



HB 1553

2003

1 A bill to be entitled

2 An act relating to complaints against health care
3 practitioners; amending s. 456.073, F.S.; providing that a
4 state prisoner must exhaust all available administrative
5 remedies before filing a complaint with the Department of
6 Health against a health care practitioner who is providing
7 health care services within the Department of Corrections;
8 providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Subsection (1) of section 456.073, Florida
13 Statutes, is amended to read:

14 456.073 Disciplinary proceedings.--Disciplinary
15 proceedings for each board shall be within the jurisdiction of
16 the department.

17 (1) The department, for the boards under its jurisdiction,
18 shall cause to be investigated any complaint that is filed
19 before it if the complaint is in writing, signed by the
20 complainant, and legally sufficient. A complaint filed by a
21 state prisoner against a health care practitioner employed by or
22 otherwise providing health care services within a facility of
23 the Department of Corrections is not legally sufficient unless
24 there is a showing that the prisoner complainant has exhausted
25 all available administrative remedies within the state
26 correctional system before filing the complaint. A complaint is
27 legally sufficient if it contains ultimate facts that show that
28 a violation of this chapter, of any of the practice acts
29 relating to the professions regulated by the department, or of
30 any rule adopted by the department or a regulatory board in the



HB 1553

2003

31 department has occurred. In order to determine legal
32 sufficiency, the department may require supporting information
33 or documentation. The department may investigate, and the
34 department or the appropriate board may take appropriate final
35 action on, a complaint even though the original complainant
36 withdraws it or otherwise indicates a desire not to cause the
37 complaint to be investigated or prosecuted to completion. The
38 department may investigate an anonymous complaint if the
39 complaint is in writing and is legally sufficient, if the
40 alleged violation of law or rules is substantial, and if the
41 department has reason to believe, after preliminary inquiry,
42 that the violations alleged in the complaint are true. The
43 department may investigate a complaint made by a confidential
44 informant if the complaint is legally sufficient, if the alleged
45 violation of law or rule is substantial, and if the department
46 has reason to believe, after preliminary inquiry, that the
47 allegations of the complainant are true. The department may
48 initiate an investigation if it has reasonable cause to believe
49 that a licensee or a group of licensees has violated a Florida
50 statute, a rule of the department, or a rule of a board. Except
51 as provided in ss. 458.331(9), 459.015(9), 460.413(5), and
52 461.013(6), when an investigation of any subject is undertaken,
53 the department shall promptly furnish to the subject or the
54 subject's attorney a copy of the complaint or document that
55 resulted in the initiation of the investigation. The subject may
56 submit a written response to the information contained in such
57 complaint or document within 20 days after service to the
58 subject of the complaint or document. The subject's written
59 response shall be considered by the probable cause panel. The
60 right to respond does not prohibit the issuance of a summary



HB 1553

2003

61 emergency order if necessary to protect the public. However, if
62 the secretary, or the secretary's designee, and the chair of the
63 respective board or the chair of its probable cause panel agree
64 in writing that such notification would be detrimental to the
65 investigation, the department may withhold notification. The
66 department may conduct an investigation without notification to
67 any subject if the act under investigation is a criminal
68 offense.

69 Section 2. This act shall take effect upon becoming a law.