



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 that the Department of Health may determine  
9 legal sufficiency and discipline after determination that  
10 a complaint indicates that a practitioner may present a  
11 serious threat to the health and safety of a non-prisoner;  
12 providing 15 days' notice to the Department of Health  
13 whenever the Department of Corrections disciplines a  
14 health care practitioner; providing an 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 (1) of section 456.073, Florida  
19 Statutes, is amended to read:

20 456.073 Disciplinary proceedings.--Disciplinary  
21 proceedings for each board shall be within the jurisdiction of  
22 the department.

23 (1) The department, for the boards under its jurisdiction,  
24 shall cause to be investigated any complaint that is filed  
25 before it if the complaint is in writing, signed by the  
26 complainant, and legally sufficient. A complaint filed by a  
27 state prisoner against a health care practitioner employed by or  
28 otherwise providing health care services within a facility of



29 | the Department of Corrections is not legally sufficient unless  
30 | there is a showing that the prisoner complainant has exhausted  
31 | all available administrative remedies within the state  
32 | correctional system before filing the complaint. However, if the  
33 | Department of Health determines after a preliminary inquiry of a  
34 | state prisoner's complaint that the practitioner may present a  
35 | serious threat to the health and safety of any individual who is  
36 | not a state prisoner, the Department of Health may determine  
37 | legal sufficiency and proceed with discipline. The Department of  
38 | Health shall be notified within 15 days after the Department of  
39 | Corrections disciplines or allows a health care practitioner to  
40 | resign for an offense related to the practice of his or her  
41 | profession. A complaint is legally sufficient if it contains  
42 | ultimate facts that show that a violation of this chapter, of  
43 | any of the practice acts relating to the professions regulated  
44 | by the department, or of any rule adopted by the department or a  
45 | regulatory board in the department has occurred. In order to  
46 | determine legal sufficiency, the department may require  
47 | supporting information or documentation. The department may  
48 | investigate, and the department or the appropriate board may  
49 | take appropriate final action on, a complaint even though the  
50 | original complainant withdraws it or otherwise indicates a  
51 | desire not to cause the complaint to be investigated or  
52 | prosecuted to completion. The department may investigate an  
53 | anonymous complaint if the complaint is in writing and is  
54 | legally sufficient, if the alleged violation of law or rules is  
55 | substantial, and if the department has reason to believe, after  
56 | preliminary inquiry, that the violations alleged in the



57 | complaint are true. The department may investigate a complaint  
58 | made by a confidential informant if the complaint is legally  
59 | sufficient, if the alleged violation of law or rule is  
60 | substantial, and if the department has reason to believe, after  
61 | preliminary inquiry, that the allegations of the complainant are  
62 | true. The department may initiate an investigation if it has  
63 | reasonable cause to believe that a licensee or a group of  
64 | licensees has violated a Florida statute, a rule of the  
65 | department, or a rule of a board. Except as provided in ss.  
66 | 458.331(9), 459.015(9), 460.413(5), and 461.013(6), when an  
67 | investigation of any subject is undertaken, the department shall  
68 | promptly furnish to the subject or the subject's attorney a copy  
69 | of the complaint or document that resulted in the initiation of  
70 | the investigation. The subject may submit a written response to  
71 | the information contained in such complaint or document within  
72 | 20 days after service to the subject of the complaint or  
73 | document. The subject's written response shall be considered by  
74 | the probable cause panel. The right to respond does not prohibit  
75 | the issuance of a summary emergency order if necessary to  
76 | protect the public. However, if the secretary, or the  
77 | secretary's designee, and the chair of the respective board or  
78 | the chair of its probable cause panel agree in writing that such  
79 | notification would be detrimental to the investigation, the  
80 | department may withhold notification. The department may conduct  
81 | an investigation without notification to any subject if the act  
82 | under investigation is a criminal offense.

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