

By Senator Young

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1                   A bill to be entitled  
2           An act relating to programs for impaired health care  
3           practitioners; amending s. 456.076, F.S.; revising  
4           provisions related to impaired practitioner programs;  
5           providing definitions; deleting a requirement that the  
6           Department of Health designate approved programs by  
7           rule; deleting a requirement authorizing the  
8           department to adopt by rule the manner in which  
9           consultants work with the department in intervention,  
10          in evaluating and treating professionals, in providing  
11          and monitoring continued care of impaired  
12          professionals, and in expelling professionals from the  
13          program; authorizing, instead of requiring, the  
14          department to retain one or more consultants to  
15          operate its impaired practitioner program; requiring  
16          the department to establish the terms and conditions  
17          of the program by contract; providing contract terms;  
18          requiring consultants to establish the terms of  
19          monitoring impaired practitioners; authorizing  
20          consultants to consider the recommendations of certain  
21          persons in establishing the terms of monitoring;  
22          authorizing consultants to modify monitoring terms to  
23          protect the health, safety, and welfare of the public;  
24          requiring consultants to assist the department and  
25          licensure boards on matters relating to impaired  
26          practitioners; requiring the department to refer  
27          practitioners to consultants under certain  
28          circumstances; authorizing consultants to withhold  
29          certain information about self-reporting participants  
30          from the department under certain circumstances to  
31          encourage self-reporting; requiring consultants to  
32          disclose all information relating to practitioners who

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33 are terminated from the program for material  
34 noncompliance; providing that all information obtained  
35 by a consultant retains its confidential or exempt  
36 status; providing that consultants, and certain agents  
37 of consultants, may not be held liable financially or  
38 have a cause of action for damages brought against  
39 them for disclosing certain information or for any  
40 other act or omission relating to the program;  
41 authorizing consultants to contract with a school or  
42 program to provide services to certain students;  
43 amending s. 401.411, F.S.; providing that an impaired  
44 practitioner may be reported to a consultant rather  
45 than the department under certain circumstances;  
46 amending s. 455.227, F.S.; conforming provisions to  
47 changes made by the act; amending ss. 456.072,  
48 457.109, 458.331, 459.015, 460.413, 461.013, 462.14,  
49 463.016, and 464.018, F.S.; providing that an impaired  
50 practitioner may be reported to a consultant rather  
51 than the department under certain circumstances;  
52 amending s. 464.204, F.S.; conforming provisions to  
53 changes made by the act; amending ss. 465.016,  
54 466.028, 467.203, 468.217, and 468.3101, F.S.;

55 providing that an impaired practitioner may be  
56 reported to a consultant rather than the department  
57 under certain circumstances; amending s. 474.221,  
58 F.S.; conforming provisions to changes made by the  
59 act; amending s. 483.825, F.S.; providing that certain  
60 persons may be reported to a consultant rather than  
61 the department under certain circumstances; providing

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62 an effective date.

63  
64 Be It Enacted by the Legislature of the State of Florida:

65  
66 Section 1. Section 456.076, Florida Statutes, is amended to  
67 read:

68 456.076 Impaired practitioner programs ~~Treatment programs~~  
69 ~~for impaired practitioners.~~

70 (1) As used in this section, the term:

71 (a) "Consultant" means the individual or entity who  
72 operates an approved impaired practitioner program pursuant to a  
73 contract with the department and who is retained by the  
74 department as provided in subsection (2).

75 (b) "Evaluator" means a state-licensed or nationally  
76 certified individual who has been approved by a consultant or  
77 the department, who has completed an evaluator training program  
78 established by the consultant, and who is therefore authorized  
79 to evaluate practitioners as part of an impaired practitioner  
80 program.

81 (c) "Impaired practitioner" means a practitioner with an  
82 impairment.

83 (d) "Impaired practitioner program" means a program  
84 established by the department by contract with one or more  
85 consultants to serve impaired and potentially impaired  
86 practitioners for the protection of the health, safety, and  
87 welfare of the public.

88 (e) "Impairment" means a potentially impairing health  
89 condition that is the result of the misuse or abuse of alcohol,  
90 drugs, or both or a mental or physical condition that could

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91 affect a practitioner's ability to practice with skill and  
92 safety.

93 (f) "Inability to progress" means a determination by a  
94 consultant based on a participant's response to treatment and  
95 prognosis that the participant is unable to safely practice  
96 despite compliance with treatment requirements and his or her  
97 participant contract.

98 (g) "Material noncompliance" means an act or omission by a  
99 participant in violation of his or her participant contract as  
100 determined by the department or consultant.

101 (h) "Participant" means a practitioner who is participating  
102 in the impaired practitioner program by having entered into a  
103 participant contract. A practitioner ceases to be a participant  
104 when the participant contract is successfully completed or is  
105 terminated for any reason.

106 (i) "Participant contract" means a formal written document  
107 outlining the requirements established by a consultant for a  
108 participant to successfully complete the impaired practitioner  
109 program, including the participant's monitoring plan.

110 (j) "Practitioner" means a person licensed, registered,  
111 certified, or regulated by the department under part III of  
112 chapter 401; chapters 457 through 467; part I, part II, part  
113 III, part V, part X, part XIII, or part XIV of chapter 468;  
114 chapter 478; chapter 480; part III or part IV of chapter 483;  
115 chapter 484; chapter 486; chapter 490; or chapter 491; or an  
116 applicant under the same laws.

117 (k) "Referral" means a practitioner who has been referred  
118 to a consultant for impaired practitioner program services,  
119 either as a self-referral or otherwise, but who is not under a

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120 participant contract.

121 (l) "Treatment program" means a department- or consultant-  
122 approved residential, intensive outpatient, partial  
123 hospitalization, or other program through which an impaired  
124 practitioner is treated based on the impaired practitioner's  
125 diagnosis and the treatment plan approved by the consultant.

126 (m) "Treatment provider" means a department- or consultant-  
127 approved state-licensed or nationally certified individual who  
128 provides treatment to an impaired practitioner based on the  
129 practitioner's individual diagnosis and a treatment plan  
130 approved by the consultant ~~For professions that do not have~~  
131 ~~impaired practitioner programs provided for in their practice~~  
132 ~~acts, the department shall, by rule, designate approved impaired~~  
133 ~~practitioner programs under this section. The department may~~  
134 ~~adopt rules setting forth appropriate criteria for approval of~~  
135 ~~treatment providers. The rules may specify the manner in which~~  
136 ~~the consultant, retained as set forth in subsection (2), works~~  
137 ~~with the department in intervention, requirements for evaluating~~  
138 ~~and treating a professional, requirements for continued care of~~  
139 ~~impaired professionals by approved treatment providers,~~  
140 ~~continued monitoring by the consultant of the care provided by~~  
141 ~~approved treatment providers regarding the professionals under~~  
142 ~~their care, and requirements related to the consultant's~~  
143 ~~expulsion of professionals from the program.~~

144 ~~(2)(a) The department~~ may shall ~~retain one or more impaired~~  
145 ~~practitioner consultants~~ to operate its impaired practitioner  
146 program. Each consultant ~~who are each licensees under the~~  
147 ~~jurisdiction of the Division of Medical Quality Assurance within~~  
148 ~~the department and who must be:~~

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149 (a)1. A practitioner ~~or recovered practitioner~~ licensed  
150 under chapter 458, chapter 459, or part I of chapter 464; or

151 (b)2. An entity that employs:

152 1.a. A medical director who is ~~must be a practitioner or~~  
153 ~~recovered practitioner~~ licensed under chapter 458 or chapter  
154 459; or

155 2.b. An executive director who is ~~must be a registered~~  
156 ~~nurse or a recovered registered nurse~~ licensed under part I of  
157 chapter 464.

158 (3) The terms and conditions of the impaired practitioner  
159 program must be established by the department by contract with  
160 each consultant for the protection of the health, safety, and  
161 welfare of the public and must provide, at a minimum, for each  
162 consultant to accept referrals of practitioners who have or are  
163 suspected of having an impairment, arrange for the evaluation  
164 and treatment of such practitioners as recommended by the  
165 consultant, and monitor the recovery progress and status of  
166 impaired practitioners to ensure that such practitioners are  
167 able to practice the profession in which they are licensed with  
168 skill and safety until such time as the consultant or department  
169 concludes that monitoring by the consultant is no longer  
170 required for the protection of the public or the practitioner's  
171 participation in the program is terminated for material  
172 noncompliance or inability to progress.

173 (4) The department shall specify, in its contract with each  
174 consultant, the types of licenses, registrations, or  
175 certifications of the practitioners to be served by that  
176 consultant.

177 (5) A consultant shall establish the terms of monitoring of

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178 an impaired practitioner and shall include the terms in a  
179 participant contract. In establishing the terms of monitoring,  
180 the consultant may consider the recommendations of one or more  
181 approved evaluators, treatment programs, or treatment providers.  
182 A consultant may modify the terms of monitoring if the  
183 consultant concludes, through the course of monitoring, that  
184 extended, additional, or amended terms of monitoring are  
185 required for the protection of the health, safety, and welfare  
186 of the public.

187 (6) A consultant may not evaluate, treat, or otherwise  
188 provide direct patient care to practitioners in the operation of  
189 the impaired practitioner program.

190 ~~(7)(b) A~~ An entity retained as an impaired practitioner  
191 ~~consultant under this section which employs a medical director~~  
192 ~~or an executive director is not required to be licensed as a~~  
193 ~~substance abuse provider or mental health treatment provider~~  
194 ~~under chapter 394, chapter 395, or chapter 397 for purposes of~~  
195 ~~providing services under this program.~~

196 ~~(8)(e)1.~~ Each ~~The~~ consultant shall assist the department  
197 and licensure boards on matters of impaired practitioners,  
198 including the determination of probable cause panel and the  
199 ~~department in carrying out the responsibilities of this section.~~  
200 ~~This includes working with department investigators to determine~~  
201 ~~whether a practitioner is, in fact, impaired, as specified in~~  
202 the consultant's contract with the department.

203 ~~2. The consultant may contract with a school or program to~~  
204 ~~provide services to a student enrolled for the purpose of~~  
205 ~~preparing for licensure as a health care practitioner as defined~~  
206 ~~in this chapter or as a veterinarian under chapter 474 if the~~

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207 ~~student is allegedly impaired as a result of the misuse or abuse~~  
208 ~~of alcohol or drugs, or both, or due to a mental or physical~~  
209 ~~condition. The department is not responsible for paying for the~~  
210 ~~care provided by approved treatment providers or a consultant.~~

211 ~~(d) A medical school accredited by the Liaison Committee on~~  
212 ~~Medical Education or the Commission on Osteopathic College~~  
213 ~~Accreditation, or another school providing for the education of~~  
214 ~~students enrolled in preparation for licensure as a health care~~  
215 ~~practitioner as defined in this chapter or a veterinarian under~~  
216 ~~chapter 474 which is governed by accreditation standards~~  
217 ~~requiring notice and the provision of due process procedures to~~  
218 ~~students, is not liable in any civil action for referring a~~  
219 ~~student to the consultant retained by the department or for~~  
220 ~~disciplinary actions that adversely affect the status of a~~  
221 ~~student when the disciplinary actions are instituted in~~  
222 ~~reasonable reliance on the recommendations, reports, or~~  
223 ~~conclusions provided by such consultant, if the school, in~~  
224 ~~referring the student or taking disciplinary action, adheres to~~  
225 ~~the due process procedures adopted by the applicable~~  
226 ~~accreditation entities and if the school committed no~~  
227 ~~intentional fraud in carrying out the provisions of this~~  
228 ~~section.~~

229 (9)(3) Before certifying or declining to certify an  
230 application for licensure to the department, each board and  
231 profession within the Division of Medical Quality Assurance may  
232 delegate to its chair or other designee its authority to  
233 determine, ~~before certifying or declining to certify an~~  
234 ~~application for licensure to the department,~~ that an applicant  
235 for licensure under its jurisdiction may have an impairment ~~be~~



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236 ~~impaired as a result of the misuse or abuse of alcohol or drugs,~~  
237 ~~or both, or due to a mental or physical condition that could~~  
238 ~~affect the applicant's ability to practice with skill and~~  
239 ~~safety.~~ Upon such determination, the chair or other designee may  
240 refer the applicant to the consultant to facilitate ~~for~~ an  
241 evaluation before the board certifies or declines to certify his  
242 or her application to the department. If the applicant agrees to  
243 be evaluated ~~by the consultant,~~ the department's deadline for  
244 approving or denying the application pursuant to s. 120.60(1) is  
245 tolled until the evaluation is completed and the result of the  
246 evaluation and recommendation ~~by the consultant~~ is communicated  
247 to the board by the consultant. If the applicant declines to be  
248 evaluated ~~by the consultant,~~ the board shall certify or decline  
249 to certify the applicant's application to the department  
250 notwithstanding the lack of an evaluation and recommendation by  
251 the consultant.

252 (10)(4) (a) ~~When~~ Whenever the department receives a ~~written~~  
253 ~~or oral~~ legally sufficient complaint alleging that a  
254 practitioner has an impairment licensee under the jurisdiction  
255 ~~of the Division of Medical Quality Assurance within the~~  
256 ~~department is impaired as a result of the misuse or abuse of~~  
257 ~~alcohol or drugs, or both, or due to a mental or physical~~  
258 ~~condition which could affect the licensee's ability to practice~~  
259 ~~with skill and safety,~~ and no complaint exists against the  
260 practitioner licensee other than impairment ~~exists,~~ the  
261 department shall refer the practitioner to the consultant, along  
262 with all information in the department's possession relating to  
263 the impairment. The impairment does ~~reporting of such~~  
264 ~~information shall~~ not constitute grounds for discipline pursuant

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265 to s. 456.072 or ~~the corresponding grounds for discipline within~~  
266 the applicable practice act if ~~the probable cause panel of the~~  
267 ~~appropriate board, or the department when there is no board,~~  
268 ~~finds:~~

269 1. The practitioner licensee has acknowledged the  
270 impairment ~~problem.~~

271 2. The practitioner becomes a participant licensee has  
272 ~~voluntarily enrolled in an impaired practitioner program and~~  
273 successfully completes a participant contract under terms  
274 established by the consultant appropriate, approved treatment  
275 program.

276 3. The practitioner licensee has voluntarily withdrawn from  
277 practice or has limited the scope of his or her practice if as  
278 ~~required by the consultant, in each case, until such time as the~~  
279 ~~panel, or the department when there is no board, is satisfied~~  
280 ~~the licensee has successfully completed an approved treatment~~  
281 program.

282 4. The practitioner licensee has provided to the  
283 consultant, or has authorized the consultant to obtain, all  
284 records and information relating to the impairment from any  
285 source and all other medical records of the practitioner  
286 requested by the consultant ~~executed releases for medical~~  
287 ~~records, authorizing the release of all records of evaluations,~~  
288 ~~diagnoses, and treatment of the licensee, including records of~~  
289 ~~treatment for emotional or mental conditions, to the consultant.~~  
290 ~~The consultant shall make no copies or reports of records that~~  
291 ~~do not regard the issue of the licensee's impairment and his or~~  
292 ~~her participation in a treatment program.~~

293 5. The practitioner has authorized the consultant, in the

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294 event of the practitioner's termination from the impaired  
295 practitioner program, to report the termination to the  
296 department and provide the department with copies of all  
297 information in the consultant's possession relating to the  
298 practitioner.

299 (b) To encourage practitioners who are or may be impaired  
300 to voluntarily self-report to a consultant, the consultant may  
301 not provide information to the department relating to a self-  
302 reporting participant if there is no pending department  
303 investigation, complaint, or disciplinary action against the  
304 participant and if the participant is in compliance with the  
305 terms of the impaired practitioner program and any participant  
306 contract, unless authorized by the participant ~~If, however, the~~  
307 ~~department has not received a legally sufficient complaint and~~  
308 ~~the licensee agrees to withdraw from practice until such time as~~  
309 ~~the consultant determines the licensee has satisfactorily~~  
310 ~~completed an approved treatment program or evaluation, the~~  
311 ~~probable cause panel, or the department when there is no board,~~  
312 ~~shall not become involved in the licensee's case.~~

313 ~~(c) Inquiries related to impairment treatment programs~~  
314 ~~designed to provide information to the licensee and others and~~  
315 ~~which do not indicate that the licensee presents a danger to the~~  
316 ~~public shall not constitute a complaint within the meaning of s.~~  
317 ~~456.073 and shall be exempt from the provisions of this~~  
318 ~~subsection.~~

319 ~~(d) Whenever the department receives a legally sufficient~~  
320 ~~complaint alleging that a licensee is impaired as described in~~  
321 ~~paragraph (a) and no complaint against the licensee other than~~  
322 ~~impairment exists, the department shall forward all information~~

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323 in its possession regarding the impaired licensee to the  
324 consultant. For the purposes of this section, a suspension from  
325 hospital staff privileges due to the impairment does not  
326 constitute a complaint.

327 ~~(e) The probable cause panel, or the department when there~~  
328 ~~is no board, shall work directly with the consultant, and all~~  
329 ~~information concerning a practitioner obtained from the~~  
330 ~~consultant by the panel, or the department when there is no~~  
331 ~~board, shall remain confidential and exempt from the provisions~~  
332 ~~of s. 119.07(1), subject to the provisions of subsections (6)~~  
333 ~~and (7).~~

334 ~~(f) A finding of probable cause shall not be made as long~~  
335 ~~as the panel, or the department when there is no board, is~~  
336 ~~satisfied, based upon information it receives from the~~  
337 ~~consultant and the department, that the licensee is progressing~~  
338 ~~satisfactorily in an approved impaired practitioner program and~~  
339 ~~no other complaint against the licensee exists.~~

340 ~~(11)(5)~~ In any disciplinary action for a violation other  
341 than impairment in which a practitioner licensee establishes the  
342 violation for which the practitioner licensee is being  
343 prosecuted was due to or connected with impairment and further  
344 establishes the practitioner licensee is satisfactorily  
345 progressing through or has successfully completed an approved  
346 treatment program pursuant to this section, such information may  
347 be considered by the board, or the department when there is no  
348 board, as a mitigating factor in determining the appropriate  
349 penalty. This subsection does not limit mitigating factors the  
350 board may consider.

351 ~~(12)(6)~~ (a) Upon request by the consultant, and with the

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352 authorization of the practitioner when required by law, an  
353 approved evaluator, treatment program, or treatment provider  
354 ~~shall, upon request,~~ disclose to the consultant all information  
355 in its possession regarding a referral or participant ~~the issue~~  
356 ~~of a licensee's impairment and participation in the treatment~~  
357 ~~program. All information obtained by the consultant and~~  
358 ~~department pursuant to this section is confidential and exempt~~  
359 ~~from the provisions of s. 119.07(1), subject to the provisions~~  
360 ~~of this subsection and subsection (7).~~ Failure to provide such  
361 information to the consultant is grounds for withdrawal of  
362 approval of such evaluator, treatment program, or treatment  
363 provider.

364 (b) When a referral or participant is terminated from the  
365 impaired practitioner program for material noncompliance with a  
366 participant contract, inability to progress, or any other  
367 reason, the consultant shall disclose all information in the  
368 consultant's possession relating to the practitioner to the  
369 department ~~If in the opinion of the consultant, after~~  
370 ~~consultation with the treatment provider, an impaired licensee~~  
371 ~~has not progressed satisfactorily in a treatment program, all~~  
372 ~~information regarding the issue of a licensee's impairment and~~  
373 ~~participation in a treatment program in the consultant's~~  
374 ~~possession shall be disclosed to the department. Such disclosure~~  
375 ~~shall constitute a complaint pursuant to the general provisions~~  
376 ~~of s. 456.073. In addition,~~ whenever the consultant concludes  
377 that impairment affects a practitioner's licensee's practice and  
378 constitutes an immediate, serious danger to the public health,  
379 safety, or welfare, the consultant shall immediately communicate  
380 such that ~~that conclusion shall be communicated~~ to the department and

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381 disclose all information in the consultant's possession relating  
382 to the practitioner to the department ~~State Surgeon General.~~

383 (13) All confidential or exempt information obtained by the  
384 consultant pursuant to this section retains its confidential or  
385 exempt status when held by the consultant.

386 (14) ~~(7)~~ An action for damages may not be brought against a  
387 consultant, or a director, an officer, an employee, or an agent  
388 of a consultant, and such person may not be held liable  
389 financially for making a disclosure pursuant to this section or  
390 for the consequences of such disclosure, or for any other action  
391 or omission or the consequences of such action or omission  
392 relating to the impaired practitioner program, including,  
393 without limitation, action by the department against a license,  
394 registration, or certification licensee, or approved treatment  
395 provider who makes a disclosure pursuant to this section is not  
396 subject to civil liability for such disclosure or its  
397 consequences.

398 (15) The provisions of s. 766.101 apply to any consultant,  
399 or a director, an officer, an employee, or an agent of a  
400 consultant, in regard to providing information relating to a  
401 participant to a medical review committee if the participant  
402 authorized such disclosure ~~officer, employee, or agent of the~~  
403 ~~department or the board and to any officer, employee, or agent~~  
404 ~~of any entity with which the department has contracted pursuant~~  
405 ~~to this section.~~

406 ~~(8)(a) A consultant retained pursuant to subsection (2), a~~  
407 ~~consultant's officers and employees, and those acting at the~~  
408 ~~direction of the consultant for the limited purpose of an~~  
409 ~~emergency intervention on behalf of a licensee or student as~~

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410 ~~described in subsection (2) when the consultant is unable to~~  
411 ~~perform such intervention shall be considered agents of the~~  
412 ~~department for purposes of s. 768.28 while acting within the~~  
413 ~~scope of the consultant's duties under the contract with the~~  
414 ~~department if the contract complies with the requirements of~~  
415 ~~this section. The contract must require that:~~

416 ~~1. The consultant indemnify the state for any liabilities~~  
417 ~~incurred up to the limits set out in chapter 768.~~

418 ~~2. The consultant establish a quality assurance program to~~  
419 ~~monitor services delivered under the contract.~~

420 ~~3. The consultant's quality assurance program, treatment,~~  
421 ~~and monitoring records be evaluated quarterly.~~

422 ~~4. The consultant's quality assurance program be subject to~~  
423 ~~review and approval by the department.~~

424 ~~5. The consultant operate under policies and procedures~~  
425 ~~approved by the department.~~

426 ~~6. The consultant provide to the department for approval a~~  
427 ~~policy and procedure manual that comports with all statutes,~~  
428 ~~rules, and contract provisions approved by the department.~~

429 ~~7. The department be entitled to review the records~~  
430 ~~relating to the consultant's performance under the contract for~~  
431 ~~the purpose of management audits, financial audits, or program~~  
432 ~~evaluation.~~

433 ~~8. All performance measures and standards be subject to~~  
434 ~~verification and approval by the department.~~

435 ~~9. The department be entitled to terminate the contract~~  
436 ~~with the consultant for noncompliance with the contract.~~

437 (16)(b) In accordance with s. 284.385, the Department of  
438 Financial Services shall defend any claim, suit, action, or

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439 proceeding, including a claim, suit, action, or proceeding for  
440 injunctive, affirmative, or declaratory relief, against the  
441 consultant, or the consultant's directors, officers, or  
442 employees, and agents brought as the result of any action or  
443 omission relating to the impaired practitioner program or those  
444 acting at the direction of the consultant for the limited  
445 purpose of an emergency intervention on behalf of a licensee or  
446 student as described in subsection (2) when the consultant is  
447 unable to perform such intervention, which claim, suit, action,  
448 or proceeding is brought as a result of an act or omission by  
449 any of the consultant's officers and employees and those acting  
450 under the direction of the consultant for the limited purpose of  
451 an emergency intervention on behalf of the licensee or student  
452 when the consultant is unable to perform such intervention, if  
453 the act or omission arises out of and is in the scope of the  
454 consultant's duties under its contract with the department.

455 (17)(e) If a the consultant retained by the department  
456 pursuant to this section subsection (2) is also retained by  
457 another any other state agency to operate an impaired  
458 practitioner program for that agency, this section also applies  
459 to the consultant's operation of an impaired practitioner  
460 program for that agency, and if the contract between such state  
461 agency and the consultant complies with the requirements of this  
462 section, the consultant, the consultant's officers and  
463 employees, and those acting under the direction of the  
464 consultant for the limited purpose of an emergency intervention  
465 on behalf of a licensee or student as described in subsection  
466 (2) when the consultant is unable to perform such intervention  
467 shall be considered agents of the state for the purposes of this



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468 ~~section while acting within the scope of and pursuant to~~  
469 ~~guidelines established in the contract between such state agency~~  
470 ~~and the consultant.~~

471 ~~(18)(9) A An impaired practitioner consultant is the~~  
472 ~~official custodian of records relating to the referral of an~~  
473 ~~impaired licensee or applicant to that consultant and any other~~  
474 ~~interaction between the licensee or applicant and the~~  
475 ~~consultant. The consultant may disclose to a referral or~~  
476 ~~participant documents, records, or other information from the~~  
477 ~~consultant's file on the referral or participant ~~the impaired~~~~  
478 ~~licensee or applicant or his or her designee any information~~  
479 ~~that is disclosed to or obtained by the consultant or that is~~  
480 ~~confidential under paragraph (6) (a), but only to the extent that~~  
481 ~~it is necessary to do so to carry out the consultant's duties~~  
482 ~~under the impaired practitioner program and this section, or as~~  
483 ~~otherwise required by law. The department, and any other entity~~  
484 ~~that enters into a contract with the consultant to receive the~~  
485 ~~services of the consultant, has direct administrative control~~  
486 ~~over the consultant to the extent necessary to receive~~  
487 ~~disclosures from the consultant as allowed by federal law. If a~~  
488 ~~disciplinary proceeding is pending, a referral or participant~~  
489 ~~may obtain a complete copy of the consultant's file from the~~  
490 ~~department as provided by an impaired licensee may obtain such~~  
491 ~~information from the department under s. 456.073.~~

492 ~~(19) (a) The consultant may contract with a school or~~  
493 ~~program to provide impaired practitioner program services to a~~  
494 ~~student enrolled for the purpose of preparing for licensure as a~~  
495 ~~health care practitioner as defined in this chapter or as a~~  
496 ~~veterinarian under chapter 474 if the student has or is~~

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497 suspected of having an impairment. The department is not  
498 responsible for paying for the care provided by approved  
499 treatment providers or approved treatment programs or for the  
500 services provided by a consultant to a student.

501 (b) A medical school accredited by the Liaison Committee on  
502 Medical Education or the Commission on Osteopathic College  
503 Accreditation, or another school providing for the education of  
504 students enrolled in preparation for licensure as a health care  
505 practitioner as defined in this chapter, or a veterinarian under  
506 chapter 474, which is governed by accreditation standards  
507 requiring notice and the provision of due process procedures to  
508 students, is not liable in any civil action for referring a  
509 student to the consultant retained by the department or for  
510 disciplinary actions that adversely affect the status of a  
511 student when the disciplinary actions are instituted in  
512 reasonable reliance on the recommendations, reports, or  
513 conclusions provided by such consultant, if the school, in  
514 referring the student or taking disciplinary action, adheres to  
515 the due process procedures adopted by the applicable  
516 accreditation entities and if the school committed no  
517 intentional fraud in carrying out the provisions of this  
518 section.

519 Section 2. Paragraph (1) of subsection (1) of section  
520 401.411, Florida Statutes, is amended to read:

521 401.411 Disciplinary action; penalties.—

522 (1) The department may deny, suspend, or revoke a license,  
523 certificate, or permit or may reprimand or fine any licensee,  
524 certificateholder, or other person operating under this part for  
525 any of the following grounds:

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526 (1) The failure to report to the department any person  
527 known to be in violation of this part. However, a professional  
528 known to be operating under this part without reasonable skill  
529 and without regard for the safety of the public by reason of  
530 illness, drunkenness, or the use of drugs, narcotics, chemicals,  
531 or any other type of material, or as a result of a mental or  
532 physical condition, may be reported to a consultant operating an  
533 impaired practitioner program as described in s. 456.076 rather  
534 than to the department.

535 Section 3. Paragraph (u) of subsection (1) of section  
536 455.227, Florida Statutes, is amended to read:

537 455.227 Grounds for discipline; penalties; enforcement.—

538 (1) The following acts shall constitute grounds for which  
539 the disciplinary actions specified in subsection (2) may be  
540 taken:

541 (u) Termination from an impaired practitioner program ~~a~~  
542 ~~treatment program for impaired practitioners~~ as described in s.  
543 456.076 for failure to comply, without good cause, with the  
544 terms of the monitoring or participant ~~treatment~~ contract  
545 entered into by the licensee or failing to successfully complete  
546 a drug or alcohol treatment program.

547 Section 4. Paragraphs (i) and (hh) of subsection (1) of  
548 section 456.072, Florida Statutes, are amended to read:

549 456.072 Grounds for discipline; penalties; enforcement.—

550 (1) The following acts shall constitute grounds for which  
551 the disciplinary actions specified in subsection (2) may be  
552 taken:

553 (i) Except as provided in s. 465.016, failing to report to  
554 the department any person who the licensee knows is in violation

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555 of this chapter, the chapter regulating the alleged violator, or  
556 the rules of the department or the board. However, a person who  
557 the licensee knows is unable to practice with reasonable skill  
558 and safety to patients by reason of illness or use of alcohol,  
559 drugs, narcotics, chemicals, or any other type of material, or  
560 as a result of a mental or physical condition, may be reported  
561 to a consultant operating an impaired practitioner program as  
562 described in s. 456.076 rather than to the department.

563 (hh) Being terminated from an impaired practitioner program  
564 that a treatment program for impaired practitioners, which is  
565 overseen by a an impaired practitioner consultant as described  
566 in s. 456.076, for failure to comply, without good cause, with  
567 the terms of the monitoring or participant treatment contract  
568 entered into by the licensee, or for not successfully completing  
569 any drug treatment or alcohol treatment program.

570 Section 5. Paragraph (f) of subsection (1) of section  
571 457.109, Florida Statutes, is amended to read:

572 457.109 Disciplinary actions; grounds; action by the  
573 board.—

574 (1) The following acts constitute grounds for denial of a  
575 license or disciplinary action, as specified in s. 456.072(2):

576 (f) Failing to report to the department any person who the  
577 licensee knows is in violation of this chapter or of the rules  
578 of the department. However, a person who the licensee knows is  
579 unable to practice acupuncture with reasonable skill and safety  
580 to patients by reason of illness or use of alcohol, drugs,  
581 narcotics, chemicals, or any other type of material, or as a  
582 result of a mental or physical condition, may be reported to a  
583 consultant operating an impaired practitioner program as

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584 described in s. 456.076 rather than to the department.

585 Section 6. Paragraph (e) of subsection (1) of section  
586 458.331, Florida Statutes, is amended to read:

587 458.331 Grounds for disciplinary action; action by the  
588 board and department.—

589 (1) The following acts constitute grounds for denial of a  
590 license or disciplinary action, as specified in s. 456.072(2):

591 (e) Failing to report to the department any person who the  
592 licensee knows is in violation of this chapter or of the rules  
593 of the department or the board. However, a person who the  
594 licensee knows is unable to practice medicine with reasonable  
595 skill and safety to patients by reason of illness or use of  
596 alcohol, drugs, narcotics, chemicals, or any other type of  
597 material, or as a result of a mental or physical condition, may  
598 be reported to a consultant operating an impaired practitioner  
599 program as described in s. 456.076 rather than to the department  
600 ~~A treatment provider approved pursuant to s. 456.076 shall~~  
601 ~~provide the department or consultant with information in~~  
602 ~~accordance with the requirements of s. 456.076(4), (5), (6),~~  
603 ~~(7), and (9).~~

604 Section 7. Paragraph (e) of subsection (1) of section  
605 459.015, Florida Statutes, is amended to read:

606 459.015 Grounds for disciplinary action; action by the  
607 board and department.—

608 (1) The following acts constitute grounds for denial of a  
609 license or disciplinary action, as specified in s. 456.072(2):

610 (e) Failing to report to the department or the department's  
611 impaired professional consultant any person who the licensee or  
612 certificateholder knows is in violation of this chapter or of

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613 the rules of the department or the board. However, a person who  
614 the licensee knows is unable to practice osteopathic medicine  
615 with reasonable skill and safety to patients by reason of  
616 illness or use of alcohol, drugs, narcotics, chemicals, or any  
617 other type of material, or as a result of a mental or physical  
618 condition, may be reported to a consultant operating an impaired  
619 practitioner program as described in s. 456.076 rather than to  
620 the department ~~A treatment provider, approved pursuant to s.~~  
621 ~~456.076, shall provide the department or consultant with~~  
622 ~~information in accordance with the requirements of s.~~  
623 ~~456.076(4), (5), (6), (7), and (9).~~

624 Section 8. Paragraph (g) of subsection (1) of section  
625 460.413, Florida Statutes, is amended to read:

626 460.413 Grounds for disciplinary action; action by board or  
627 department.—

628 (1) The following acts constitute grounds for denial of a  
629 license or disciplinary action, as specified in s. 456.072(2):

630 (g) Failing to report to the department any person who the  
631 licensee knows is in violation of this chapter or of the rules  
632 of the department or the board. However, a person who the  
633 licensee knows is unable to practice chiropractic medicine with  
634 reasonable skill and safety to patients by reason of illness or  
635 use of alcohol, drugs, narcotics, chemicals, or any other type  
636 of material, or as a result of a mental or physical condition,  
637 may be reported to a consultant operating an impaired  
638 practitioner program as described in s. 456.076 rather than to  
639 the department.

640 Section 9. Paragraph (f) of subsection (1) of section  
641 461.013, Florida Statutes, is amended to read:

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642 461.013 Grounds for disciplinary action; action by the  
643 board; investigations by department.—

644 (1) The following acts constitute grounds for denial of a  
645 license or disciplinary action, as specified in s. 456.072(2):

646 (f) Failing to report to the department any person who the  
647 licensee knows is in violation of this chapter or of the rules  
648 of the department or the board. However, a person who the  
649 licensee knows is unable to practice podiatric medicine with  
650 reasonable skill and safety to patients by reason of illness or  
651 use of alcohol, drugs, narcotics, chemicals, or any other type  
652 of material, or as a result of a mental or physical condition,  
653 may be reported to a consultant operating an impaired  
654 practitioner program as described in s. 456.076 rather than to  
655 the department.

656 Section 10. Paragraph (f) of subsection (1) of section  
657 462.14, Florida Statutes, is amended to read:

658 462.14 Grounds for disciplinary action; action by the  
659 department.—

660 (1) The following acts constitute grounds for denial of a  
661 license or disciplinary action, as specified in s. 456.072(2):

662 (f) Failing to report to the department any person who the  
663 licensee knows is in violation of this chapter or of the rules  
664 of the department. However, a person who the licensee knows is  
665 unable to practice naturopathic medicine with reasonable skill  
666 and safety to patients by reason of illness or use of alcohol,  
667 drugs, narcotics, chemicals, or any other type of material, or  
668 as a result of a mental or physical condition, may be reported  
669 to a consultant operating an impaired practitioner program as  
670 described in s. 456.076 rather than to the department.

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671 Section 11. Paragraph (1) of subsection (1) of section  
672 463.016, Florida Statutes, is amended to read:

673 463.016 Grounds for disciplinary action; action by the  
674 board.—

675 (1) The following acts constitute grounds for denial of a  
676 license or disciplinary action, as specified in s. 456.072(2):

677 (1) Willfully failing to report any person who the licensee  
678 knows is in violation of this chapter or of rules of the  
679 department or the board. However, a person who the licensee  
680 knows is unable to practice optometry with reasonable skill and  
681 safety to patients by reason of illness or use of alcohol,  
682 drugs, narcotics, chemicals, or any other type of material, or  
683 as a result of a mental or physical condition, may be reported  
684 to a consultant operating an impaired practitioner program as  
685 described in s. 456.076 rather than to the department.

686 Section 12. Paragraph (k) of subsection (1) of section  
687 464.018, Florida Statutes, is amended to read:

688 464.018 Disciplinary actions.—

689 (1) The following acts constitute grounds for denial of a  
690 license or disciplinary action, as specified in s. 456.072(2):

691 (k) Failing to report to the department any person who the  
692 licensee knows is in violation of this part or of the rules of  
693 the department or the board. However, a person who the licensee  
694 knows is unable to practice nursing with reasonable skill and  
695 safety to patients by reason of illness or use of alcohol,  
696 drugs, narcotics, chemicals, or any other type of material, or  
697 as a result of a mental or physical condition, may be reported  
698 to a consultant operating an impaired practitioner program as  
699 described in s. 456.076 rather than to the department; ~~however,~~



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700 ~~if the licensee verifies that such person is actively~~  
701 ~~participating in a board approved program for the treatment of a~~  
702 ~~physical or mental condition, the licensee is required to report~~  
703 ~~such person only to an impaired professionals consultant.~~

704 Section 13. Paragraph (c) of subsection (2) of section  
705 464.204, Florida Statutes, is amended to read:

706 464.204 Denial, suspension, or revocation of certification;  
707 disciplinary actions.—

708 (2) When the board finds any person guilty of any of the  
709 grounds set forth in subsection (1), it may enter an order  
710 imposing one or more of the following penalties:

711 (c) Imposition of probation or restriction of  
712 certification, including conditions such as corrective actions  
713 as retraining or compliance with the department's impaired  
714 practitioner program operated by a consultant as described in s.  
715 456.076 ~~an approved treatment program for impaired~~  
716 ~~practitioners.~~

717 Section 14. Paragraph (o) of subsection (1) of section  
718 465.016, Florida Statutes, is amended to read:

719 465.016 Disciplinary actions.—

720 (1) The following acts constitute grounds for denial of a  
721 license or disciplinary action, as specified in s. 456.072(2):

722 (o) Failing to report to the department any licensee under  
723 chapter 458 or under chapter 459 who the pharmacist knows has  
724 violated the grounds for disciplinary action set out in the law  
725 under which that person is licensed and who provides health care  
726 services in a facility licensed under chapter 395, or a health  
727 maintenance organization certificated under part I of chapter  
728 641, in which the pharmacist also provides services. However, a

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729 person who the licensee knows is unable to practice medicine or  
730 osteopathic medicine with reasonable skill and safety to  
731 patients by reason of illness or use of alcohol, drugs,  
732 narcotics, chemicals, or any other type of material, or as a  
733 result of a mental or physical condition, may be reported to a  
734 consultant operating an impaired practitioner program as  
735 described in s. 456.076 rather than to the department.

736 Section 15. Paragraph (f) of subsection (1) of section  
737 466.028, Florida Statutes, is amended to read:

738 466.028 Grounds for disciplinary action; action by the  
739 board.—

740 (1) The following acts constitute grounds for denial of a  
741 license or disciplinary action, as specified in s. 456.072(2):

742 (f) Failing to report to the department any person who the  
743 licensee knows, or has reason to believe, is clearly in  
744 violation of this chapter or of the rules of the department or  
745 the board. However, a person who the licensee knows, or has  
746 reason to believe, is clearly unable to practice her or his  
747 profession with reasonable skill and safety to patients by  
748 reason of illness or use of alcohol, drugs, narcotics,  
749 chemicals, or any other type of material, or as a result of a  
750 mental or physical condition, may be reported to a consultant  
751 operating an impaired practitioner program as described in s.  
752 456.076 rather than to the department.

753 Section 16. Paragraph (h) of subsection (1) of section  
754 467.203, Florida Statutes, is amended to read:

755 467.203 Disciplinary actions; penalties.—

756 (1) The following acts constitute grounds for denial of a  
757 license or disciplinary action, as specified in s. 456.072(2):

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758 (h) Failing to report to the department any person who the  
759 licensee knows is in violation of this chapter or of the rules  
760 of the department. However, a person who the licensee knows is  
761 unable to practice midwifery with reasonable skill and safety to  
762 patients by reason of illness or use of alcohol, drugs,  
763 narcotics, chemicals, or any other type of material, or as a  
764 result of a mental or physical condition, may be reported to a  
765 consultant operating an impaired practitioner program as  
766 described in s. 456.076 rather than to the department.

767 Section 17. Paragraph (f) of subsection (1) of section  
768 468.217, Florida Statutes, is amended to read:

769 468.217 Denial of or refusal to renew license; suspension  
770 and revocation of license and other disciplinary measures.—

771 (1) The following acts constitute grounds for denial of a  
772 license or disciplinary action, as specified in s. 456.072(2):

773 (f) Failing to report to the department any person who the  
774 licensee knows is in violation of this part or of the rules of  
775 the department or of the board. However, a person who the  
776 licensee knows is unable to practice occupational therapy with  
777 reasonable skill and safety to patients by reason of illness or  
778 use of alcohol, drugs, narcotics, chemicals, or any other type  
779 of material, or as a result of a mental or physical condition,  
780 may be reported to a consultant operating an impaired  
781 practitioner program as described in s. 456.076 rather than to  
782 the department.

783 Section 18. Paragraph (n) of subsection (1) of section  
784 468.3101, Florida Statutes, is amended to read:

785 468.3101 Disciplinary grounds and actions.—

786 (1) The department may make or require to be made any

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787 investigations, inspections, evaluations, and tests, and require  
788 the submission of any documents and statements, which it  
789 considers necessary to determine whether a violation of this  
790 part has occurred. The following acts shall be grounds for  
791 disciplinary action as set forth in this section:

792       (n) Being terminated from an impaired practitioner program  
793 operated by a consultant as described in s. 456.076 for failure  
794 to comply, without good cause, with the terms of monitoring or a  
795 participant contract entered into by the licensee, or for not  
796 successfully completing a drug treatment or alcohol treatment  
797 program ~~Failing to comply with the recommendations of the~~  
798 ~~department's impaired practitioner program for treatment,~~  
799 ~~evaluation, or monitoring. A letter from the director of the~~  
800 ~~impaired practitioner program that the certificateholder is not~~  
801 ~~in compliance shall be considered conclusive proof under this~~  
802 ~~part.~~

803       Section 19. Section 474.221, Florida Statutes, is amended  
804 to read:

805       474.221 Impaired practitioner provisions; applicability.—  
806 Notwithstanding the transfer of the Division of Medical Quality  
807 Assurance to the Department of Health or any other provision of  
808 law to the contrary, veterinarians licensed under this chapter  
809 shall be governed by the ~~treatment of~~ impaired practitioner  
810 program provisions of s. 456.076 as if they were under the  
811 jurisdiction of the Division of Medical Quality Assurance,  
812 except that for veterinarians the Department of Business and  
813 Professional Regulation shall, at its option, exercise any of  
814 the powers granted to the Department of Health by that section,  
815 and "board" shall mean board as defined in this chapter.

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816 Section 20. Paragraph (o) of subsection (1) of section  
817 483.825, Florida Statutes, is amended to read:

818 483.825 Grounds for disciplinary action.—

819 (1) The following acts constitute grounds for denial of a  
820 license or disciplinary action, as specified in s. 456.072(2):

821 (o) Failing to report to the department a person or other  
822 licensee who the licensee knows is in violation of this chapter  
823 or the rules of the department or board adopted hereunder.

824 However, a person or other licensee who the licensee knows is  
825 unable to perform or report on clinical laboratory examinations  
826 with reasonable skill and safety to patients by reason of  
827 illness or use of alcohol, drugs, narcotics, chemicals, or any  
828 other type of material, or as a result of a mental or physical  
829 condition, may be reported to a consultant operating an impaired  
830 practitioner program as described in s. 456.076 rather than to  
831 the department.

832 Section 21. This act shall take effect upon becoming a law.