

By the Committee on Health, Aging, and Long-Term Care; and
 Senator Saunders

317-2487-03

1 A bill to be entitled
 2 An act relating to health care practitioners;
 3 amending s. 456.076, F.S., relating to
 4 treatment programs for impaired practitioners;
 5 requiring the consultant to provide notice to
 6 practitioners regarding the investigative
 7 process; providing rulemaking authority for the
 8 Department of Health; providing that failure to
 9 provide notice is harmless error; providing
 10 requirements for voluntary examinations;
 11 providing an effective date.

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

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 15 Section 1. Subsection (2) of section 456.076, Florida
 16 Statutes, is amended to read:

17 456.076 Treatment programs for impaired
 18 practitioners.--

19 (2)(a) The department shall retain one or more
 20 impaired practitioner consultants. A consultant shall be a
 21 licensee under the jurisdiction of the Division of Medical
 22 Quality Assurance within the department, and at least one
 23 consultant must be a practitioner or recovered practitioner
 24 licensed under chapter 458, chapter 459, or part I of chapter
 25 464.

26 (b) The consultant shall assist the probable cause
 27 panel and department in carrying out the responsibilities of
 28 this section. This shall include working with department
 29 investigators to determine whether a practitioner is, in fact,
 30 impaired. If a consultant receives information that leads the
 31 consultant to believe a practitioner may be impaired and the

1 consultant contacts the practitioner to obtain more
2 information, the consultant or the consultant's designee shall
3 provide the practitioner, in writing or via electronic mail or
4 facsimile transmission, information regarding the
5 investigation process within 24 hours after the consultant's
6 initial contact with the practitioner. The information that is
7 to be given to the practitioner shall be set forth in a rule
8 developed by the department. The failure of the consultant or
9 the consultant's designee, for disciplinary cases under the
10 jurisdiction of the department, to comply with this paragraph
11 constitutes harmless error in any subsequent disciplinary
12 action.

13 (c) If the consultant requests that a practitioner
14 participate in a voluntary examination to help the consultant
15 determine whether the practitioner is, in fact, impaired, the
16 practitioner shall be permitted to locate, within a reasonable
17 timeframe established by the consultant, an examiner who meets
18 the qualifications established by the consultant and who
19 agrees to record the examination. The examiner conducting the
20 voluntary examination shall be precluded from soliciting the
21 practitioner to enroll in a treatment program from which the
22 examiner receives a financial benefit.

23 Section 2. This act shall take effect July 1, 2003.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 2386

The Committee Substitute revises substantive rights for health care practitioners who are alleged to be impaired, to require the consultant for the impaired practitioner treatment program when he or she suspects that a practitioner is impaired, to give the practitioner information regarding the investigation process. The Department of Health is granted rulemaking authority to determine what information should be provided. If the consultant fails to comply with providing the required information to the practitioner, such failure constitutes harmless error. If the consultant asks a practitioner to participate in a voluntary examination to determine whether the practitioner is in fact impaired, the practitioner is given the option of locating an examiner who meets the consultant's qualifications and who will record the examination. The examiner conducting the voluntary examination may not solicit the practitioner to enroll in a treatment program from which the examiner receives benefit.