

By Senator Thrasher

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1 A bill to be entitled
2 An act relating to treatment programs for impaired
3 professionals; amending s. 20.165, F.S.; authorizing
4 the Department of Business and Professional Regulation
5 to require a person licensed by or applying for a
6 license from the department to be governed by
7 provisions providing programs for impaired
8 practitioners under the jurisdiction of the Division
9 of Medical Quality Assurance within the Department of
10 Health; authorizing the Department of Business and
11 Professional Regulation to exercise any of the powers
12 granted to the Department of Health with respect to
13 such programs; creating s. 401.466, F.S.; providing
14 that an emergency medical technician or paramedic who
15 is certified or has applied to be certified may be
16 subject to a treatment program for impaired
17 practitioners at the election of the impaired
18 practitioner consultant; prohibiting charging the
19 associated costs to the Medical Quality Assurance
20 Trust Fund within the Department of Health; amending
21 s. 456.076, F.S.; exempting an entity retained by the
22 Department of Health as an impaired practitioner
23 consultant from certain licensing requirements if the
24 entity employs or contracts with licensed
25 professionals; revising the schools or programs that
26 may contract for impaired practitioner consulting
27 services; limiting the liability of certain medical
28 schools and schools that prepare health care
29 practitioners and veterinarians for licensure for

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30 referring a student to an impaired practitioner
31 consultant; authorizing the Department of Health to
32 refer an applicant for licensure to the consultant;
33 clarifying the types of legal proceedings related to
34 services provided by impaired practitioner consultants
35 which are defended by the Department of Financial
36 Services; clarifying requirements for an impaired
37 practitioner consultant to maintain as confidential
38 certain information concerning an impaired
39 practitioner; authorizing the department and certain
40 other entities to have administrative control over the
41 impaired practitioner consultant to the extent
42 necessary to receive disclosures; creating s. 468.315,
43 F.S.; providing that a radiologic technologist who is
44 certified or who has applied to be certified may be
45 subject to a treatment program for impaired
46 practitioners at the election of an impaired
47 practitioner consultant; providing an effective date.

48
49 Be It Enacted by the Legislature of the State of Florida:

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51 Section 1. Subsection (10) is added to section 20.165,
52 Florida Statutes, to read:

53 20.165 Department of Business and Professional Regulation.—
54 There is created a Department of Business and Professional
55 Regulation.

56 (10) The Department of Business and Professional Regulation
57 may require a person licensed by or applying for a license from
58 the department to be governed by s. 456.076 as if the person

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59 were under the jurisdiction of the Division of Medical Quality
60 Assurance. The Department of Business and Professional
61 Regulation may exercise any of the powers granted to the
62 Department of Health by s. 456.076, and the term "board" means
63 the board from which the license was granted or is sought.

64 Section 2. Section 401.466, Florida Statutes, is created to
65 read:

66 401.466 Treatment program for impaired emergency medical
67 technicians and paramedics.—An emergency medical technician or
68 paramedic who is certified or has applied to be certified under
69 this part may be subject to s. 456.076 at the election of an
70 impaired practitioner consultant; however, associated costs may
71 not be charged to the Medical Quality Assurance Trust Fund
72 within the Department of Health.

73 Section 3. Subsection (2), paragraph (d) of subsection (3),
74 and paragraph (b) of subsection (7) of section 456.076, Florida
75 Statutes, are amended, and subsection (8) is added to that
76 section, to read:

77 456.076 Treatment programs for impaired practitioners.—

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

82 1. A practitioner or recovered practitioner licensed under
83 chapter 458, chapter 459, or part I of chapter 464; ~~r~~ or

84 2. An entity employing a medical director or employing a
85 registered nurse as an executive director, who must be a
86 practitioner or recovered practitioner licensed under chapter
87 458, chapter 459, or part I of chapter 464.

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88 (b) An entity that is retained as a consultant under this
89 section and employs a medical director or registered nurse as an
90 executive director is not required to be licensed as a substance
91 abuse provider or mental health treatment provider under chapter
92 394, chapter 395, or chapter 397 in order to operate as a
93 consultant under this section if the entity employs or contracts
94 with licensed professionals to perform or appropriately
95 supervise any specific treatment or evaluation that requires
96 individual licensing or supervision.

97 (c) The consultant shall assist the probable cause panel
98 and department in carrying out the responsibilities of this
99 section. This includes ~~shall include~~ working with department
100 investigators to determine whether a practitioner is, in fact,
101 impaired. The consultant may contract for services to be
102 provided, for appropriate compensation, if requested by a ~~the~~
103 school or program, for students enrolled in a school ~~schools~~ for
104 licensure as a health care practitioner under chapter 456 or a
105 veterinarian under chapter 474 ~~allopathic physicians or~~
106 ~~physician assistants under chapter 458, osteopathic physicians~~
107 ~~or physician assistants under chapter 459, nurses under chapter~~
108 ~~464, or pharmacists under chapter 465~~ who are alleged to be
109 impaired as a result of the misuse or abuse of alcohol or drugs,
110 or both, or due to a mental or physical condition.

111 (d) The department is not responsible under any
112 circumstances for paying the costs of care provided by approved
113 treatment providers, and the department is not responsible for
114 paying the costs of consultants' services provided for such
115 students.

116 (e) A medical school accredited by the Liaison Committee on

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117 Medical Education of the Commission on Osteopathic College
118 Accreditation, or another ~~other~~ school providing for the
119 education of students enrolled in preparation for licensure as a
120 health care practitioner under chapter 456 or a veterinarian
121 under chapter 474 ~~allopathic physicians under chapter 458 or~~
122 ~~osteopathic physicians under chapter 459~~, which school is
123 governed by accreditation standards requiring notice and the
124 provision of due process procedures to students, is not liable
125 in any civil action for referring a student to the consultant
126 retained by the department or for disciplinary actions that
127 adversely affect the status of a student when the disciplinary
128 actions are instituted in reasonable reliance on the
129 recommendations, reports, or conclusions provided by such
130 consultant, if the school, in referring the student or taking
131 disciplinary action, adheres to the due process procedures
132 adopted by the applicable accreditation entities and if the
133 school committed no intentional fraud in carrying out the
134 provisions of this section.

135 (3)

136 (d) Whenever the department receives a legally sufficient
137 complaint alleging that a licensee or applicant is impaired as
138 described in paragraph (a) and no complaint against the licensee
139 or applicant other than impairment exists, the appropriate
140 board, the board's designee, or the department shall forward all
141 information in its possession regarding the impaired licensee or
142 applicant to the consultant. For the purposes of this section, a
143 suspension from hospital staff privileges due to the impairment
144 does not constitute a complaint.

145 (7)

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146 (b) In accordance with s. 284.385, the Department of
147 Financial Services shall defend any claim, suit, action, or
148 proceeding, including a claim, suit, action, or proceeding for
149 injunctive, affirmative, or declaratory relief, against the
150 consultant, the consultant's officers or employees, or those
151 acting at the direction of the consultant for the limited
152 purpose of an emergency intervention on behalf of a licensee or
153 student as described in subsection (2) when the consultant is
154 unable to perform such intervention that ~~which~~ is brought as a
155 result of any act or omission by any of the consultant's
156 officers and employees and those acting under the direction of
157 the consultant for the limited purpose of an emergency
158 intervention on behalf of a licensee or student as described in
159 subsection (2) when the consultant is unable to perform such
160 intervention when such act or omission arises out of and in the
161 scope of the consultant's duties under its contract with the
162 department.

163 (8) An impaired practitioner consultant is the official
164 custodian of records concerning any impaired licensee monitored
165 by that consultant. The consultant may not, except to the extent
166 necessary for carrying out the consultant's duties under this
167 section, disclose to the impaired licensee or his or her
168 designee any information that is disclosed to or obtained by the
169 consultant and is confidential under paragraph (5) (a). The
170 department, and any other entity to which the consultant
171 contracts, shall have direct administrative control over the
172 consultant to the extent necessary to receive disclosures from
173 the consultant as allowed by federal law. If a disciplinary
174 proceeding is pending, an impaired licensee may obtain such

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175 information from the department under s. 456.073(10).

176 Section 4. Section 468.315, Florida Statutes, is created to
177 read:

178 468.315 Treatment program for impaired radiological
179 personnel.—A radiologic technologist who is certified or who has
180 applied to be certified under this part may be subject to s.
181 456.076 at the election of an impaired practitioner consultant.

182 Section 5. This act shall take effect July 1, 2012.