

By the Committee on Regulated Industries; and Senator Thrasher

580-02847-12

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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 Medical Quality Assurance  
10          Trust Fund within the Department of Health; amending  
11          s. 456.076, F.S.; exempting an entity retained by the  
12          Department of Health as an impaired practitioner  
13          consultant from certain licensing requirements if the  
14          entity employs or contracts with licensed  
15          professionals; revising the schools or programs that  
16          may contract for impaired practitioner consulting  
17          services; limiting the liability of certain medical  
18          schools and schools that prepare health care  
19          practitioners and veterinarians for licensure for  
20          referring a student to an impaired practitioner  
21          consultant; authorizing the Department of Health to  
22          refer an applicant for licensure to the consultant;  
23          clarifying the types of legal proceedings related to  
24          services provided by impaired practitioner consultants  
25          which are defended by the Department of Financial  
26          Services; clarifying requirements for an impaired  
27          practitioner consultant to maintain as confidential  
28          certain information concerning an impaired  
29          practitioner; authorizing the department and certain

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30 other entities to have administrative control over the  
31 impaired practitioner consultant to the extent  
32 necessary to receive disclosures; creating s. 468.315,  
33 F.S.; providing that a radiologic technologist who is  
34 certified or who has applied to be certified may be  
35 subject to a treatment program for impaired  
36 practitioners at the election of an impaired  
37 practitioner consultant; providing an effective date.

38  
39 Be It Enacted by the Legislature of the State of Florida:

40  
41 Section 1. Section 401.466, Florida Statutes, is created to  
42 read:

43 401.466 Treatment program for impaired emergency medical  
44 technicians and paramedics.—An emergency medical technician or  
45 paramedic who is certified or has applied to be certified under  
46 this part may be subject to s. 456.076 at the election of an  
47 impaired practitioner consultant; however, associated costs may  
48 not be charged to the Medical Quality Assurance Trust Fund  
49 within the Department of Health.

50 Section 2. Subsection (2), paragraph (d) of subsection (3),  
51 and paragraph (b) of subsection (7) of section 456.076, Florida  
52 Statutes, are amended, and subsection (8) is added to that  
53 section, to read:

54 456.076 Treatment programs for impaired practitioners.—

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

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59       1. A practitioner or recovered practitioner licensed under  
60 chapter 458, chapter 459, or part I of chapter 464;or

61       2. An entity employing a medical director or employing a  
62 registered nurse as an executive director, who must be a  
63 practitioner or recovered practitioner licensed under chapter  
64 458, chapter 459, or part I of chapter 464.

65       (b) An entity that is retained as a consultant under this  
66 section and employs a medical director or registered nurse as an  
67 executive director is not required to be licensed as a substance  
68 abuse provider or mental health treatment provider under chapter  
69 394, chapter 395, or chapter 397 in order to operate as a  
70 consultant under this section if the entity employs or contracts  
71 with licensed professionals to perform or appropriately  
72 supervise any specific treatment or evaluation that requires  
73 individual licensing or supervision.

74       (c) The consultant shall assist the probable cause panel  
75 and department in carrying out the responsibilities of this  
76 section. This includes ~~shall include~~ working with department  
77 investigators to determine whether a practitioner is, in fact,  
78 impaired. The consultant may contract for services to be  
79 provided, for appropriate compensation, if requested by a ~~the~~  
80 school or program, for students enrolled in a school ~~schools~~ for  
81 licensure as a health care practitioner under chapter 456 or a  
82 veterinarian under chapter 474 ~~allopathic physicians or~~  
83 ~~physician assistants under chapter 458, osteopathic physicians~~  
84 ~~or physician assistants under chapter 459, nurses under chapter~~  
85 ~~464, or pharmacists under chapter 465~~ who are alleged to be  
86 impaired as a result of the misuse or abuse of alcohol or drugs,  
87 or both, or due to a mental or physical condition.

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88           (d) The department is not responsible under any  
89 circumstances for paying the costs of care provided by approved  
90 treatment providers, and the department is not responsible for  
91 paying the costs of consultants' services provided for such  
92 students.

93           (e) A medical school accredited by the Liaison Committee on  
94 Medical Education of the Commission on Osteopathic College  
95 Accreditation, or another ~~other~~ school providing for the  
96 education of students enrolled in preparation for licensure as a  
97 health care practitioner under chapter 456 or a veterinarian  
98 under chapter 474 ~~allopathic physicians under chapter 458 or~~  
99 ~~osteopathic physicians under chapter 459~~, which school is  
100 governed by accreditation standards requiring notice and the  
101 provision of due process procedures to students, is not liable  
102 in any civil action for referring a student to the consultant  
103 retained by the department or for disciplinary actions that  
104 adversely affect the status of a student when the disciplinary  
105 actions are instituted in reasonable reliance on the  
106 recommendations, reports, or conclusions provided by such  
107 consultant, if the school, in referring the student or taking  
108 disciplinary action, adheres to the due process procedures  
109 adopted by the applicable accreditation entities and if the  
110 school committed no intentional fraud in carrying out the  
111 provisions of this section.

112           (3)

113           (d) Whenever the department receives a legally sufficient  
114 complaint alleging that a licensee or applicant is impaired as  
115 described in paragraph (a) and no complaint against the licensee  
116 or applicant other than impairment exists, the appropriate

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117 board, the board's designee, or the department shall forward all  
118 information in its possession regarding the impaired licensee or  
119 applicant to the consultant. For the purposes of this section, a  
120 suspension from hospital staff privileges due to the impairment  
121 does not constitute a complaint.

122 (7)

123 (b) In accordance with s. 284.385, the Department of  
124 Financial Services shall defend any claim, suit, action, or  
125 proceeding, including a claim, suit, action, or proceeding for  
126 injunctive, affirmative, or declaratory relief, against the  
127 consultant, the consultant's officers or employees, or those  
128 acting at the direction of the consultant for the limited  
129 purpose of an emergency intervention on behalf of a licensee or  
130 student as described in subsection (2) when the consultant is  
131 unable to perform such intervention that ~~which~~ is brought as a  
132 result of any act or omission by any of the consultant's  
133 officers and employees and those acting under the direction of  
134 the consultant for the limited purpose of an emergency  
135 intervention on behalf of a licensee or student as described in  
136 subsection (2) when the consultant is unable to perform such  
137 intervention when such act or omission arises out of and in the  
138 scope of the consultant's duties under its contract with the  
139 department.

140 (8) An impaired practitioner consultant is the official  
141 custodian of records concerning any impaired licensee monitored  
142 by that consultant. The consultant may not, except to the extent  
143 necessary for carrying out the consultant's duties under this  
144 section, disclose to the impaired licensee or his or her  
145 designee any information that is disclosed to or obtained by the

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146 consultant and is confidential under paragraph (5) (a). The  
147 department, and any other entity to which the consultant  
148 contracts, shall have direct administrative control over the  
149 consultant to the extent necessary to receive disclosures from  
150 the consultant as allowed by federal law. If a disciplinary  
151 proceeding is pending, an impaired licensee may obtain such  
152 information from the department under s. 456.073(10).

153 Section 3. Section 468.315, Florida Statutes, is created to  
154 read:

155 468.315 Treatment program for impaired radiological  
156 personnel.—A radiologic technologist who is certified or who has  
157 applied to be certified under this part may be subject to s.  
158 456.076 at the election of an impaired practitioner consultant.

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