

1 A bill to be entitled
2 An act relating to treatment programs for impaired
3 professionals; creating s. 401.466, F.S.; providing
4 that an emergency medical technician or paramedic who
5 is certified or has applied to be certified may be
6 subject to a treatment program for impaired
7 practitioners at the election of the impaired
8 practitioner consultant; prohibiting charging the
9 associated costs to the Department of Health; amending
10 s. 456.076, F.S.; exempting an entity retained by the
11 Department of Health as an impaired practitioner
12 consultant from certain licensing requirements if the
13 entity employs or contracts with licensed
14 professionals; authorizing the department to refer an
15 applicant for licensure to the consultant; clarifying
16 requirements for an impaired practitioner consultant
17 to maintain as confidential certain information
18 concerning an impaired practitioner; authorizing the
19 department and certain other entities to have
20 administrative control over the impaired practitioner
21 consultant to the extent necessary to receive
22 disclosures; creating s. 468.315, F.S.; providing that
23 a radiologic technologist who is certified or who has
24 applied to be certified may be subject to a treatment
25 program for impaired practitioners at the election of
26 an impaired practitioner consultant; providing an
27 effective date.
28

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

30
 31 Section 1. Section 401.466, Florida Statutes, is created
 32 to read:

33 401.466 Treatment program for impaired emergency medical
 34 technicians and paramedics.—An emergency medical technician or
 35 paramedic who is certified or has applied to be certified under
 36 this part may be subject to s. 456.076 at the election of an
 37 impaired practitioner consultant; however, associated costs may
 38 not be charged to the department.

39 Section 2. Subsection (2), paragraph (d) of subsection
 40 (3), and paragraph (b) of subsection (7) of section 456.076,
 41 Florida Statutes, are amended, and subsection (8) is added to
 42 that section, to read:

43 456.076 Treatment programs for impaired practitioners.—

44 (2) (a) The department shall retain one or more impaired
 45 practitioner consultants who are each licensees. ~~The consultant~~
 46 ~~shall be a licensee~~ under the jurisdiction of the Division of
 47 Medical Quality Assurance within the department and who must be:

48 1. A practitioner or recovered practitioner licensed under
 49 chapter 458, chapter 459, or part I of chapter 464; ~~or~~

50 2. An entity employing a medical director who must be a
 51 physician practitioner or recovered physician practitioner
 52 licensed under chapter 458 ~~or~~ chapter 459, ~~or part I of chapter~~
 53 464. For an entity that solely treats nurses, the entity may
 54 employ an executive director who is a registered nurse or nurse
 55 practitioner licensed under part I of chapter 464 in lieu of a
 56 medical doctor.

CS/HB 1019

2012

57 3. For the treatment of any other practitioner, an entity
58 may employ a medical director who is a physician licensed under
59 chapter 458 or chapter 459.

60 (b) An entity that is retained as a consultant under this
61 section and employs a medical director or registered nurse as an
62 executive director is not required to be licensed as a substance
63 abuse provider or mental health treatment provider under chapter
64 394, chapter 395, or chapter 397 in order to operate as a
65 consultant under this section if the entity employs or contracts
66 with licensed professionals to perform or appropriately
67 supervise any specific treatment or evaluation that requires
68 individual licensing or supervision.

69 (c) The consultant shall assist the probable cause panel
70 and department in carrying out the responsibilities of this
71 section. This includes ~~shall include~~ working with department
72 investigators to determine whether a practitioner is, in fact,
73 impaired. The consultant may contract for services to be
74 provided, for appropriate compensation, if requested by a ~~the~~
75 school or program, for students enrolled in a school ~~schools~~ for
76 licensure as allopathic physicians or physician assistants under
77 chapter 458, osteopathic physicians or physician assistants
78 under chapter 459, nurses under chapter 464, or pharmacists
79 under chapter 465 who are alleged to be impaired as a result of
80 the misuse or abuse of alcohol or drugs, or both, or due to a
81 mental or physical condition.

82 (d) The department is not responsible under any
83 circumstances for paying the costs of care provided by approved
84 treatment providers, and the department is not responsible for

CS/HB 1019

2012

85 | paying the costs of consultants' services provided for such
86 | students.

87 | (e) A medical school accredited by the Liaison Committee
88 | on Medical Education of the Commission on Osteopathic College
89 | Accreditation, or another ~~other~~ school providing for the
90 | education of students enrolled in preparation for licensure as
91 | allopathic physicians under chapter 458 or osteopathic
92 | physicians under chapter 459, which school is governed by
93 | accreditation standards requiring notice and the provision of
94 | due process procedures to students, is not liable in any civil
95 | action for referring a student to the consultant retained by the
96 | department or for disciplinary actions that adversely affect the
97 | status of a student when the disciplinary actions are instituted
98 | in reasonable reliance on the recommendations, reports, or
99 | conclusions provided by such consultant, if the school, in
100 | referring the student or taking disciplinary action, adheres to
101 | the due process procedures adopted by the applicable
102 | accreditation entities and if the school committed no
103 | intentional fraud in carrying out the provisions of this
104 | section.

105 | (3)

106 | (d) Whenever the department receives a legally sufficient
107 | complaint alleging that a licensee or applicant is impaired as
108 | described in paragraph (a) and no complaint against the licensee
109 | or applicant other than impairment exists, the appropriate
110 | board, the board's designee, or the department shall forward all
111 | information in its possession regarding the impaired licensee or
112 | applicant to the consultant. For the purposes of this section, a

113 suspension from hospital staff privileges due to the impairment
 114 does not constitute a complaint.

115 (7)

116 (b) In accordance with s. 284.385, the Department of
 117 Financial Services shall defend any claim, suit, action, or
 118 proceeding against the consultant, the consultant's officers or
 119 employees, or those acting at the direction of the consultant
 120 for the limited purpose of an emergency intervention on behalf
 121 of a licensee or student as described in subsection (2) when the
 122 consultant is unable to perform such intervention that ~~which~~ is
 123 brought as a result of any act or omission by any of the
 124 consultant's officers and employees and those acting under the
 125 direction of the consultant for the limited purpose of an
 126 emergency intervention on behalf of a licensee or student as
 127 described in subsection (2) when the consultant is unable to
 128 perform such intervention when such act or omission arises out
 129 of and in the scope of the consultant's duties under its
 130 contract with the department.

131 (8) An impaired practitioner consultant is the official
 132 custodian of records concerning any impaired licensee monitored
 133 by that consultant. The consultant may not, except to the extent
 134 necessary for carrying out the consultant's duties under this
 135 section, disclose to the impaired licensee or his or her
 136 designee any information that is disclosed to or obtained by the
 137 consultant and is confidential under paragraph (5) (a). The
 138 department, and any other entity to which the consultant
 139 contracts, shall have direct administrative control over the
 140 consultant to the extent necessary to receive disclosures from

CS/HB 1019

2012

141 the consultant as allowed by federal law. If a disciplinary
142 proceeding is pending, an impaired licensee may obtain such
143 information from the department under s. 456.073(10).

144 Section 3. Section 468.315, Florida Statutes, is created
145 to read:

146 468.315 Treatment program for impaired radiological
147 personnel.—A radiologic technologist who is certified or who has
148 applied to be certified under this part may be subject to s.
149 456.076 at the election of an impaired practitioner consultant.

150 Section 4. This act shall take effect July 1, 2012.