



HB 1553

2003
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CHAMBER ACTION

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The Committee on Public Safety & Crime Prevention recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to complaints against health care practitioners; amending s. 456.073, F.S.; providing that a state prisoner must exhaust all available administrative remedies before filing a complaint with the Department of Health against a health care practitioner who is providing health care services within the Department of Corrections; providing that the Department of Health may determine legal sufficiency and discipline after determination that a complaint indicates that a practitioner may present a serious threat to the health and safety of a non-prisoner; providing 15 days' notice to the Department of Health whenever the Department of Corrections disciplines a health care practitioner; providing an effective date.

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



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28 Section 1. Subsection (1) of section 456.073, Florida
29 Statutes, is amended to read:

30 456.073 Disciplinary proceedings.--Disciplinary
31 proceedings for each board shall be within the jurisdiction of
32 the department.

33 (1) The department, for the boards under its jurisdiction,
34 shall cause to be investigated any complaint that is filed
35 before it if the complaint is in writing, signed by the
36 complainant, and legally sufficient. A complaint filed by a
37 state prisoner against a health care practitioner employed by or
38 otherwise providing health care services within a facility of
39 the Department of Corrections is not legally sufficient unless
40 there is a showing that the prisoner complainant has exhausted
41 all available administrative remedies within the state
42 correctional system before filing the complaint. However, if the
43 Department of Health determines after a preliminary inquiry of a
44 state prisoner's complaint that the practitioner may present a
45 serious threat to the health and safety of any individual who is
46 not a state prisoner, the Department of Health may determine
47 legal sufficiency and proceed with discipline. The Department of
48 Health shall be notified within 15 days after the Department of
49 Corrections disciplines or allows a health care practitioner to
50 resign for an offense related to the practice of his or her
51 profession. A complaint is legally sufficient if it contains
52 ultimate facts that show that a violation of this chapter, of
53 any of the practice acts relating to the professions regulated
54 by the department, or of any rule adopted by the department or a
55 regulatory board in the department has occurred. In order to



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56 determine legal sufficiency, the department may require
57 supporting information or documentation. The department may
58 investigate, and the department or the appropriate board may
59 take appropriate final action on, a complaint even though the
60 original complainant withdraws it or otherwise indicates a
61 desire not to cause the complaint to be investigated or
62 prosecuted to completion. The department may investigate an
63 anonymous complaint if the complaint is in writing and is
64 legally sufficient, if the alleged violation of law or rules is
65 substantial, and if the department has reason to believe, after
66 preliminary inquiry, that the violations alleged in the
67 complaint are true. The department may investigate a complaint
68 made by a confidential informant if the complaint is legally
69 sufficient, if the alleged violation of law or rule is
70 substantial, and if the department has reason to believe, after
71 preliminary inquiry, that the allegations of the complainant are
72 true. The department may initiate an investigation if it has
73 reasonable cause to believe that a licensee or a group of
74 licensees has violated a Florida statute, a rule of the
75 department, or a rule of a board. Except as provided in ss.
76 458.331(9), 459.015(9), 460.413(5), and 461.013(6), when an
77 investigation of any subject is undertaken, the department shall
78 promptly furnish to the subject or the subject's attorney a copy
79 of the complaint or document that resulted in the initiation of
80 the investigation. The subject may submit a written response to
81 the information contained in such complaint or document within
82 20 days after service to the subject of the complaint or
83 document. The subject's written response shall be considered by



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84 | the probable cause panel. The right to respond does not prohibit
85 | the issuance of a summary emergency order if necessary to
86 | protect the public. However, if the secretary, or the
87 | secretary's designee, and the chair of the respective board or
88 | the chair of its probable cause panel agree in writing that such
89 | notification would be detrimental to the investigation, the
90 | department may withhold notification. The department may conduct
91 | an investigation without notification to any subject if the act
92 | under investigation is a criminal offense.

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