



686042

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/28/2017	.	
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The Committee on Judiciary (Latvala) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 31 - 96  
and insert:  
the Legislature. The department, by way of departmental  
officials who are not active market participants, shall review  
each final board decision for anticompetitive conduct and, based  
on its findings, shall issue an order constituting state action  
approving, modifying, or voiding the decision. The department's  
anticompetitive review constitutes a limited legal review and  
its resulting determination is not subject to legal challenge.



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12 For purposes of this paragraph, the term "final board decisions"  
13 includes final orders for disciplinary actions, declaratory  
14 statements, actions concerning unlicensed activity, licensure  
15 application denials, and rulemaking.

16 (b) Legal costs for defense of antitrust actions brought  
17 against boards or board members shall be paid out of the  
18 Professional Regulation Trust Fund.

19 Section 2. Subsection (12) is added to section 456.004,  
20 Florida Statutes, to read:

21 456.004 Department; powers and duties.—The department, for  
22 the professions under its jurisdiction, shall:

23 (12) (a) Determine whether final board decisions constitute  
24 anticompetitive conduct that does not promote state policy, does  
25 not comport with the standards established by the Legislature,  
26 or does not comport with the authority delegated to a board by  
27 the Legislature. The department, by way of departmental  
28 officials who are not active market participants, shall review  
29 each final board decision for anticompetitive conduct and, based  
30 on its findings, shall issue an order constituting state action  
31 approving, modifying, or voiding the decision. The department's  
32 anticompetitive review constitutes a limited legal review and  
33 its resulting determination is not subject to legal challenge.

34 For purposes of this paragraph, the term "final board decisions"  
35 includes final orders for disciplinary actions, declaratory  
36 statements, actions concerning unlicensed activity, licensure  
37 application denials, and rulemaking.

38 (b) Legal costs for defense of antitrust actions brought  
39 against boards or board members shall be paid out of the Medical  
40 Quality Assurance Trust Fund.



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41 Section 3. Paragraph (e) is added to subsection (7) of  
42 section 497.103, Florida Statutes, to read:

43 497.103 Authority of board and department; Chief Financial  
44 Officer recommendations.—

45 (7) ACTIONS BY BOARD AND DEPARTMENT.—

46 (e)1. The department shall determine whether final board  
47 decisions constitute anticompetitive conduct that does not  
48 promote state policy, does not comport with the standards  
49 established by the Legislature, or does not comport with the  
50 authority delegated to a board by the Legislature. The  
51 department, by way of departmental officials who are not active  
52 market participants, shall review each final board decision for  
53 anticompetitive conduct and, based on its findings, shall issue  
54 an order constituting state action approving, modifying, or  
55 voiding the decision. The department's anticompetitive review  
56 constitutes a limited legal review and its resulting  
57 determination is not subject to legal challenge. For purposes of  
58 this paragraph, the term "final board decisions" includes final  
59 orders for disciplinary actions, declaratory statements, actions  
60 concerning unlicensed activity, licensure application denials,  
61 and rulemaking.

62 2. Legal costs for defense of antitrust actions brought  
63 against boards or board members shall be paid out of the  
64 Regulatory Trust Fund.

65  
66 ===== T I T L E A M E N D M E N T =====

67 And the title is amended as follows:

68 Delete lines 11 - 18

69 and insert:



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70 voiding each decision; specifying that the  
71 departments' anticompetitive review constitutes a  
72 limited legal review and its resulting determination  
73 is not subject to legal challenge; specifying actions  
74 that are considered final board decisions; requiring  
75 that legal costs for defense of antitrust actions and  
76 financial damages be paid from specified accounts;  
77 providing