

By Senator Saunders

25-1046A-02

1 A bill to be entitled
2 An act relating to health care practitioners;
3 amending s. 456.057, F.S.; authorizing
4 specified persons to release certain medical
5 records to a custodian upon board order;
6 exempting such persons from liability for the
7 release of such records; amending s. 456.072,
8 F.S.; providing additional penalties to be
9 imposed on certain health care practitioners;
10 amending s. 456.076, F.S.; revising conditions
11 for health care practitioners to participate in
12 the impaired-practitioner treatment program as
13 an alternative to discipline; providing an
14 effective date.

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16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Subsection (19) of section 456.057, Florida
19 Statutes, is amended to read:

20 456.057 Ownership and control of patient records;
21 report or copies of records to be furnished.--

22 (19) The board, or department when there is no board,
23 may temporarily or permanently appoint a person or entity as a
24 custodian of medical records in the event of the death of a
25 practitioner, the mental or physical incapacitation of the
26 practitioner, or the abandonment of medical records by a
27 practitioner. The custodian appointed shall comply with all
28 provisions of this section, including the release of patient
29 records. Any person or entity having possession or physical
30 control of the medical records may release them to the
31 custodian upon presentment of an order signed by the board

1 giving the custodian access to the records. A person or entity
2 is not liable in tort or contract for providing the records to
3 a validly appointed custodian.

4 Section 2. Subsection (7) is added to section 456.072,
5 Florida Statutes, to read:

6 456.072 Grounds for discipline; penalties;
7 enforcement.--

8 (7) In addition to any other discipline imposed
9 through final order or citation entered on or after July 1,
10 2002, pursuant to this section or for a violation of any
11 practice act, the board, or the department when there is no
12 board, shall require, in appropriate cases, any licensee who
13 is a records owner, as defined in s. 456.057, to notify his or
14 her patients of the requirements imposed by s. 456.057(11).

15 Section 3. Paragraph (a) of subsection (3) of section
16 456.076, Florida Statutes, is amended to read:

17 456.076 Treatment programs for impaired
18 practitioners.--

19 (3)(a) Whenever the department receives a written or
20 oral legally sufficient complaint alleging that a licensee
21 under the jurisdiction of the Division of Medical Quality
22 Assurance within the department is impaired as a result of the
23 misuse or abuse of alcohol or drugs, or both, or due to a
24 mental or physical condition which could affect the licensee's
25 ability to practice with skill and safety, and no complaint
26 against the licensee other than impairment exists, the
27 reporting of such information shall not constitute grounds for
28 discipline pursuant to s. 456.072 or the corresponding grounds
29 for discipline within the applicable practice act if the
30 probable cause panel of the appropriate board, or the
31 department when there is no board, finds:

1 1. The licensee has acknowledged the impairment
2 problem.

3 2. The licensee has voluntarily enrolled in an
4 appropriate, approved treatment program.

5 3. The licensee has voluntarily withdrawn from
6 practice or limited the scope of practice as required by the
7 consultant, in each case, until such time as the panel, or the
8 department when there is no board, is satisfied the licensee
9 has successfully completed an approved treatment program.

10 4. The licensee has executed releases for medical
11 records, authorizing the release of all records of
12 evaluations, diagnoses, and treatment of the licensee,
13 including records of treatment for emotional or mental
14 conditions, to the consultant. The consultant shall make no
15 copies or reports of records that do not regard the issue of
16 the licensee's impairment and his or her participation in a
17 treatment program.

18 5. The licensee has voluntarily notified his or her
19 patients of the requirements imposed by s. 456.057(11) on a
20 records owner who is terminating practice, retiring, or
21 relocating and is no longer available to patients.

22 Section 4. This act shall take effect July 1, 2002.

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25 SENATE SUMMARY

26 Requires certain health care practitioners who are
27 disciplined to place a newspaper advertisement advising
28 patients where the patients can obtain copies of their
29 medical records. Exempts certain impaired practitioners
30 from specified discipline under certain conditions.
31 Authorizes specified persons to release certain medical
records to a custodian without incurring liability for
such release.