

Bill No. SB 416

Barcode 081532

CHAMBER ACTION

Senate

House

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Comm: WD  
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The Committee on Health Care (Jones) recommended the following amendment:

**Senate Amendment (with title amendment)**

On page 12, between lines 5 and 6,

insert:

Section 3. Section 456.041, Florida Statutes, is amended to read:

456.041 Practitioner profile; creation.--

(1)(a) The Department of Health shall compile the information submitted pursuant to s. 456.039 into a practitioner profile of the applicant submitting the information, except that the Department of Health shall develop a format to compile uniformly any information submitted under s. 456.039(4)(b). Beginning July 1, 2001, the Department of Health may compile the information submitted pursuant to s. 456.0391 into a practitioner profile of the applicant submitting the information.

(b) Beginning July 1, 2005, the department shall verify the information submitted by the applicant under s.

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1 456.039 concerning disciplinary history and medical  
 2 malpractice claims at the time of initial licensure and  
 3 license renewal using the National Practitioner Data Bank. The  
 4 physician profiles shall reflect the disciplinary action and  
 5 medical malpractice claims as reported by the National  
 6 Practitioner Data Bank, and shall include information relating  
 7 to liability and disciplinary actions obtained as a result of  
 8 a search of the National Practitioner Data Bank.

9 (c) Within 30 calendar days after receiving an update  
 10 of information required for the practitioner's profile, the  
 11 department shall update the practitioner's profile in  
 12 accordance with the requirements of subsection (7).

13 (2) On the profile published under subsection (1), the  
 14 department shall indicate if the information provided under s.  
 15 456.039(1)(a)7. or s. 456.0391(1)(a)7. is or is not  
 16 corroborated by a criminal history check conducted according  
 17 to this subsection. The department, or the board having  
 18 regulatory authority over the practitioner acting on behalf of  
 19 the department, shall investigate any information received by  
 20 the department or the board.

21 (3) The Department of Health shall include in each  
 22 practitioner's practitioner profile that criminal information  
 23 that directly relates to the practitioner's ability to  
 24 competently practice his or her profession. The department  
 25 must include in each practitioner's practitioner profile the  
 26 following statement: "The criminal history information, if any  
 27 exists, may be incomplete; federal criminal history  
 28 information is not available to the public." The department  
 29 shall provide in each practitioner profile, for every final  
 30 disciplinary action taken against the practitioner, an  
 31 easy-to-read narrative description that explains the

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1 administrative complaint filed against the practitioner and  
 2 the final disciplinary action imposed on the practitioner. The  
 3 department shall include a hyperlink to each final order  
 4 listed in its website report of dispositions of recent  
 5 disciplinary actions taken against practitioners.

6 (4) The Department of Health shall include, with  
 7 respect to a practitioner licensed under chapter 458 or  
 8 chapter 459, a statement of which category ~~how~~ the  
 9 practitioner has elected to comply with the financial  
 10 responsibility requirements of s. 458.320 or s. 459.0085. The  
 11 department shall include, with respect to practitioners  
 12 subject to s. 456.048, a statement of how the practitioner has  
 13 elected to comply with the financial responsibility  
 14 requirements of that section. The department shall include,  
 15 with respect to practitioners licensed under chapter 461,  
 16 information relating to liability actions which has been  
 17 reported under s. 456.049 or s. 627.912 within the previous 10  
 18 years for any paid claim that exceeds \$5,000. The department  
 19 shall include, with respect to practitioners licensed under  
 20 chapter 458 or chapter 459, information relating to liability  
 21 actions which has been reported under ss. 456.049 and 627.912  
 22 within the previous 10 years for any paid claim that exceeds  
 23 \$50,000 ~~\$100,000~~. Such claims information shall be reported in

24 the context of comparing an individual practitioner's claims  
 25 to the experience of other practitioners within the same  
 26 specialty, or profession if the practitioner is not a  
 27 specialist. The department must provide a hyperlink in such  
 28 practitioner's profile to all such comparison reports. If  
 29 information relating to a liability action is included in a  
 30 practitioner's practitioner profile, the profile must also  
 31 include the following statement: "Settlement of a claim may

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1 occur for a variety of reasons that do not necessarily reflect  
 2 negatively on the professional competence or conduct of the  
 3 practitioner. A payment in settlement of a medical  
 4 malpractice action or claim should not be construed as  
 5 creating a presumption that medical malpractice has occurred."

6 (5) The Department of Health shall include the date of  
 7 a hospital or ambulatory surgical center disciplinary action  
 8 taken by a licensed hospital or an ambulatory surgical center,  
 9 in accordance with the requirements of s. 395.0193, in the  
 10 practitioner profile. The department shall state whether the  
 11 action related to professional competence and whether it  
 12 related to the delivery of services to a patient.

13 (6) Each profile must include the appropriate  
 14 information behind the following headings: general  
 15 information, education and training, academic appointments,  
 16 specialty certification, criminal offenses, disciplinary  
 17 actions, medical malpractice insurance, and optional  
 18 information.

19 (7) The department shall specifically provide in each  
 20 practitioner profile an easy-to-read explanation of whether  
 21 the practitioner has medical malpractice insurance, whether or  
 22 not the practitioner has relinquished a license or had a  
 23 license revoked in any state or jurisdiction, whether the  
 24 practitioner is retired, and whether the practitioner is  
 25 practicing in this state.

26 (8) Upon being notified of the death of a  
 27 practitioner, the department shall indicate on the  
 28 practitioner profile the practitioner's date of death.

29 (9)~~(6)~~ The Department of Health may include in the  
 30 practitioner's practitioner profile any other information that  
 31 is a public record of any governmental entity and that relates

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1 to a practitioner's ability to competently practice his or her  
2 profession.

3       ~~(10)(7)~~ Upon the completion of a practitioner profile  
4 under this section, the Department of Health shall furnish the  
5 practitioner who is the subject of the profile a copy of it  
6 for review and verification. The practitioner has a period of  
7 30 days in which to review and verify the contents of the  
8 profile and to correct any factual inaccuracies in it. The  
9 Department of Health shall make the profile available to the  
10 public at the end of the 30-day period regardless of whether  
11 the practitioner has provided verification of the profile  
12 content. A practitioner shall be subject to a fine of up to  
13 \$100 per day for failure to verify the profile contents and to  
14 correct any factual errors in his or her profile within the  
15 30-day period. The department shall make the profiles  
16 available to the public through the World Wide Web and other  
17 commonly used means of distribution. The department must  
18 include the following statement, in boldface type, in each  
19 profile that has not been reviewed by the practitioner to  
20 which it applies: "The practitioner has not verified the  
21 information contained in this profile." Beginning July 1,  
22 2006, and annually thereafter, the department shall perform a  
23 random audit of 5 percent of all practitioner profiles in  
24 order to determine the accuracy of those profiles. A  
25 practitioner whose profile is factually incorrect is subject  
26 to a fine of \$100 a day from the time the content should have  
27 been reported until the factual inaccuracy is discovered by  
28 the department, not to exceed \$10,000.

29       ~~(11)(8)~~ The Department of Health must provide in each  
30 profile an easy-to-read explanation of any disciplinary action  
31 taken and the reason the sanction or sanctions were imposed.

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1           ~~(12)(9)~~ The Department of Health may provide one link  
 2 in each profile to a practitioner's professional website if  
 3 the practitioner requests that such a link be included in his  
 4 or her profile.

5           ~~(13)(10)~~ Making a practitioner profile available to  
 6 the public under this section does not constitute agency  
 7 action for which a hearing under s. 120.57 may be sought.

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 9 (Redesignate subsequent sections.)

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12 ===== T I T L E   A M E N D M E N T =====

13 And the title is amended as follows:

14           On page 1, line 15, following the semicolon

15

16 insert:

17           amending s. 456.041, F.S.; revising standards  
 18           for including information with respect to  
 19           liability actions in practitioner profiles;  
 20           prescribing a format for practitioner profiles;  
 21           requiring inclusion of additional information  
 22           in practitioner profiles; requiring a periodic  
 23           random audit of practitioner profiles; imposing  
 24           fines on practitioners whose profiles contain  
 25           incorrect information;

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