Department of Children and Families (DCF), and the Florida Fusion Center<sup>67</sup> that summarizes the data it receives. The Council, DCF, and DOH may use the reports to maximize the utilization of funding programs for basic and advanced life support service providers, and to disseminate available federal, state and, private funds for local

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<sup>67</sup> The Fusion Center, housed within the Florida Department of Law Enforcement, is a collaborative effort of state and federal agencies working in partnership with local partners to share resources, expertise, and/or information to better identify, detect, prevent, apprehend and respond to criminal and terrorist activity utilizing an all crimes/all hazards approach. Florida Department of Law Enforcement, *The Florida Fusion Center*, <http://www.fdle.state.fl.us/cms/FFC/FUSION-Center-Home.aspx> (last visited March 23, 2017).

substance abuse treatment services. It is unclear how the Council will use the data to maximize the use of funding, since it is merely advisory.

### Best Practices Policy for Hospitals with an Emergency Department

The bill also amends s. 395.1041, F.S to require a hospital with an emergency department to develop a best practices policy to promote the prevention of unintentional drug overdoses. The goal of the policy is to connect patients that experience unintentional drug overdoses with substance abuse treatment services.

The bill allows hospitals to determine what should be included in its best practices policy. However, bill expressly authorizes several items that may be included in the policy:

- A process for obtaining patient consent to disclose to patient's next of kin and the primary care physician or practitioner who prescribed a controlled substance of the patient's overdose, her or his location, and the nature of the substance or controlled substance involved in the overdose.
- A process for providing information to the patient or the patient's next of kin regarding licensed substance abuse treatment providers and voluntary and involuntary commitment procedures for mental health or substance abuse treatment.
- Controlled substance prescribing guidelines for emergency department health care practitioners.
- The use of licensed or certified behavioral health professionals or peer specialists in emergency departments to encourage the patient to voluntarily seek substance abuse treatment.
- The use of SBIRT protocols in the emergency department.

Hospitals that fail to develop a best practices policy to promote the prevention of unintentional drug overdoses are subject to discipline by AHCA.<sup>68</sup> The bill provides that the requirements of this section do not create a civil cause of action.

The bill provides an effective date of July 1, 2017.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

The reporting methods could require acquisition of new or additional software to collect and aggregate data.<sup>69</sup> DOH estimates it will cost \$20,000 to \$50,000 to make the technology changes to implement the reporting requirements of the bill.<sup>70</sup>

In addition, DOH may experience a recurring increase in workload associated with additional data they must collect from EMTs and paramedics and the quarterly reports it must make to the

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<sup>68</sup> *Supra*, FN 41.

<sup>69</sup> *Supra*, FN 45.

<sup>70</sup> Email from Paul Runk, Director, Office of Legislative Planning, Florida Department of Health, email RE: Fwd: cost of NCBP integration (Mar. 16, 2017) (on file with Health and Human Services Committee staff).

Council.<sup>71</sup> The impact is indeterminate at this time; therefore, DOH cannot calculate the full fiscal impact, but notes that it could be significant.<sup>72</sup>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

County and municipal EMS providers could incur additional costs related to enhanced reporting requirements.<sup>73</sup>

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Hospitals may incur costs associated with developing the best practices policy. The bill may also create more demand for substance abuse treatment services.

D. FISCAL COMMENTS:

None.

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<sup>71</sup> *Supra*, FN 45.

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*