

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

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BILL: PCS/SB 592 (300818)

INTRODUCER: Appropriations Subcommittee on Health and Human Services and Senator Albritton

SUBJECT: Prescription Drug Monitoring Program

DATE: March 7, 2019

REVISED: \_\_\_\_\_

|    | ANALYST      | STAFF DIRECTOR | REFERENCE  | ACTION                   |
|----|--------------|----------------|------------|--------------------------|
| 1. | <u>Looke</u> | <u>Brown</u>   | <u>HP</u>  | <b>Favorable</b>         |
| 2. | <u>Loe</u>   | <u>Kidd</u>    | <u>AHS</u> | <b>Recommend: Fav/CS</b> |
| 3. | _____        | _____          | <u>AP</u>  | _____                    |

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**I. Summary:**

PCS/SB 592 amends s. 893.055, F.S., to exempt prescribers and dispensers from the requirement to check the prescription drug monitoring program (PDMP) database before prescribing or dispensing controlled substances to a patient for the alleviation of pain related to a terminal condition.

The bill has no impact on state revenues or expenditures.

The bill is effective July 1, 2019.

**II. Present Situation:**

**Florida's Prescription Drug Monitoring Program (PDMP)**

Chapter 2009-197, Laws of Florida, established the PDMP in s. 893.055, F.S. The PDMP uses a comprehensive electronic database to monitor the prescribing and dispensing of certain controlled substances.<sup>1</sup> The PDMP became operational on September 1, 2011, when it began receiving prescription data from pharmacies and dispensing practitioners.<sup>2</sup> Health care practitioners began accessing the PDMP on October 17, 2011.<sup>3</sup>

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<sup>1</sup> Section 893.055(2)(a), F.S.

<sup>2</sup> Florida Dept. of Health, *2012-2013 Prescription Drug Monitoring Program Annual Report* (Dec. 1, 2013), available at <http://www.floridahealth.gov/reports-and-data/e-forcse/news-reports/documents/2012-2013pdmp-annual-report.pdf> (last visited on Jan. 7, 2018).

<sup>3</sup> Id.

Section 893.055, F.S., requires a dispensing practitioner to report specified information<sup>4</sup> by the close of the next business day for each controlled substance<sup>5</sup> dispensed to a patient in Florida. All acts of administration, the dispensing of a controlled substance to a person under the age of 16, and the dispensing of a controlled substance in a health care system of the Department of Corrections are exempt from the requirement to report. During the 2017-2018 reporting period, there were approximately 33 million controlled substances prescribed to Florida patients. This is a decline of 4.64 percent over the previous reporting period.<sup>6</sup>

Prior to the enactment of HB 21<sup>7</sup> in 2018, a dispensing or prescribing health care practitioner was authorized, but not required, to check the PDMP prior to dispensing or prescribing a controlled substance. HB 21 created a new requirement that all prescribing<sup>8</sup> and dispensing<sup>9</sup> practitioners, or a designee of the prescriber or dispenser, must consult the PDMP to review a patient's controlled substance dispensing history before prescribing or dispensing a controlled substance to the patient. This requirement does not apply when prescribing or dispensing to a patient under the age of 16, when prescribing or dispensing a non-opioid Schedule V controlled substance, or when the PDMP is not operational or cannot be accessed due to a technological or electrical failure. Between 2017 and 2018, the number of PDMP queries by health care practitioners increased by 26.6 percent – from approximately 35.8 million to approximately 45 million.<sup>10</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 893.055, F.S., to exempt prescribers and dispensers from the requirement to check the prescription drug monitoring program (PDMP) database before prescribing or dispensing a controlled substance to a patient for the alleviation of pain related to a terminal condition.

**Section 2** provides an effective date of July 1, 2019.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

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<sup>4</sup> For the information required to be reported, *see* s. 893.055(3)(a)1.-8., F.S.

<sup>5</sup> Section 893.055, F.S., defines “controlled substance” as “a controlled substance listed in Schedule II, Schedule III, Schedule IV, or Schedule V of s. 893.03 or 21 U.S.C. s. 812.” Prior to the passage of HB 21 in 2018, controlled substances listed in Schedule V were exempt from reporting. *See* ch. 2018-13, Laws of Fla.

<sup>6</sup> Florida Dept. of Health, *2017-2018 Prescription Drug Monitoring Program Annual Report* (Dec. 1, 2018), available at [http://www.floridahealth.gov/statistics-and-data/e-forcse/health\\_care\\_practitioners/\\_documents/2018-pdmp-annual-report.pdf](http://www.floridahealth.gov/statistics-and-data/e-forcse/health_care_practitioners/_documents/2018-pdmp-annual-report.pdf) (last visited on Feb. 13, 2018).

<sup>7</sup> Chapter 2018-13, Laws of Fla.

<sup>8</sup> “Prescriber” means a prescribing physician, prescribing practitioner, or other prescribing health care practitioner authorized by the laws of this state to order controlled substances. (*see* s. 893.055(j), F.S.)

<sup>9</sup> “Dispenser” means a dispensing health care practitioner, pharmacy, or pharmacist licensed to dispense controlled substances in or into this state. (*see* s. 893.055(e), F.S.)

<sup>10</sup> *Supra* note 7

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

PCS/SB 592 may have a positive fiscal impact, accompanied by a reduction in workload, for health care providers who treat terminally ill patients since these practitioners will no longer be required to check the PDMP for their patients.

**C. Government Sector Impact:**

The bill has no impact on state revenues or expenditures.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 893.055 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**Recommended CS by Appropriations Subcommittee on Health and Human Services on March 6, 2019:**

The committee substitute removes the exemption for the requirement for prescribers and dispensers to check the prescription drug monitoring program database before prescribing or dispensing a controlled substance to a patient receiving palliative care for the relief of symptoms related to an incurable, progressive illness or injury.

- B. **Amendments:**

None.