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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/23/2017	.	
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The Committee on Regulated Industries (Latvala) recommended the following:

1 **Senate Substitute for Amendment (853344) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Subsection (11) is added to section 455.203,
7 Florida Statutes, to read:

8 455.203 Department; powers and duties.—The department, for
9 the boards under its jurisdiction, shall:

10 (11) (a) Determine whether final board decisions constitute



11 anticompetitive conduct that does not promote state policy, does
12 not comport with the standards established by the Legislature,
13 or does not comport with the authority delegated to a board by
14 the Legislature. The department shall review each final board
15 decision for anticompetitive conduct and, based on its findings,
16 shall issue an order approving, modifying, or disapproving the
17 decision. The department's anticompetitive review constitutes a
18 limited legal review and its resulting determination is subject
19 to legal challenge only through state or federal antitrust
20 causes of action. For purposes of this paragraph, the term
21 "final board decisions" includes final disciplinary actions,
22 rules, declaratory statements, actions concerning unlicensed
23 activity, and licensure application decisions.

24 (b) Legal costs for defense of antitrust actions brought
25 against boards or board members shall be paid out of the
26 Professional Regulation Trust Fund. Financial damages resulting
27 from antitrust litigation shall be paid from the State Risk
28 Management Trust Fund by the Division of Risk Management within
29 the Department of Financial Services.

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

32 456.004 Department; powers and duties.—The department, for
33 the professions under its jurisdiction, shall:

34 (12) (a) Determine whether final board decisions constitute
35 anticompetitive conduct that does not promote state policy, does
36 not comport with the standards established by the Legislature,
37 or does not comport with the authority delegated to a board by
38 the Legislature. The department shall review each final board
39 decision for anticompetitive conduct and, based on its findings,



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40 shall issue an order approving, modifying, or disapproving the
41 decision. The department's anticompetitive review constitutes a
42 limited legal review and its resulting determination is subject
43 to legal challenge only through state or federal antitrust
44 causes of action. For purposes of this paragraph, the term
45 "final board decisions" includes final disciplinary actions,
46 rules, declaratory statements, actions concerning unlicensed
47 activity, and licensure application decisions.

48 (b) Legal costs for defense of antitrust actions brought
49 against boards or board members shall be paid out of the Medical
50 Quality Assurance Trust Fund. Financial damages resulting from
51 antitrust litigation shall be paid from the State Risk
52 Management Trust Fund by the Division of Risk Management within
53 the Department of Financial Services.

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

56 497.103 Authority of board and department; Chief Financial
57 Officer recommendations.—

58 (7) ACTIONS BY BOARD AND DEPARTMENT.—

59 (e)1. The department shall determine whether final board
60 decisions constitute anticompetitive conduct that does not
61 promote state policy, does not comport with the standards
62 established by the Legislature, or does not comport with the
63 authority delegated to a board by the Legislature. The
64 department shall review each final board decision for
65 anticompetitive conduct and, based on its findings, shall issue
66 an order approving, modifying, or disapproving the decision. The
67 department's anticompetitive review constitutes a limited legal
68 review and its resulting determination is subject to legal



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69 challenge only through state or federal antitrust causes of
70 action. For purposes of this paragraph, the term "final board
71 decisions" includes final disciplinary actions, rules,
72 declaratory statements, actions concerning unlicensed activity,
73 and licensure application decisions.

74 2. Legal costs for defense of antitrust actions brought
75 against boards or board members shall be paid out of the
76 Regulatory Trust Fund. Financial damages resulting from
77 antitrust litigation shall be paid from the State Risk
78 Management Trust Fund by the Division of Risk Management within
79 the Department of Financial Services.

80 Section 4. This act shall take effect upon becoming a law.

81
82 ===== T I T L E A M E N D M E N T =====

83 And the title is amended as follows:

84 Delete everything before the enacting clause
85 and insert:

86 A bill to be entitled
87 An act relating to regulatory boards; amending ss.
88 455.203, 456.004, and 497.103, F.S.; requiring the
89 Department of Business and Professional Regulation,
90 the Department of Health, and the Department of
91 Financial Services, respectively, to determine whether
92 final board decisions constitute certain
93 anticompetitive conduct; requiring the departments to
94 review final board decisions for anticompetitive
95 conduct and issue orders approving, modifying, or
96 disapproving each decision; specifying that the
97 departments' anticompetitive review constitutes a



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98 limited legal review and its resulting determination
99 is subject only to certain legal challenges;
100 specifying actions that are considered final board
101 decisions; requiring that legal costs for defense of
102 antitrust actions and financial damages be paid from
103 specified accounts or by a specified entity; providing
104 an effective date.