

1 A bill to be entitled
 2 An act relating to programs for impaired health care
 3 practitioners; amending s. 456.076, F.S.; revising
 4 provisions related to impaired practitioner programs;
 5 providing definitions; deleting a requirement that the
 6 Department of Health designate approved programs by
 7 rule; deleting provisions related to probable cause
 8 panels; deleting provisions related to agency of
 9 specified persons; amending ss. 401.411, 456.072,
 10 457.109, 458.331, 459.015, 460.413, 461.013, 462.14,
 11 463.016, 464.018, 465.016, 466.028, 467.203, 468.217,
 12 and 483.825, F.S; providing that an impaired
 13 practitioner may be reported to a consultant rather
 14 than the department under certain circumstances;
 15 amending s. 468.3101, F.S.; revising grounds for
 16 disciplinary action to include termination from an
 17 impaired practitioner program under certain
 18 circumstances; amending ss. 455.227, 464.204, and
 19 474.221, F.S.; conforming provisions; providing an
 20 effective date.

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

23
 24 Section 1. Section 456.076, Florida Statutes, is amended
 25 to read:

26 456.076 Impaired practitioner programs ~~Treatment programs~~
 27 ~~for impaired practitioners.~~

28 (1) As used in this section, the term:

29 (a) "Consultant" means the individual or entity which
 30 operates an approved impaired practitioner program pursuant to a
 31 contract with the department and who is retained by the
 32 department as provided in subsection (2).

33 (b) "Evaluator" means a state-licensed or nationally
 34 certified individual who has been approved by a consultant or
 35 the department, has completed an evaluator training program
 36 established by the consultant, and who is therefore authorized
 37 to evaluate practitioners as part of an impaired practitioner
 38 program.

39 (c) "Impaired practitioner" means a practitioner with an
 40 impairment.

41 (d) "Impaired practitioner program" means a program
 42 established by the department by contract with one or more
 43 consultants to serve impaired and potentially impaired
 44 practitioners for the protection of the health, safety, and
 45 welfare of the public.

46 (e) "Impairment" means an impairing health condition that
 47 is the result of the misuse or abuse of alcohol, drugs, or both,
 48 or a mental or physical condition which could affect a
 49 practitioner's ability to practice with skill and safety.

50 (f) "Inability to progress" means a determination by a

51 consultant based on a participant's response to treatment and
52 prognosis that the participant is unable to safely practice
53 despite compliance with treatment requirements and his or her
54 participant contract.

55 (g) "Material noncompliance" means an act or omission by a
56 participant in violation of his or her participant contract as
57 determined by the department or consultant.

58 (h) "Participant" means a practitioner who is
59 participating in the impaired practitioner program by having
60 entered into a participant contract. A practitioner ceases to be
61 a participant when the participant contract is successfully
62 completed or is terminated for any reason.

63 (i) "Participant contract" means a formal written document
64 outlining the requirements established by a consultant for a
65 participant to successfully complete the impaired practitioner
66 program, including the participant's monitoring plan.

67 (j) "Practitioner" means a person licensed, registered,
68 certified, or regulated by the department under part III of
69 chapter 401; chapters 457 through 467; parts I, II, III, V, X,
70 XIII, or XIV of chapter 468; chapter 478; chapter 480; part III
71 or IV of chapter 483; chapter 484; chapter 486; chapter 490; or
72 chapter 491, Florida Statutes; or an applicant under the same
73 laws.

74 (k) "Referral" means a practitioner who has been referred,
75 either as a self-referral or otherwise, or reported to a

76 consultant for impaired practitioner program services, but who
77 is not under a participant contract.

78 (1) "Treatment program" means a department or consultant-
79 approved residential, intensive outpatient, partial
80 hospitalization, or other program through which an impaired
81 practitioner is treated based on the impaired practitioner's
82 diagnosis and the treatment plan approved by the consultant.

83 (m) "Treatment provider" means a department or consultant-
84 approved state-licensed or nationally-certified individual who
85 provides treatment to an impaired practitioner based on the
86 practitioner's individual diagnosis and a treatment plan
87 approved by the consultant ~~For professions that do not have~~
88 ~~impaired practitioner programs provided for in their practice~~
89 ~~acts, the department shall, by rule, designate approved impaired~~
90 ~~practitioner programs under this section. The department may~~
91 ~~adopt rules setting forth appropriate criteria for approval of~~
92 ~~treatment providers. The rules may specify the manner in which~~
93 ~~the consultant, retained as set forth in subsection (2), works~~
94 ~~with the department in intervention, requirements for evaluating~~
95 ~~and treating a professional, requirements for continued care of~~
96 ~~impaired professionals by approved treatment providers,~~
97 ~~continued monitoring by the consultant of the care provided by~~
98 ~~approved treatment providers regarding the professionals under~~
99 ~~their care, and requirements related to the consultant's~~
100 ~~expulsion of professionals from the program.~~

101 (2) (a) The department may ~~shall~~ retain one or more
 102 ~~impaired practitioner consultants to operate its impaired~~
 103 ~~practitioner program. Each consultant who are each licensees~~
 104 ~~under the jurisdiction of the Division of Medical Quality~~
 105 ~~Assurance within the department and who~~ must be:

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

108 2. An entity that employs:

109 a. A medical director who is ~~must be a practitioner or~~
 110 ~~recovered practitioner~~ licensed under chapter 458 or chapter
 111 459; or

112 b. An executive director who is ~~must be a registered nurse~~
 113 ~~or a recovered registered nurse~~ licensed under part I of chapter
 114 464.

115 (3) The terms and conditions of the impaired practitioner
 116 program must be established by the department by contract with a
 117 consultant for the protection of the health, safety, and welfare
 118 of the public and must provide, at a minimum, that the
 119 consultant:

120 (a) Accept referrals of practitioners who have or are
 121 suspected of having an impairment;

122 (b) Arrange for the evaluation and treatment of such
 123 practitioners as recommended by the consultant;

124 (c) Monitor the recovery progress and status of impaired
 125 practitioners to ensure that such practitioners are able to

126 practice their profession with skill and safety. Such monitoring
127 must continue until the consultant or department concludes that
128 monitoring by the consultant is no longer required for the
129 protection of the public or the practitioner's participation in
130 the program is terminated for material noncompliance or
131 inability to progress; and

132 (d) May not evaluate, treat, or otherwise provide direct
133 patient care to a practitioner in the operation of the impaired
134 practitioner program.

135 (4) The department shall specify, in its contract with
136 each consultant, the types of licenses, registrations, or
137 certifications of the practitioners to be served by that
138 consultant.

139 (5) A consultant shall enter into a participant contract
140 with an impaired practitioner and shall establish the terms of
141 monitoring and shall include the terms in a participant
142 contract. In establishing the terms of monitoring, the
143 consultant may consider the recommendations of one or more
144 approved evaluators, treatment programs, or treatment providers.
145 A consultant may modify the terms of monitoring if the
146 consultant concludes, through the course of monitoring, that
147 extended, additional, or amended terms of monitoring are
148 required for the protection of the health, safety, and welfare
149 of the public.

150 (6)(b) A ~~An entity retained as an impaired practitioner~~

151 ~~consultant under this section which employs a medical director~~
152 ~~or an executive director~~ is not required to be licensed as a
153 substance abuse provider or mental health treatment provider
154 under chapter 394, chapter 395, or chapter 397 for purposes of
155 providing services under this program.

156 (7)(e)1. Each ~~The~~ consultant shall assist the department
157 and licensure boards on matters of impaired practitioners,
158 including the determination of probable cause panel and the
159 ~~department in carrying out the responsibilities of this section.~~
160 ~~This includes working with department investigators to determine~~
161 ~~whether a practitioner is, in fact, impaired,~~ as specified in
162 the consultant's contract with the department.

163 ~~2.~~ ~~The consultant may contract with a school or program to~~
164 ~~provide services to a student enrolled for the purpose of~~
165 ~~preparing for licensure as a health care practitioner as defined~~
166 ~~in this chapter or as a veterinarian under chapter 474 if the~~
167 ~~student is allegedly impaired as a result of the misuse or abuse~~
168 ~~of alcohol or drugs, or both, or due to a mental or physical~~
169 ~~condition. The department is not responsible for paying for the~~
170 ~~care provided by approved treatment providers or a consultant.~~

171 ~~(d)~~ ~~A medical school accredited by the Liaison Committee~~
172 ~~on Medical Education or the Commission on Osteopathic College~~
173 ~~Accreditation, or another school providing for the education of~~
174 ~~students enrolled in preparation for licensure as a health care~~
175 ~~practitioner as defined in this chapter or a veterinarian under~~

176 ~~chapter 474 which is governed by accreditation standards~~
177 ~~requiring notice and the provision of due process procedures to~~
178 ~~students, is not liable in any civil action for referring a~~
179 ~~student to the consultant retained by the department or for~~
180 ~~disciplinary actions that adversely affect the status of a~~
181 ~~student when the disciplinary actions are instituted in~~
182 ~~reasonable reliance on the recommendations, reports, or~~
183 ~~conclusions provided by such consultant, if the school, in~~
184 ~~referring the student or taking disciplinary action, adheres to~~
185 ~~the due process procedures adopted by the applicable~~
186 ~~accreditation entities and if the school committed no~~
187 ~~intentional fraud in carrying out the provisions of this~~
188 ~~section.~~

189 (8)(3) Before issuing an approval of or intent to deny an
190 application for licensure, each board and profession within the
191 Division of Medical Quality Assurance may delegate to its chair
192 or other designee its authority to determine, ~~before certifying~~
193 ~~or declining to certify an application for licensure to the~~
194 ~~department,~~ that an applicant for licensure under its
195 jurisdiction may have an impairment ~~be impaired as a result of~~
196 ~~the misuse or abuse of alcohol or drugs, or both, or due to a~~
197 ~~mental or physical condition that could affect the applicant's~~
198 ~~ability to practice with skill and safety.~~ Upon such
199 determination, the chair or other designee may refer the
200 applicant to the consultant to facilitate ~~for~~ an evaluation

201 before the board issues an approval of ~~certifies~~ or intent to
202 deny ~~declines to certify~~ his or her application ~~to the~~
203 ~~department~~. If the applicant agrees to be evaluated ~~by the~~
204 ~~consultant~~, the department's deadline for approving or denying
205 the application pursuant to s. 120.60(1) is tolled until the
206 evaluation is completed and the result of the evaluation and
207 recommendation ~~by the consultant~~ is communicated to the board by
208 the consultant. If the applicant declines to be evaluated ~~by the~~
209 ~~consultant~~, the board shall issue an approval of or intent to
210 deny ~~certify or decline to certify~~ the applicant's application
211 ~~to the department~~ notwithstanding the lack of an evaluation and
212 recommendation by the consultant.

213 (9)(4)(a) When ~~Whenever~~ the department receives a ~~written~~
214 ~~or oral~~ legally sufficient complaint alleging that a
215 practitioner has an impairment licensee under the jurisdiction
216 ~~of the Division of Medical Quality Assurance within the~~
217 ~~department is impaired as a result of the misuse or abuse of~~
218 ~~alcohol or drugs, or both, or due to a mental or physical~~
219 ~~condition which could affect the licensee's ability to practice~~
220 ~~with skill and safety, and no complaint exists~~ against the
221 practitioner licensee other than impairment ~~exists~~, the
222 department shall refer the practitioner to the consultant, along
223 with all information in the department's possession relating to
224 the impairment. The impairment does ~~reporting of such~~
225 ~~information shall~~ not constitute grounds for discipline pursuant

226 | to s. 456.072 or ~~the corresponding grounds for discipline within~~
227 | the applicable practice act if ~~the probable cause panel of the~~
228 | ~~appropriate board, or the department when there is no board,~~
229 | ~~finds:~~

230 | 1. The practitioner licensee has acknowledged the
231 | impairment ~~problem~~.

232 | 2. The practitioner becomes a participant licensee has
233 | ~~voluntarily enrolled in an~~ impaired practitioner program and
234 | successfully completes a participant contract under terms
235 | established by the consultant ~~appropriate, approved treatment~~
236 | ~~program~~.

237 | 3. The practitioner licensee has voluntarily withdrawn
238 | from practice or has limited the scope of his or her practice if
239 | as required by the consultant, ~~in each case, until such time as~~
240 | ~~the panel, or the department when there is no board, is~~
241 | ~~satisfied the licensee has successfully completed an approved~~
242 | ~~treatment program~~.

243 | 4. The practitioner licensee has provided to the
244 | consultant, or has authorized the consultant to obtain, all
245 | records and information relating to the impairment from any
246 | source and all other medical records of the practitioner
247 | requested by the consultant ~~executed releases for medical~~
248 | ~~records, authorizing the release of all records of evaluations,~~
249 | ~~diagnoses, and treatment of the licensee, including records of~~
250 | ~~treatment for emotional or mental conditions, to the consultant.~~

251 ~~The consultant shall make no copies or reports of records that~~
252 ~~do not regard the issue of the licensee's impairment and his or~~
253 ~~her participation in a treatment program.~~

254 5. The practitioner has authorized the consultant, in the
255 event of the practitioner's termination from the impaired
256 practitioner program, to report the termination to the
257 department and provide the department with copies of all
258 information in the consultant's possession relating to the
259 practitioner.

260 (b) To encourage practitioners who are or may be impaired
261 to voluntarily self-refer to a consultant, the consultant may
262 not provide information to the department relating to a self-
263 referring participant if the consultant has no knowledge of a
264 pending department investigation, complaint, or disciplinary
265 action against the participant and if the participant is in
266 compliance with the terms of the impaired practitioner program
267 and any participant contract, unless authorized by the
268 participant ~~If, however, the department has not received a~~
269 ~~legally sufficient complaint and the licensee agrees to withdraw~~
270 ~~from practice until such time as the consultant determines the~~
271 ~~licensee has satisfactorily completed an approved treatment~~
272 ~~program or evaluation, the probable cause panel, or the~~
273 ~~department when there is no board, shall not become involved in~~
274 ~~the licensee's case.~~

275 (c) ~~Inquiries related to impairment treatment programs~~

276 ~~designed to provide information to the licensee and others and~~
277 ~~which do not indicate that the licensee presents a danger to the~~
278 ~~public shall not constitute a complaint within the meaning of s.~~
279 ~~456.073 and shall be exempt from the provisions of this~~
280 ~~subsection.~~

281 ~~(d) Whenever the department receives a legally sufficient~~
282 ~~complaint alleging that a licensee is impaired as described in~~
283 ~~paragraph (a) and no complaint against the licensee other than~~
284 ~~impairment exists, the department shall forward all information~~
285 ~~in its possession regarding the impaired licensee to the~~
286 ~~consultant. For the purposes of this section, a suspension from~~
287 ~~hospital staff privileges due to the impairment does not~~
288 ~~constitute a complaint.~~

289 ~~(e) The probable cause panel, or the department when there~~
290 ~~is no board, shall work directly with the consultant, and all~~
291 ~~information concerning a practitioner obtained from the~~
292 ~~consultant by the panel, or the department when there is no~~
293 ~~board, shall remain confidential and exempt from the provisions~~
294 ~~of s. 119.07(1), subject to the provisions of subsections (6)~~
295 ~~and (7).~~

296 ~~(f) A finding of probable cause shall not be made as long~~
297 ~~as the panel, or the department when there is no board, is~~
298 ~~satisfied, based upon information it receives from the~~
299 ~~consultant and the department, that the licensee is progressing~~
300 ~~satisfactorily in an approved impaired practitioner program and~~

301 ~~no other complaint against the licensee exists.~~

302 ~~(10)(5)~~ In any disciplinary action for a violation other
303 than impairment in which a practitioner licensee establishes the
304 violation for which the licensee is being prosecuted was due to
305 or connected with impairment and further establishes the
306 practitioner licensee is satisfactorily progressing through or
307 has successfully completed an impaired practitioner program
308 ~~approved treatment program~~ pursuant to this section, such
309 information may be considered by the board, or the department
310 when there is no board, as a mitigating factor in determining
311 the appropriate penalty. This subsection does not limit
312 mitigating factors the board may consider.

313 ~~(11)(6)~~(a) Upon request by the consultant, and with the
314 authorization of the practitioner when required by law, an
315 approved evaluator, treatment program, or treatment provider
316 ~~shall, upon request,~~ disclose to the consultant all information
317 in its possession regarding a referral or participant ~~the issue~~
318 ~~of a licensee's impairment and participation in the treatment~~
319 ~~program. All information obtained by the consultant and~~
320 ~~department pursuant to this section is confidential and exempt~~
321 ~~from the provisions of s. 119.07(1), subject to the provisions~~
322 ~~of this subsection and subsection (7).~~ Failure to provide such
323 information to the consultant is grounds for withdrawal of
324 approval of such evaluator, treatment program, or treatment
325 provider.

326 (b) When a referral or participant is terminated from the
327 impaired practitioner program for material noncompliance with a
328 participant contract, inability to progress, or any other
329 reason, the consultant shall disclose all information in the
330 consultant's possession relating to the practitioner to the
331 department ~~If in the opinion of the consultant, after~~
332 ~~consultation with the treatment provider, an impaired licensee~~
333 ~~has not progressed satisfactorily in a treatment program, all~~
334 ~~information regarding the issue of a licensee's impairment and~~
335 ~~participation in a treatment program in the consultant's~~
336 ~~possession shall be disclosed to the department.~~ Such disclosure
337 shall constitute a complaint pursuant to the general provisions
338 of s. 456.073. In addition, whenever the consultant concludes
339 that impairment affects a practitioner's licensee's practice and
340 constitutes an immediate, serious danger to the public health,
341 safety, or welfare, the consultant shall immediately communicate
342 such that ~~conclusion shall be communicated~~ to the department and
343 disclose all information in the consultant's possession relating
344 to the practitioner to the department ~~State Surgeon General.~~

345 (12) All information obtained by the consultant pursuant
346 to this section is confidential and exempt from s. 119.07(1) and
347 s. 24(a), Art. I of the State Constitution.

348 (13)-(7) A consultant, or a director, officer, employee or
349 agent of a consultant, may not be held liable financially or
350 have a cause of action for damages brought against them for

351 making a disclosure pursuant to this section, or for any other
352 action or omission relating to the impaired practitioner
353 program, or the consequences of such disclosure or action or
354 omission, including, without limitation, action by the
355 department against a license, registration, or certification.
356 ~~licensee, or approved treatment provider who makes a disclosure~~
357 ~~pursuant to this section is not subject to civil liability for~~
358 ~~such disclosure or its consequences.~~

359 (14) The provisions of s. 766.101 apply to any consultant,
360 employee, or agent of a consultant in regards to providing
361 information relating to a participant to a medical review
362 committee if the participant authorized such disclosure ~~officer,~~
363 ~~employee, or agent of the department or the board and to any~~
364 ~~officer, employee, or agent of any entity with which the~~
365 ~~department has contracted pursuant to this section.~~

366 (15) (a) (8) (a) A consultant retained pursuant to this
367 section and subsection (2), a consultant's directors, officers,
368 and employees, or agents ~~and those acting at the direction of~~
369 ~~the consultant for the limited purpose of an emergency~~
370 ~~intervention on behalf of a licensee or student as described in~~
371 ~~subsection (2) when the consultant is unable to perform such~~
372 ~~intervention shall be considered agents of the department for~~
373 ~~purposes of s. 768.28 while acting within the scope of the~~
374 ~~consultant's duties under the contract with the department if~~
375 ~~the contract complies with the requirements of this section. The~~

376 ~~contract must require that:~~

377 ~~1. The consultant indemnify the state for any liabilities~~
 378 ~~incurred up to the limits set out in chapter 768.~~

379 ~~2. The consultant establish a quality assurance program to~~
 380 ~~monitor services delivered under the contract.~~

381 ~~3. The consultant's quality assurance program, treatment,~~
 382 ~~and monitoring records be evaluated quarterly.~~

383 ~~4. The consultant's quality assurance program be subject~~
 384 ~~to review and approval by the department.~~

385 ~~5. The consultant operate under policies and procedures~~
 386 ~~approved by the department.~~

387 ~~6. The consultant provide to the department for approval a~~
 388 ~~policy and procedure manual that comports with all statutes,~~
 389 ~~rules, and contract provisions approved by the department.~~

390 ~~7. The department be entitled to review the records~~
 391 ~~relating to the consultant's performance under the contract for~~
 392 ~~the purpose of management audits, financial audits, or program~~
 393 ~~evaluation.~~

394 ~~8. All performance measures and standards be subject to~~
 395 ~~verification and approval by the department.~~

396 ~~9. The department be entitled to terminate the contract~~
 397 ~~with the consultant for noncompliance with the contract.~~

398 (b) In accordance with s. 284.385, the Department of
 399 Financial Services shall defend any claim, suit, action, or
 400 proceeding, including a claim, suit, action, or proceeding for

401 injunctive, affirmative, or declaratory relief, against the
402 consultant, the consultant's directors, officers, ~~or~~ employees,
403 or agents brought as the result of any action or omission
404 relating to the impaired practitioner program ~~or those acting at~~
405 ~~the direction of the consultant for the limited purpose of an~~
406 ~~emergency intervention on behalf of a licensee or student as~~
407 ~~described in subsection (2) when the consultant is unable to~~
408 ~~perform such intervention, which claim, suit, action, or~~
409 ~~proceeding is brought as a result of an act or omission by any~~
410 ~~of the consultant's officers and employees and those acting~~
411 ~~under the direction of the consultant for the limited purpose of~~
412 ~~an emergency intervention on behalf of the licensee or student~~
413 ~~when the consultant is unable to perform such intervention, if~~
414 ~~the act or omission arises out of and is in the scope of the~~
415 ~~consultant's duties under its contract with the department.~~

416 (16)(e) If a ~~the~~ consultant retained by the department
417 pursuant to this section ~~subsection (2)~~ is also retained by
418 another any other state agency to operate an impaired
419 practitioner program for that agency, this section also applies
420 to the consultant's operation of an impaired practitioner
421 program for that agency, ~~and if the contract between such state~~
422 ~~agency and the consultant complies with the requirements of this~~
423 ~~section, the consultant, the consultant's officers and~~
424 ~~employees, and those acting under the direction of the~~
425 ~~consultant for the limited purpose of an emergency intervention~~

426 ~~on behalf of a licensee or student as described in subsection~~
427 ~~(2) when the consultant is unable to perform such intervention~~
428 ~~shall be considered agents of the state for the purposes of this~~
429 ~~section while acting within the scope of and pursuant to~~
430 ~~guidelines established in the contract between such state agency~~
431 ~~and the consultant.~~

432 ~~(17)(9) A~~ An impaired practitioner consultant is the
433 official custodian of records relating to the referral of an
434 impaired licensee or applicant to that consultant and any other
435 interaction between the licensee or applicant and the
436 consultant. The consultant may disclose to a referral or
437 participant documents, records, or other information from the
438 consultant's file on the referral or participant the impaired
439 licensee or applicant or his or her designee any information
440 that is disclosed to or obtained by the consultant or that is
441 confidential under paragraph (6) (a), but only to the extent that
442 it is necessary to do so to carry out the consultant's duties
443 under the impaired practitioner program and this section, or as
444 otherwise required by law. The department, and any other entity
445 that enters into a contract with the consultant to receive the
446 services of the consultant, has direct administrative control
447 over the consultant to the extent necessary to receive
448 disclosures from the consultant as allowed by federal law. If a
449 disciplinary proceeding is pending, a referral or participant
450 may obtain a complete copy of the consultant's file from the

451 department as provided by an impaired licensee may obtain such
452 information from the department under s. 456.073.

453 (18) (a) The consultant may contract with a school or
454 program to provide impaired practitioner program services to a
455 student enrolled for the purpose of preparing for licensure as a
456 health care practitioner as defined in this chapter or as a
457 veterinarian under chapter 474 if the student has or is
458 suspected of having an impairment. The department is not
459 responsible for paying for the care provided by approved
460 treatment providers or approved treatment programs or for the
461 services provided by a consultant to a student.

462 (b) A medical school accredited by the Liaison Committee
463 on Medical Education or the Commission on Osteopathic College
464 Accreditation, or another school providing for the education of
465 students enrolled in preparation for licensure as a health care
466 practitioner, as defined in this chapter, or a veterinarian
467 under chapter 474, which is governed by accreditation standards
468 requiring notice and the provision of due process procedures to
469 students, is not liable in any civil action for referring a
470 student to the consultant retained by the department or for
471 disciplinary actions that adversely affect the status of a
472 student when the disciplinary actions are instituted in
473 reasonable reliance on the recommendations, reports, or
474 conclusions provided by such consultant, if the school, in
475 referring the student or taking disciplinary action, adheres to

476 the due process procedures adopted by the applicable
477 accreditation entities and if the school committed no
478 intentional fraud in carrying out the provisions of this
479 section.

480 Section 2. Paragraph (1) of subsection (1) of section
481 401.411, Florida Statutes, is amended to read:

482 401.411 Disciplinary action; penalties.—

483 (1) The department may deny, suspend, or revoke a license,
484 certificate, or permit or may reprimand or fine any licensee,
485 certificateholder, or other person operating under this part for
486 any of the following grounds:

487 (1) The failure to report to the department any person
488 known to be in violation of this part. However, a professional
489 known to be operating under this part without reasonable skill
490 and without regard for the safety of the public by reason of
491 illness, drunkenness, or the use of drugs, narcotics, chemicals,
492 or any other substance, or as a result of a mental or physical
493 condition may be reported to a consultant operating an impaired
494 practitioner program as described in s. 456.076 rather than to
495 the department.

496 Section 3. Paragraph (u) of subsection (1) of section
497 455.227, Florida Statutes, is amended to read:

498 455.227 Grounds for discipline; penalties; enforcement.—

499 (1) The following acts shall constitute grounds for which
500 the disciplinary actions specified in subsection (2) may be

501 taken:

502 (u) Termination from an impaired practitioner program a
503 ~~treatment program for impaired practitioners~~ as described in s.
504 456.076 for failure to comply, without good cause, with the
505 terms of the monitoring or participant ~~treatment~~ contract
506 entered into by the licensee or failing to successfully complete
507 a drug or alcohol treatment program.

508 Section 4. Paragraphs (i) and (hh) of subsection (1) of
509 section 456.072, Florida Statutes, are amended to read:

510 456.072 Grounds for discipline; penalties; enforcement.—

511 (1) The following acts shall constitute grounds for which
512 the disciplinary actions specified in subsection (2) may be
513 taken:

514 (i) Except as provided in s. 465.016, failing to report to
515 the department any person who the licensee knows is in violation
516 of this chapter, the chapter regulating the alleged violator, or
517 the rules of the department or the board. However, a person who
518 the licensee knows is unable to practice with reasonable skill
519 and safety to patients by reason of illness or use of alcohol,
520 drugs, narcotics, chemicals, or any other type of material, or
521 as a result of a mental or physical condition may be reported to
522 a consultant operating an impaired practitioner program as
523 described in s. 456.076 rather than to the department.

524 (hh) Being terminated from an impaired practitioner
525 program a ~~treatment program for impaired practitioners~~, which is

526 | overseen by a ~~an impaired practitioner~~ consultant as described
527 | in s. 456.076, for failure to comply, without good cause, with
528 | the terms of the monitoring or participant ~~treatment~~ contract
529 | entered into by the licensee, or for not successfully completing
530 | any drug treatment or alcohol treatment program.

531 | Section 5. Paragraph (f) of subsection (1) of section
532 | 457.109, Florida Statutes, is amended to read:

533 | 457.109 Disciplinary actions; grounds; action by the
534 | board.—

535 | (1) The following acts constitute grounds for denial of a
536 | license or disciplinary action, as specified in s. 456.072(2):

537 | (f) Failing to report to the department any person who the
538 | licensee knows is in violation of this chapter or of the rules
539 | of the department. However, a person who the licensee knows is
540 | unable to practice acupuncture with reasonable skill and safety
541 | to patients by reason of illness or use of alcohol, drugs,
542 | narcotics, chemicals, or any other type of material, or as a
543 | result of a mental or physical condition may be reported to a
544 | consultant operating an impaired practitioner program as
545 | described in s. 456.076 rather than to the department.

546 | Section 6. Paragraph (e) of subsection (1) of section
547 | 458.331, Florida Statutes, is amended to read:

548 | 458.331 Grounds for disciplinary action; action by the
549 | board and department.—

550 | (1) The following acts constitute grounds for denial of a

551 license or disciplinary action, as specified in s. 456.072(2):

552 (e) Failing to report to the department any person who the
553 licensee knows is in violation of this chapter or of the rules
554 of the department or the board. However, a person who the
555 licensee knows is unable to practice medicine with reasonable
556 skill and safety to patients by reason of illness or use of
557 alcohol, drugs, narcotics, chemicals, or any other type of
558 material, or as a result of a mental or physical condition may
559 be reported to a consultant operating an impaired practitioner
560 program as described in s. 456.076 rather than to the department
561 ~~A treatment provider approved pursuant to s. 456.076 shall~~
562 ~~provide the department or consultant with information in~~
563 ~~accordance with the requirements of s. 456.076(4), (5), (6),~~
564 ~~(7), and (9).~~

565 Section 7. Paragraph (e) of subsection (1) of section
566 459.015, Florida Statutes, is amended to read:

567 459.015 Grounds for disciplinary action; action by the
568 board and department.—

569 (1) The following acts constitute grounds for denial of a
570 license or disciplinary action, as specified in s. 456.072(2):

571 (e) Failing to report to the department or the
572 department's impaired professional consultant any person who the
573 licensee or certificateholder knows is in violation of this
574 chapter or of the rules of the department or the board. However,
575 a person who the licensee knows is unable to practice

576 osteopathic medicine with reasonable skill and safety to
 577 patients by reason of illness or use of alcohol, drugs,
 578 narcotics, chemicals, or any other type of material, or as a
 579 result of a mental or physical condition may be reported to a
 580 consultant operating an impaired practitioner program as
 581 described in s. 456.076 rather than to the department A
 582 ~~treatment provider, approved pursuant to s. 456.076, shall~~
 583 ~~provide the department or consultant with information in~~
 584 ~~accordance with the requirements of s. 456.076(4), (5), (6),~~
 585 ~~(7), and (9).~~

586 Section 8. Paragraph (g) of subsection (1) of section
 587 460.413, Florida Statutes, is amended to read:

588 460.413 Grounds for disciplinary action; action by board
 589 or department.—

590 (1) The following acts constitute grounds for denial of a
 591 license or disciplinary action, as specified in s. 456.072(2):

592 (g) Failing to report to the department any person who the
 593 licensee knows is in violation of this chapter or of the rules
 594 of the department or the board. However, a person who the
 595 licensee knows is unable to practice chiropractic medicine with
 596 reasonable skill and safety to patients by reason of illness or
 597 use of alcohol, drugs, narcotics, chemicals, or any other type
 598 of material, or as a result of a mental or physical condition
 599 may be reported to a consultant operating an impaired
 600 practitioner program as described in s. 456.076 rather than to

601 the department.

602 Section 9. Paragraph (f) of subsection (1) of section
603 461.013, Florida Statutes, is amended to read:

604 461.013 Grounds for disciplinary action; action by the
605 board; investigations by department.—

606 (1) The following acts constitute grounds for denial of a
607 license or disciplinary action, as specified in s. 456.072(2):

608 (f) Failing to report to the department any person who the
609 licensee knows is in violation of this chapter or of the rules
610 of the department or the board. However, a person who the
611 licensee knows is unable to practice podiatric medicine with
612 reasonable skill and safety to patients by reason of illness or
613 use of alcohol, drugs, narcotics, chemicals, or any other type
614 of material, or as a result of a mental or physical condition
615 may be reported to a consultant operating an impaired
616 practitioner program as described in s. 456.076 rather than to
617 the department.

618 Section 10. Paragraph (f) of subsection (1) of section
619 462.14, Florida Statutes, is amended to read:

620 462.14 Grounds for disciplinary action; action by the
621 department.—

622 (1) The following acts constitute grounds for denial of a
623 license or disciplinary action, as specified in s. 456.072(2):

624 (f) Failing to report to the department any person who the
625 licensee knows is in violation of this chapter or of the rules

626 of the department. However, a person who the licensee knows is
627 unable to practice naturopathic medicine with reasonable skill
628 and safety to patients by reason of illness or use of alcohol,
629 drugs, narcotics, chemicals, or any other type of material, or
630 as a result of a mental or physical condition may be reported to
631 a consultant operating an impaired practitioner program as
632 described in s. 456.076 rather than to the department.

633 Section 11. Paragraph (l) of subsection (1) of section
634 463.016, Florida Statutes, is amended to read:

635 463.016 Grounds for disciplinary action; action by the
636 board.—

637 (1) The following acts constitute grounds for denial of a
638 license or disciplinary action, as specified in s. 456.072(2):

639 (1) Willfully failing to report any person who the
640 licensee knows is in violation of this chapter or of rules of
641 the department or the board. However, a person who the licensee
642 knows is unable to practice optometry with reasonable skill and
643 safety to patients by reason of illness or use of alcohol,
644 drugs, narcotics, chemicals, or any other type of material, or
645 as a result of a mental or physical condition may be reported to
646 a consultant operating an impaired practitioner program as
647 described in s. 456.076 rather than to the department.

648 Section 12. Paragraph (k) of subsection (1) of section
649 464.018, Florida Statutes, is amended to read:

650 464.018 Disciplinary actions.—

651 (1) The following acts constitute grounds for denial of a
 652 license or disciplinary action, as specified in s. 456.072(2):

653 (k) Failing to report to the department any person who the
 654 licensee knows is in violation of this part or of the rules of
 655 the department or the board. However, a person who the licensee
 656 knows is unable to practice nursing with reasonable skill and
 657 safety to patients by reason of illness or use of alcohol,
 658 drugs, narcotics, chemicals, or any other type of material, or
 659 as a result of a mental or physical condition may be reported to
 660 a consultant operating an impaired practitioner program as
 661 described in s. 456.076 rather than to the department; however,
 662 ~~if the licensee verifies that such person is actively~~
 663 ~~participating in a board-approved program for the treatment of a~~
 664 ~~physical or mental condition, the licensee is required to report~~
 665 ~~such person only to an impaired professionals consultant.~~

666 Section 13. Paragraph (c) of subsection (2) of section
 667 464.204, Florida Statutes, is amended to read:

668 464.204 Denial, suspension, or revocation of
 669 certification; disciplinary actions.—

670 (2) When the board finds any person guilty of any of the
 671 grounds set forth in subsection (1), it may enter an order
 672 imposing one or more of the following penalties:

673 (c) Imposition of probation or restriction of
 674 certification, including conditions such as corrective actions
 675 as retraining or compliance with the department's impaired

676 practitioner program, operated by a consultant as described in
677 s. 456.076 ~~an approved treatment program for impaired~~
678 ~~practitioners.~~

679 Section 14. Paragraph (o) of subsection (1) of section
680 465.016, Florida Statutes, is amended to read:

681 465.016 Disciplinary actions.—

682 (1) The following acts constitute grounds for denial of a
683 license or disciplinary action, as specified in s. 456.072(2):

684 (o) Failing to report to the department any licensee under
685 chapter 458 or under chapter 459 who the pharmacist knows has
686 violated the grounds for disciplinary action set out in the law
687 under which that person is licensed and who provides health care
688 services in a facility licensed under chapter 395, or a health
689 maintenance organization certificated under part I of chapter
690 641, in which the pharmacist also provides services. However, a
691 person who the licensee knows is unable to practice medicine or
692 osteopathic medicine with reasonable skill and safety to
693 patients by reason of illness or use of alcohol, drugs,
694 narcotics, chemicals, or any other type of material, or as a
695 result of a mental or physical condition may be reported to a
696 consultant operating an impaired practitioner program as
697 described in s. 456.076 rather than to the department.

698 Section 15. Paragraph (f) of subsection (1) of section
699 466.028, Florida Statutes, is amended to read:

700 466.028 Grounds for disciplinary action; action by the

701 board.—

702 (1) The following acts constitute grounds for denial of a
703 license or disciplinary action, as specified in s. 456.072(2):

704 (f) Failing to report to the department any person who the
705 licensee knows, or has reason to believe, is clearly in
706 violation of this chapter or of the rules of the department or
707 the board. However, a person who the licensee knows, or has
708 reason to believe, is clearly unable to practice her or his
709 profession with reasonable skill and safety to patients by
710 reason of illness or use of alcohol, drugs, narcotics,
711 chemicals, or any other type of material, or as a result of a
712 mental or physical condition may be reported to a consultant
713 operating an impaired practitioner program as described in s.
714 456.076 rather than to the department.

715 Section 16. Paragraph (h) of subsection (1) of section
716 467.203, Florida Statutes, is amended to read:

717 467.203 Disciplinary actions; penalties.—

718 (1) The following acts constitute grounds for denial of a
719 license or disciplinary action, as specified in s. 456.072(2):

720 (h) Failing to report to the department any person who the
721 licensee knows is in violation of this chapter or of the rules
722 of the department. However, a person who the licensee knows is
723 unable to practice midwifery with reasonable skill and safety to
724 patients by reason of illness or use of alcohol, drugs,
725 narcotics, chemicals, or any other type of material, or as a

726 result of a mental or physical condition may be reported to a
727 consultant operating an impaired practitioner program as
728 described in s. 456.076 rather than to the department.

729 Section 17. Paragraph (f) of subsection (1) of section
730 468.217, Florida Statutes, is amended to read:

731 468.217 Denial of or refusal to renew license; suspension
732 and revocation of license and other disciplinary measures.—

733 (1) The following acts constitute grounds for denial of a
734 license or disciplinary action, as specified in s. 456.072(2):

735 (f) Failing to report to the department any person who the
736 licensee knows is in violation of this part or of the rules of
737 the department or of the board. However, a person who the
738 licensee knows is unable to practice occupational therapy with
739 reasonable skill and safety to patients by reason of illness or
740 use of alcohol, drugs, narcotics, chemicals, or any other type
741 of material, or as a result of a mental or physical condition
742 may be reported to a consultant operating an impaired
743 practitioner program as described in s. 456.076 rather than to
744 the department.

745 Section 18. Paragraph (n) of subsection (1) of section
746 468.3101, Florida Statutes, is amended to read:

747 468.3101 Disciplinary grounds and actions.—

748 (1) The department may make or require to be made any
749 investigations, inspections, evaluations, and tests, and require
750 the submission of any documents and statements, which it

751 considers necessary to determine whether a violation of this
 752 part has occurred. The following acts shall be grounds for
 753 disciplinary action as set forth in this section:

754 (n) Being terminated from an impaired practitioner program
 755 operated by a consultant as described in s. 456.076 for failure
 756 to comply, without good cause, with the terms of monitoring or a
 757 participant contract entered into by the licensee, or for not
 758 successfully completing a drug treatment or alcohol treatment
 759 program ~~Failing to comply with the recommendations of the~~
 760 ~~department's impaired practitioner program for treatment,~~
 761 ~~evaluation, or monitoring. A letter from the director of the~~
 762 ~~impaired practitioner program that the certificateholder is not~~
 763 ~~in compliance shall be considered conclusive proof under this~~
 764 ~~part.~~

765 Section 19. Section 474.221, Florida Statutes, is amended
 766 to read:

767 474.221 Impaired practitioner provisions; applicability.—
 768 Notwithstanding the transfer of the Division of Medical Quality
 769 Assurance to the Department of Health or any other provision of
 770 law to the contrary, veterinarians licensed under this chapter
 771 shall be governed by the ~~treatment of~~ impaired practitioner
 772 program provisions of s. 456.076 as if they were under the
 773 jurisdiction of the Division of Medical Quality Assurance,
 774 except that for veterinarians the Department of Business and
 775 Professional Regulation shall, at its option, exercise any of

776 the powers granted to the Department of Health by that section,
 777 and "board" shall mean board as defined in this chapter.

778 Section 20. Paragraph (o) of subsection (1) of section
 779 483.825, Florida Statutes, is amended to read:

780 483.825 Grounds for disciplinary action.—

781 (1) The following acts constitute grounds for denial of a
 782 license or disciplinary action, as specified in s. 456.072(2):

783 (o) Failing to report to the department a person or other
 784 licensee who the licensee knows is in violation of this chapter
 785 or the rules of the department or board adopted hereunder.

786 However, a person or other licensee who the licensee knows is
 787 unable to perform or report on clinical laboratory examinations
 788 with reasonable skill and safety to patients by reason of
 789 illness or use of alcohol, drugs, narcotics, chemicals, or any
 790 other type of material, or as a result of a mental or physical
 791 condition may be reported to a consultant operating an impaired
 792 practitioner program as described in s. 456.076 rather than to
 793 the department.

794 Section 21. This act shall take effect upon becoming a
 795 law.