

By the Committee on Health Regulation; and Senator Storms

588-02366A-12

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1 A bill to be entitled

2 An act relating to suspension or restriction of the  
3 license of a health care practitioner; amending s.  
4 456.074, F.S.; authorizing that the Department of  
5 Health issue an emergency order restricting the  
6 license of a health care practitioner from prescribing  
7 controlled substances if the practitioner is arrested  
8 for, is criminally prosecuted for, or commits certain  
9 criminal acts involving homicide or controlled  
10 substances; requiring that the department initiate  
11 administrative proceedings for the issuance of the  
12 emergency order; amending s. 903.046, F.S.; requiring  
13 that the court, in determining whether to release a  
14 defendant on bail or other conditions, consider  
15 whether the suspension of a license or restriction on  
16 the ability to practice a licensed health care  
17 profession is necessary to protect the community  
18 against unreasonable danger; providing an effective  
19 date.

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

22  
23 Section 1. Section 456.074, Florida Statutes, is amended to  
24 read:

25 456.074 Certain health care practitioners; immediate  
26 suspension or restriction of license.-

27 (1) The department shall issue an emergency order  
28 suspending the license of any person licensed under chapter 458,  
29 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,

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30 chapter 464, chapter 465, chapter 466, or chapter 484 who pleads  
31 guilty to, is convicted or found guilty of, or who enters a plea  
32 of nolo contendere to, regardless of adjudication, to:

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

36 (b) A misdemeanor or felony under 18 U.S.C. s. 669, ss.  
37 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s.  
38 1349, or s. 1518 or 42 U.S.C. ss. 1320a-7b, relating to the  
39 Medicaid program.

40 (2) If the board has previously found any physician or  
41 osteopathic physician in violation of the provisions of s.  
42 458.331(1)(t) or s. 459.015(1)(x), in regard to her or his  
43 treatment of three or more patients, and the probable cause  
44 panel of the board finds probable cause of an additional  
45 violation of that section, then the State Surgeon General shall  
46 review the matter to determine if an emergency suspension or  
47 restriction order is warranted. Nothing in this section shall be  
48 construed so as to limit the authority of the State Surgeon  
49 General to issue an emergency order.

50 (3) The department may issue an emergency order suspending  
51 or restricting the license of any health care practitioner as  
52 defined in s. 456.001(4) who tests positive for any drug on any  
53 government or private sector preemployment or employer-ordered  
54 confirmed drug test, as defined in s. 112.0455, when the  
55 practitioner does not have a lawful prescription and legitimate  
56 medical reason for using such drug. The practitioner shall be  
57 given 48 hours from the time of notification to the practitioner  
58 of the confirmed test result to produce a lawful prescription

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59 for the drug before an emergency order is issued.

60 (4) Upon receipt of information that a Florida-licensed  
61 health care practitioner has defaulted on a student loan issued  
62 or guaranteed by the state or the Federal Government, the  
63 department shall notify the licensee by certified mail that he  
64 or she shall be subject to immediate suspension of license  
65 unless, within 45 days after the date of mailing, the licensee  
66 provides proof that new payment terms have been agreed upon by  
67 all parties to the loan. The department shall issue an emergency  
68 order suspending the license of any licensee who, after 45 days  
69 following the date of mailing from the department, has failed to  
70 provide such proof. Production of such proof does ~~shall~~ not  
71 prohibit the department from proceeding with disciplinary action  
72 against the licensee pursuant to s. 456.073.

73 (5) The department may issue an emergency order restricting  
74 the license of any health care practitioner licensed under  
75 chapter 458, chapter 459, chapter 461, or chapter 466 from  
76 prescribing controlled substances, as defined in chapter 893, if  
77 the licensee:

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

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

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

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88 The department shall initiate administrative proceedings  
89 pursuant to chapter 120 for any emergency order issued under  
90 this paragraph.

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

93 903.046 Purpose of and criteria for bail determination.—

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

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

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