



629692

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/25/2012	.	
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The Committee on Health Regulation (Fasano) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 456.074, Florida Statutes, is amended to read:

456.074 Certain health care practitioners; immediate suspension or restriction of license.-

(1) The department shall issue an emergency order suspending the license of any person licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, chapter 466, or chapter 484 who pleads



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13 guilty to, is convicted or found guilty of, or who enters a plea
14 of nolo contendere to, regardless of adjudication, to:

15 (a) A felony under chapter 409, chapter 817, or chapter 893
16 or under 21 U.S.C. ss. 801-970 or under 42 U.S.C. ss. 1395-1396;
17 or

18 (b) A misdemeanor or felony under 18 U.S.C. s. 669, ss.
19 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s.
20 1349, or s. 1518 or 42 U.S.C. ss. 1320a-7b, relating to the
21 Medicaid program.

22 (2) If the board has previously found any physician or
23 osteopathic physician in violation of the provisions of s.
24 458.331(1)(t) or s. 459.015(1)(x), in regard to her or his
25 treatment of three or more patients, and the probable cause
26 panel of the board finds probable cause of an additional
27 violation of that section, then the State Surgeon General shall
28 review the matter to determine if an emergency suspension or
29 restriction order is warranted. Nothing in this section shall be
30 construed so as to limit the authority of the State Surgeon
31 General to issue an emergency order.

32 (3) The department may issue an emergency order suspending
33 or restricting the license of any health care practitioner as
34 defined in s. 456.001(4) who tests positive for any drug on any
35 government or private sector preemployment or employer-ordered
36 confirmed drug test, as defined in s. 112.0455, when the
37 practitioner does not have a lawful prescription and legitimate
38 medical reason for using such drug. The practitioner shall be
39 given 48 hours from the time of notification to the practitioner
40 of the confirmed test result to produce a lawful prescription
41 for the drug before an emergency order is issued.



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42 (4) Upon receipt of information that a Florida-licensed
43 health care practitioner has defaulted on a student loan issued
44 or guaranteed by the state or the Federal Government, the
45 department shall notify the licensee by certified mail that he
46 or she shall be subject to immediate suspension of license
47 unless, within 45 days after the date of mailing, the licensee
48 provides proof that new payment terms have been agreed upon by
49 all parties to the loan. The department shall issue an emergency
50 order suspending the license of any licensee who, after 45 days
51 following the date of mailing from the department, has failed to
52 provide such proof. Production of such proof does ~~shall~~ not
53 prohibit the department from proceeding with disciplinary action
54 against the licensee pursuant to s. 456.073.

55 (5) The department may issue an emergency order restricting
56 the license of any health care practitioner licensed under
57 chapter 458, chapter 459, chapter 461, or chapter 466 from
58 prescribing controlled substances, as defined in chapter 893, if
59 the licensee:

60 (a) Is arrested for, is criminally prosecuted for, or
61 commits, any act that is a violation of chapter 782;

62 (b) Is arrested for, or is criminally prosecuted, for any
63 act that directly relates to the importation, manufacture,
64 distribution, possession, transfer, sale, or prescribing of
65 controlled substances as defined in chapter 893; or

66 (c) Violates a provision of 21 U.S.C. ss. 801-971, relating
67 to the possession, transfer, sale, or prescribing of controlled
68 substances.

69
70 The department shall initiate administrative proceedings



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71 pursuant to chapter 120 for any emergency order issued under
72 this paragraph.

73 Section 2. Paragraph (m) is added to subsection (2) of
74 section 903.046, Florida Statutes, to read:

75 903.046 Purpose of and criteria for bail determination.—

76 (2) When determining whether to release a defendant on bail
77 or other conditions, and what that bail or those conditions may
78 be, the court shall consider:

79 (m) Whether the suspension of a license or the restriction
80 on the ability to practice a licensed profession as defined in
81 s. 456.001 is necessary to protect the community against
82 unreasonable danger from the criminal defendant.

83 Section 3. This act shall take effect July 1, 2012.

84
85 ===== T I T L E A M E N D M E N T =====

86 And the title is amended as follows:

87 Delete everything before the enacting clause
88 and insert:

89 A bill to be entitled
90 An act relating to suspension or restriction of the
91 license of a health care practitioner; amending s.
92 456.074, F.S.; authorizing that the Department of
93 Health issue an emergency order restricting the
94 license of a health care practitioner from prescribing
95 controlled substances if the practitioner is arrested
96 for, is criminally prosecuted for, or commits certain
97 criminal acts involving homicide or controlled
98 substances; requiring that the department initiate
99 administrative proceedings for the issuance of the



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100 emergency order; amending s. 903.046, F.S.; requiring
101 that the court, in determining whether to release a
102 defendant on bail or other conditions, consider
103 whether the suspension of a license or restriction on
104 the ability to practice a licensed health care
105 profession is necessary to protect the community
106 against unreasonable danger; providing an effective
107 date.