

**By** the Committees on Appropriations; and Health Policy; and  
Senators Young, Bean, and Rouson

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1                                   A bill to be entitled  
2       An act relating to health care practitioners; amending  
3       s. 456.076, F.S.; revising provisions related to  
4       impaired practitioner programs; providing definitions;  
5       deleting a requirement that the Department of Health  
6       designate approved programs by rule; deleting a  
7       requirement authorizing the department to adopt by  
8       rule the manner in which consultants work with the  
9       department in intervention, in evaluating and treating  
10      professionals, in providing and monitoring continued  
11      care of impaired professionals, and in expelling  
12      professionals from the program; authorizing, instead  
13      of requiring, the department to retain one or more  
14      consultants to operate its impaired practitioner  
15      program; requiring the department to establish the  
16      terms and conditions of the program by contract;  
17      providing contract terms; requiring consultants to  
18      establish the terms of monitoring impaired  
19      practitioners; authorizing consultants to consider the  
20      recommendations of certain persons in establishing the  
21      terms of monitoring; authorizing consultants to modify  
22      monitoring terms to protect the health, safety, and  
23      welfare of the public; requiring consultants to assist  
24      the department and licensure boards on matters  
25      relating to impaired practitioners; making technical  
26      changes; requiring the department to refer  
27      practitioners to consultants under certain  
28      circumstances; authorizing consultants to withhold  
29      certain information about self-reporting participants

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30 from the department under certain circumstances to  
31 encourage self-reporting; requiring consultants to  
32 disclose all information relating to practitioners who  
33 are terminated from the program for material  
34 noncompliance; providing that all information obtained  
35 by a consultant retains its confidential or exempt  
36 status; providing that consultants, and certain agents  
37 of consultants, may not be held liable financially or  
38 have a cause of action for damages brought against  
39 them for disclosing certain information or for any  
40 other act or omission relating to the program;  
41 authorizing consultants to contract with a school or  
42 program to provide services to certain students;  
43 amending s. 401.411, F.S.; providing that an impaired  
44 practitioner may be reported to a consultant rather  
45 than the department under certain circumstances;  
46 amending s. 455.227, F.S.; conforming provisions to  
47 changes made by the act; amending s. 456.0635, F.S.;  
48 providing that, under certain circumstances, a board  
49 or, if there is no board, the department, is not  
50 required to refuse to admit certain candidates to an  
51 examination, to issue a license, certificate, or  
52 registration to certain applicants, or to renew a  
53 license, certificate, or registration of certain  
54 applicants if they have successfully completed a  
55 pretrial diversion program; providing applicability;  
56 amending ss. 456.072, 457.109, 458.331, 459.015,  
57 460.413, 461.013, 462.14, 463.016, and 464.018, F.S.;

58 providing that an impaired practitioner may be

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59 reported to a consultant rather than the department  
60 under certain circumstances; amending s. 464.204,  
61 F.S.; conforming provisions to changes made by the  
62 act; amending ss. 465.016, 466.028, 467.203, 468.217,  
63 and 468.3101, F.S.; providing that an impaired  
64 practitioner may be reported to a consultant rather  
65 than the department under certain circumstances;  
66 amending s. 474.221, F.S.; conforming provisions to  
67 changes made by the act; amending s. 483.825, F.S.;  
68 providing that certain persons may be reported to a  
69 consultant rather than the department under certain  
70 circumstances; creating s. 456.0495, F.S.; requiring  
71 licensed midwives and health care providers to report  
72 adverse incidents to the department within a certain  
73 period; requiring the department to adopt rules  
74 establishing guidelines for reporting specified  
75 adverse incidents; providing an effective date.

76  
77 Be It Enacted by the Legislature of the State of Florida:

78  
79 Section 1. Section 456.076, Florida Statutes, is amended to  
80 read:

81 456.076 Impaired practitioner programs ~~Treatment programs~~  
82 ~~for impaired practitioners.~~

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

84 (a) "Consultant" means the individual or entity who  
85 operates an approved impaired practitioner program pursuant to a  
86 contract with the department and who is retained by the  
87 department as provided in subsection (2).

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88       (b) "Evaluator" means a state-licensed or nationally  
89 certified individual who has been approved by a consultant or  
90 the department, who has completed an evaluator training program  
91 established by the consultant, and who is therefore authorized  
92 to evaluate practitioners as part of an impaired practitioner  
93 program.

94       (c) "Impaired practitioner" means a practitioner with an  
95 impairment.

96       (d) "Impaired practitioner program" means a program  
97 established by the department by contract with one or more  
98 consultants to serve impaired and potentially impaired  
99 practitioners for the protection of the health, safety, and  
100 welfare of the public.

101       (e) "Impairment" means a potentially impairing health  
102 condition that is the result of the misuse or abuse of alcohol,  
103 drugs, or both, or a mental or physical condition that could  
104 affect a practitioner's ability to practice with skill and  
105 safety.

106       (f) "Inability to progress" means a determination by a  
107 consultant based on a participant's response to treatment and  
108 prognosis that the participant is unable to safely practice  
109 despite compliance with treatment requirements and his or her  
110 participant contract.

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

114       (h) "Participant" means a practitioner who is participating  
115 in the impaired practitioner program by having entered into a  
116 participant contract. A practitioner ceases to be a participant

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117 when the participant contract is successfully completed or is  
118 terminated for any reason.

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

123 (j) "Practitioner" means a person licensed, registered,  
124 certified, or regulated by the department under part III of  
125 chapter 401; chapter 457; chapter 458; chapter 459; chapter 460;  
126 chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;  
127 chapter 466; chapter 467; part I, part II, part III, part V,  
128 part X, part XIII, or part XIV of chapter 468; chapter 478;  
129 chapter 480; part III or part IV of chapter 483; chapter 484;  
130 chapter 486; chapter 490; or chapter 491; or an applicant for a  
131 license, registration, or certification under the same laws.

132 (k) "Referral" means a practitioner who has been referred,  
133 either as a self-referral or otherwise, or reported to a  
134 consultant for impaired practitioner program services, but who  
135 is not under a participant contract.

136 (l) "Treatment program" means a department- or consultant-  
137 approved residential, intensive outpatient, partial  
138 hospitalization or other program through which an impaired  
139 practitioner is treated based on the impaired practitioner's  
140 diagnosis and the treatment plan approved by the consultant.

141 (m) "Treatment provider" means a department- or consultant-  
142 approved state-licensed or nationally certified individual who  
143 provides treatment to an impaired practitioner based on the  
144 practitioner's individual diagnosis and a treatment plan  
145 approved by the consultant ~~For professions that do not have~~

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146 ~~impaired practitioner programs provided for in their practice~~  
147 ~~acts, the department shall, by rule, designate approved impaired~~  
148 ~~practitioner programs under this section. The department may~~  
149 ~~adopt rules setting forth appropriate criteria for approval of~~  
150 ~~treatment providers. The rules may specify the manner in which~~  
151 ~~the consultant, retained as set forth in subsection (2), works~~  
152 ~~with the department in intervention, requirements for evaluating~~  
153 ~~and treating a professional, requirements for continued care of~~  
154 ~~impaired professionals by approved treatment providers,~~  
155 ~~continued monitoring by the consultant of the care provided by~~  
156 ~~approved treatment providers regarding the professionals under~~  
157 ~~their care, and requirements related to the consultant's~~  
158 ~~expulsion of professionals from the program.~~

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

164 (a)1. A practitioner ~~or recovered practitioner~~ licensed  
165 under chapter 458, chapter 459, or part I of chapter 464; or

166 (b)2. An entity that employs:

167 1.a. A medical director who is ~~must be a practitioner or~~  
168 ~~recovered practitioner~~ licensed under chapter 458 or chapter  
169 459; or

170 2.b. An executive director who is ~~must be a registered~~  
171 ~~nurse or a recovered registered nurse~~ licensed under part I of  
172 chapter 464.

173 (3) The terms and conditions of the impaired practitioner  
174 program must be established by the department by contract with a

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175 consultant for the protection of the health, safety, and welfare  
176 of the public and must provide, at a minimum, that the  
177 consultant:

178 (a) Accepts referrals;

179 (b) Arranges for the evaluation and treatment of impaired  
180 practitioners by a treatment provider, when the consultant deems  
181 the evaluation and treatment necessary;

182 (c) Monitors the recovery progress and status of impaired  
183 practitioners to ensure that such practitioners are able to  
184 practice their profession with skill and safety. Such monitoring  
185 must continue until the consultant or department concludes that  
186 monitoring by the consultant is no longer required for the  
187 protection of the public or until the practitioner's  
188 participation in the program is terminated for material  
189 noncompliance or inability to progress; and

190 (d) Does not directly evaluate, treat, or otherwise provide  
191 patient care to a practitioner in the operation of the impaired  
192 practitioner program.

193 (4) The department shall specify, in its contract with each  
194 consultant, the types of licenses, registrations, or  
195 certifications of the practitioners to be served by that  
196 consultant.

197 (5) A consultant shall enter into a participant contract  
198 with an impaired practitioner and shall establish the terms of  
199 monitoring and shall include the terms in a participant  
200 contract. In establishing the terms of monitoring, the  
201 consultant may consider the recommendations of one or more  
202 approved evaluators, treatment programs, or treatment providers.  
203 A consultant may modify the terms of monitoring if the

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204 consultant concludes, through the course of monitoring, that  
205 extended, additional, or amended terms of monitoring are  
206 required for the protection of the health, safety, and welfare  
207 of the public.

208 ~~(6)(b) A An entity retained as an impaired practitioner~~  
209 ~~consultant under this section which employs a medical director~~  
210 ~~or an executive director is not required to be licensed as a~~  
211 ~~substance abuse provider or mental health treatment provider~~  
212 ~~under chapter 394, chapter 395, or chapter 397 for purposes of~~  
213 ~~providing services under this program.~~

214 ~~(7)(e)1. Each~~ The consultant shall assist the department  
215 and licensure boards on matters of impaired practitioners,  
216 including the determination of ~~probable cause panel and the~~  
217 ~~department in carrying out the responsibilities of this section.~~  
218 ~~This includes working with department investigators to determine~~  
219 ~~whether a practitioner is, in fact, impaired,~~ as specified in  
220 the consultant's contract with the department.

221 ~~2. The consultant may contract with a school or program to~~  
222 ~~provide services to a student enrolled for the purpose of~~  
223 ~~preparing for licensure as a health care practitioner as defined~~  
224 ~~in this chapter or as a veterinarian under chapter 474 if the~~  
225 ~~student is allegedly impaired as a result of the misuse or abuse~~  
226 ~~of alcohol or drugs, or both, or due to a mental or physical~~  
227 ~~condition. The department is not responsible for paying for the~~  
228 ~~care provided by approved treatment providers or a consultant.~~

229 ~~(d) A medical school accredited by the Liaison Committee on~~  
230 ~~Medical Education or the Commission on Osteopathic College~~  
231 ~~Accreditation, or another school providing for the education of~~  
232 ~~students enrolled in preparation for licensure as a health care~~



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233 ~~practitioner as defined in this chapter or a veterinarian under~~  
234 ~~chapter 474 which is governed by accreditation standards~~  
235 ~~requiring notice and the provision of due process procedures to~~  
236 ~~students, is not liable in any civil action for referring a~~  
237 ~~student to the consultant retained by the department or for~~  
238 ~~disciplinary actions that adversely affect the status of a~~  
239 ~~student when the disciplinary actions are instituted in~~  
240 ~~reasonable reliance on the recommendations, reports, or~~  
241 ~~conclusions provided by such consultant, if the school, in~~  
242 ~~referring the student or taking disciplinary action, adheres to~~  
243 ~~the due process procedures adopted by the applicable~~  
244 ~~accreditation entities and if the school committed no~~  
245 ~~intentional fraud in carrying out the provisions of this~~  
246 ~~section.~~

247 (8)(3) Before issuing an approval of, or intent to deny, an  
248 application for licensure, each board and profession within the  
249 Division of Medical Quality Assurance may delegate to its chair  
250 or other designee its authority to determine, ~~before certifying~~  
251 ~~or declining to certify an application for licensure to the~~  
252 ~~department,~~ that an applicant for licensure under its  
253 jurisdiction may have an impairment ~~be impaired as a result of~~  
254 ~~the misuse or abuse of alcohol or drugs, or both, or due to a~~  
255 ~~mental or physical condition that could affect the applicant's~~  
256 ~~ability to practice with skill and safety.~~ Upon such  
257 determination, the chair or other designee may refer the  
258 applicant to the consultant to facilitate ~~for~~ an evaluation  
259 before the board issues an approval of, certifies or intent to  
260 deny, ~~declines to certify his or her application to the~~  
261 ~~department.~~ If the applicant agrees to be evaluated by the

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262 consultant, the department's deadline for approving or denying  
263 the application pursuant to s. 120.60(1) is tolled until the  
264 evaluation is completed and the result of the evaluation and  
265 recommendation ~~by the consultant~~ is communicated to the board by  
266 the consultant. If the applicant declines to be evaluated ~~by the~~  
267 ~~consultant~~, the board shall issue an approval of, or intent to  
268 deny, certify or decline to certify the applicant's application  
269 ~~to the department~~ notwithstanding the lack of an evaluation and  
270 recommendation by the consultant.

271 (9) (a) (4) (a) Except as provided in paragraph (b), when  
272 ~~Whenever~~ the department receives a ~~written or oral~~ legally  
273 sufficient complaint alleging that a practitioner has an  
274 impairment licensee ~~under the jurisdiction of the Division of~~  
275 ~~Medical Quality Assurance within the department is impaired as a~~  
276 ~~result of the misuse or abuse of alcohol or drugs, or both, or~~  
277 ~~due to a mental or physical condition which could affect the~~  
278 ~~licensee's ability to practice with skill and safety, and no~~  
279 complaint exists against the practitioner licensee other than  
280 impairment ~~exists~~, the department shall refer the practitioner  
281 to the consultant, along with all information in the  
282 department's possession relating to the impairment. The  
283 impairment does reporting of such information shall not  
284 constitute grounds for discipline pursuant to s. 456.072 or ~~the~~  
285 ~~corresponding grounds for discipline within the applicable~~  
286 practice act if ~~the probable cause panel of the appropriate~~  
287 ~~board, or the department when there is no board, finds:~~

- 288 1. The practitioner licensee has acknowledged the  
289 impairment; ~~problem.~~
- 290 2. The practitioner becomes a participant licensee ~~has~~

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291 voluntarily enrolled in an impaired practitioner program and  
292 successfully completes a participant contract under terms  
293 established by the consultant; appropriate, approved treatment  
294 program.

295 3. The practitioner licensee has voluntarily withdrawn from  
296 practice or has limited the scope of his or her practice if as  
297 required by the consultant; ~~in each case, until such time as~~  
298 ~~the panel, or the department when there is no board, is~~  
299 ~~satisfied the licensee has successfully completed an approved~~  
300 ~~treatment program.~~

301 4. The practitioner licensee has provided to the  
302 consultant, or has authorized the consultant to obtain, all  
303 records and information relating to the impairment from any  
304 source and all other medical records of the practitioner  
305 requested by the consultant; and executed releases for medical  
306 records, authorizing the release of all records of evaluations,  
307 diagnoses, and treatment of the licensee, including records of  
308 treatment for emotional or mental conditions, to the consultant.  
309 ~~The consultant shall make no copies or reports of records that~~  
310 ~~do not regard the issue of the licensee's impairment and his or~~  
311 ~~her participation in a treatment program.~~

312 5. The practitioner has authorized the consultant, in the  
313 event of the practitioner's termination from the impaired  
314 practitioner program, to report the termination to the  
315 department and provide the department with copies of all  
316 information in the consultant's possession relating to the  
317 practitioner.

318 (b) For practitioners who are employed by governmental  
319 entities and who are also certified by the department pursuant

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320 to part III of chapter 401, the department may not refer the  
321 practitioner to the consultant if the practitioner is under a  
322 referral by the practitioner's employer to an employee  
323 assistance program through the governmental entity. If the  
324 practitioner fails to satisfactorily complete the employee  
325 assistance program or if his or her employment is terminated,  
326 his or her employer must immediately notify the department,  
327 which shall then refer the practitioner to the consultant as  
328 required in paragraph (a). For purposes of this paragraph, the  
329 term "governmental entity" has the same meaning as provided in  
330 s. 70.001(3)(c).

331 (c) To encourage practitioners who are or may be impaired  
332 to voluntarily self-refer to a consultant, the consultant may  
333 not provide information to the department relating to a self-  
334 referring participant if the consultant has no knowledge of a  
335 pending department investigation, complaint, or disciplinary  
336 action against the participant and if the participant is in  
337 compliance and making progress with the terms of the impaired  
338 practitioner program and contract, unless authorized by the  
339 participant ~~If, however, the department has not received a~~  
340 ~~legally sufficient complaint and the licensee agrees to withdraw~~  
341 ~~from practice until such time as the consultant determines the~~  
342 ~~licensee has satisfactorily completed an approved treatment~~  
343 ~~program or evaluation, the probable cause panel, or the~~  
344 ~~department when there is no board, shall not become involved in~~  
345 ~~the licensee's case.~~

346 ~~(c) Inquiries related to impairment treatment programs~~  
347 ~~designed to provide information to the licensee and others and~~  
348 ~~which do not indicate that the licensee presents a danger to the~~

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349 ~~public shall not constitute a complaint within the meaning of s.~~  
350 ~~456.073 and shall be exempt from the provisions of this~~  
351 ~~subsection.~~

352 ~~(d) Whenever the department receives a legally sufficient~~  
353 ~~complaint alleging that a licensee is impaired as described in~~  
354 ~~paragraph (a) and no complaint against the licensee other than~~  
355 ~~impairment exists, the department shall forward all information~~  
356 ~~in its possession regarding the impaired licensee to the~~  
357 ~~consultant. For the purposes of this section, a suspension from~~  
358 ~~hospital staff privileges due to the impairment does not~~  
359 ~~constitute a complaint.~~

360 ~~(e) The probable cause panel, or the department when there~~  
361 ~~is no board, shall work directly with the consultant, and all~~  
362 ~~information concerning a practitioner obtained from the~~  
363 ~~consultant by the panel, or the department when there is no~~  
364 ~~board, shall remain confidential and exempt from the provisions~~  
365 ~~of s. 119.07(1), subject to the provisions of subsections (6)~~  
366 ~~and (7).~~

367 ~~(f) A finding of probable cause shall not be made as long~~  
368 ~~as the panel, or the department when there is no board, is~~  
369 ~~satisfied, based upon information it receives from the~~  
370 ~~consultant and the department, that the licensee is progressing~~  
371 ~~satisfactorily in an approved impaired practitioner program and~~  
372 ~~no other complaint against the licensee exists.~~

373 ~~(10)(5)~~ In any disciplinary action for a violation other  
374 than impairment in which a practitioner licensee establishes the  
375 violation for which the practitioner licensee is being  
376 prosecuted was due to or connected with impairment and further  
377 establishes the practitioner licensee is satisfactorily

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378 progressing through or has successfully completed an impaired  
379 practitioner program ~~approved treatment program~~ pursuant to this  
380 section, such information may be considered by the board, or the  
381 department when there is no board, as a mitigating factor in  
382 determining the appropriate penalty. This subsection does not  
383 limit mitigating factors the board may consider.

384 (11) (a) ~~(6) (a)~~ Upon request by the consultant, and with the  
385 authorization of the practitioner when required by law, an  
386 approved evaluator, treatment program, or treatment provider  
387 ~~shall, upon request,~~ disclose to the consultant all information  
388 in its possession regarding a referral or participant ~~the issue~~  
389 ~~of a licensee's impairment and participation in the treatment~~  
390 ~~program. All information obtained by the consultant and~~  
391 ~~department pursuant to this section is confidential and exempt~~  
392 ~~from the provisions of s. 119.07(1), subject to the provisions~~  
393 ~~of this subsection and subsection (7).~~ Failure to provide such  
394 information to the consultant is grounds for withdrawal of  
395 approval of such evaluator, treatment program, or treatment  
396 provider.

397 (b) When a referral or participant is terminated from the  
398 impaired practitioner program for material noncompliance with a  
399 participant contract, inability to progress, or any other reason  
400 than completion, the consultant shall disclose ~~If in the opinion~~  
401 ~~of the consultant, after consultation with the treatment~~  
402 ~~provider, an impaired licensee has not progressed satisfactorily~~  
403 ~~in a treatment program, all information regarding the issue of a~~  
404 ~~licensee's impairment and participation in a treatment program~~  
405 in the consultant's possession relating to the practitioner  
406 ~~shall be disclosed~~ to the department. Such disclosure shall

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407 constitute a complaint pursuant to the general provisions of s.  
408 456.073. In addition, whenever the consultant concludes that  
409 impairment affects a practitioner's licensee's practice and  
410 constitutes an immediate, serious danger to the public health,  
411 safety, or welfare, the consultant shall immediately communicate  
412 such that conclusion shall be communicated to the department and  
413 disclose all information in the consultant's possession relating  
414 to the practitioner to the department State Surgeon General.

415 (12) All information obtained by the consultant pursuant to  
416 this section is confidential and exempt from s. 119.07(1) and s.  
417 24(a), Art. I of the State Constitution.

418 (13) ~~(7)~~ A consultant, or a director, officer, employee, or  
419 agent of a consultant, may not be held liable financially or may  
420 not have a cause of action for damages brought against him or  
421 her for making a disclosure pursuant to this section, for any  
422 other action or omission relating to the impaired practitioner  
423 program, or for the consequences of such disclosure or action or  
424 omission, including, without limitation, action by the  
425 department against a license, registration, or certification  
426 licensee, or approved treatment provider who makes a disclosure  
427 pursuant to this section is not subject to civil liability for  
428 such disclosure or its consequences.

429 (14) The provisions of s. 766.101 apply to any consultant  
430 and the consultant's directors, officers, employees, or agents  
431 in regards to providing information relating to a participant to  
432 a medical review committee if the participant authorizes such  
433 disclosure officer, employee, or agent of the department or the  
434 board and to any officer, employee, or agent of any entity with  
435 which the department has contracted pursuant to this section.

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436 (15) (a) (8) (a) A consultant retained pursuant to this  
437 section and subsection (2), a consultant's directors, officers,  
438 and employees, or agents and those acting at the direction of  
439 the consultant for the limited purpose of an emergency  
440 intervention on behalf of a licensee or student as described in  
441 subsection (2) when the consultant is unable to perform such  
442 intervention shall be considered agents of the department for  
443 purposes of s. 768.28 while acting within the scope of the  
444 consultant's duties under the contract with the department if  
445 the contract complies with the requirements of this section. The  
446 contract must require that:

447 1. The consultant indemnify the state for any liabilities  
448 incurred up to the limits set out in chapter 768.

449 2. The consultant establish a quality assurance program to  
450 monitor services delivered under the contract.

451 3. The consultant's quality assurance program, treatment,  
452 and monitoring records be evaluated quarterly.

453 4. The consultant's quality assurance program be subject to  
454 review and approval by the department.

455 5. The consultant operate under policies and procedures  
456 approved by the department.

457 6. The consultant provide to the department for approval a  
458 policy and procedure manual that comports with all statutes,  
459 rules, and contract provisions approved by the department.

460 7. The department be entitled to review the records  
461 relating to the consultant's performance under the contract for  
462 the purpose of management audits, financial audits, or program  
463 evaluation.

464 8. All performance measures and standards be subject to



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465 ~~verification and approval by the department.~~

466 ~~9. The department be entitled to terminate the contract~~  
467 ~~with the consultant for noncompliance with the contract.~~

468 (b) In accordance with s. 284.385, the Department of  
469 Financial Services shall defend any claim, suit, action, or  
470 proceeding, including a claim, suit, action, or proceeding for  
471 injunctive, affirmative, or declaratory relief, against the  
472 consultant, or the consultant's directors, officers, or  
473 employees, and agents brought as the result of any action or  
474 omission relating to the impaired practitioner program or those  
475 acting at the direction of the consultant for the limited  
476 purpose of an emergency intervention on behalf of a licensee or  
477 student as described in subsection (2) when the consultant is  
478 unable to perform such intervention, which claim, suit, action,  
479 or proceeding is brought as a result of an act or omission by  
480 any of the consultant's officers and employees and those acting  
481 under the direction of the consultant for the limited purpose of  
482 an emergency intervention on behalf of the licensee or student  
483 when the consultant is unable to perform such intervention, if  
484 the act or omission arises out of and is in the scope of the  
485 consultant's duties under its contract with the department.

486 ~~(16)(e)~~ If a the consultant retained by the department  
487 pursuant to this section subsection (2) is also retained by  
488 another any other state agency to operate an impaired  
489 practitioner program for that agency, this section also applies  
490 to the consultant's operation of an impaired practitioner  
491 program for that agency, and if the contract between such state  
492 agency and the consultant complies with the requirements of this  
493 section, the consultant, the consultant's officers and

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494 ~~employees, and those acting under the direction of the~~  
495 ~~consultant for the limited purpose of an emergency intervention~~  
496 ~~on behalf of a licensee or student as described in subsection~~  
497 ~~(2) when the consultant is unable to perform such intervention~~  
498 ~~shall be considered agents of the state for the purposes of this~~  
499 ~~section while acting within the scope of and pursuant to~~  
500 ~~guidelines established in the contract between such state agency~~  
501 ~~and the consultant.~~

502 ~~(17)(9) A~~ An impaired practitioner consultant is the  
503 official custodian of records relating to the referral of an  
504 impaired licensee or applicant to that consultant and any other  
505 interaction between the licensee or applicant and the  
506 consultant. The consultant may disclose to a referral or  
507 participant, or to the legal representative of the referral or  
508 participant, the documents, records, or other information from  
509 the consultant's file, including information received by the  
510 consultant from other sources, and information on the terms  
511 required for the referral's or participant's monitoring  
512 contract, the referral's or participant's progress or inability  
513 to progress, the referral's or participant's discharge or  
514 termination, information supporting the conclusion of material  
515 noncompliance, or any other information required by law ~~the~~  
516 ~~impaired licensee or applicant or his or her designee any~~  
517 ~~information that is disclosed to or obtained by the consultant~~  
518 ~~or that is confidential under paragraph (6)(a), but only to the~~  
519 ~~extent that it is necessary to do so to carry out the~~  
520 ~~consultant's duties under this section. The department, and any~~  
521 ~~other entity that enters into a contract with the consultant to~~  
522 ~~receive the services of the consultant, has direct~~

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523 ~~administrative control over the consultant to the extent~~  
524 ~~necessary to receive disclosures from the consultant as allowed~~  
525 ~~by federal law. If a consultant discloses information to the~~  
526 ~~department in accordance with this part, a referral or~~  
527 ~~participant, or his or her legal representative, may obtain a~~  
528 ~~complete copy of the consultant's file from the consultant or~~  
529 ~~disciplinary proceeding is pending, an impaired licensee may~~  
530 ~~obtain such information from the department under s. 456.073.~~

531 (18) (a) The consultant may contract with a school or  
532 program to provide impaired practitioner program services to a  
533 student enrolled for the purpose of preparing for licensure as a  
534 health care practitioner as defined in this chapter or as a  
535 veterinarian under chapter 474 if the student has or is  
536 suspected of having an impairment. The department is not  
537 responsible for paying for the care provided by approved  
538 treatment providers or approved treatment programs or for the  
539 services provided by a consultant to a student.

540 (b) A medical school accredited by the Liaison Committee on  
541 Medical Education or the Commission on Osteopathic College  
542 Accreditation, or another school providing for the education of  
543 students enrolled in preparation for licensure as a health care  
544 practitioner as defined in this chapter, or a veterinarian under  
545 chapter 474, which is governed by accreditation standards  
546 requiring notice and the provision of due process procedures to  
547 students, is not liable in any civil action for referring a  
548 student to the consultant retained by the department or for  
549 disciplinary actions that adversely affect the status of a  
550 student when the disciplinary actions are instituted in  
551 reasonable reliance on the recommendations, reports, or

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552 conclusions provided by such consultant, if the school, in  
553 referring the student or taking disciplinary action, adheres to  
554 the due process procedures adopted by the applicable  
555 accreditation entities and if the school committed no  
556 intentional fraud in carrying out the provisions of this  
557 section.

558 Section 2. Paragraph (l) of subsection (1) of section  
559 401.411, Florida Statutes, is amended to read:

560 401.411 Disciplinary action; penalties.—

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

565 (1) The failure to report to the department any person  
566 known to be in violation of this part. However, a professional  
567 known to be operating under this part without reasonable skill  
568 and without regard for the safety of the public by reason of  
569 illness, drunkenness, or the use of drugs, narcotics, chemicals,  
570 or any other type of material, or as a result of a mental or  
571 physical condition, may be reported to a consultant operating an  
572 impaired practitioner program as described in s. 456.076 rather  
573 than to the department.

574 Section 3. Paragraph (u) of subsection (1) of section  
575 455.227, Florida Statutes, is amended to read:

576 455.227 Grounds for discipline; penalties; enforcement.—

577 (1) The following acts shall constitute grounds for which  
578 the disciplinary actions specified in subsection (2) may be  
579 taken:

580 (u) Termination from an impaired practitioner program ~~a~~

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581 ~~treatment program for impaired practitioners~~ as described in s.  
582 456.076 for failure to comply, without good cause, with the  
583 terms of the monitoring or participant ~~treatment~~ contract  
584 entered into by the licensee or failing to successfully complete  
585 a drug or alcohol treatment program.

586 Section 4. Subsections (2) and (3) of section 456.0635,  
587 Florida Statutes, are amended to read:

588 456.0635 Health care fraud; disqualification for license,  
589 certificate, or registration.—

590 (2) Each board within the jurisdiction of the department,  
591 or the department if there is no board, shall refuse to admit a  
592 candidate to any examination and refuse to issue a license,  
593 certificate, or registration to any applicant if the candidate  
594 or applicant or any principal, officer, agent, managing  
595 employee, or affiliated person of the candidate or applicant:

596 (a) Has been convicted of, or entered a plea of guilty or  
597 nolo contendere to, regardless of adjudication, a felony under  
598 chapter 409, chapter 817, or chapter 893, or a similar felony  
599 offense committed in another state or jurisdiction, unless the  
600 candidate or applicant has successfully completed a pretrial  
601 diversion or drug court program for that felony and provides  
602 proof that the plea has been withdrawn or the charges have been  
603 dismissed. Any such conviction or plea shall exclude the  
604 applicant or candidate from licensure, examination,  
605 certification, or registration unless the sentence and any  
606 subsequent period of probation for such conviction or plea  
607 ended:

608 1. For felonies of the first or second degree, more than 15  
609 years before the date of application.

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610           2. For felonies of the third degree, more than 10 years  
611 before the date of application, except for felonies of the third  
612 degree under s. 893.13(6) (a).

613           3. For felonies of the third degree under s. 893.13(6) (a),  
614 more than 5 years before the date of application;

615           (b) Has been convicted of, or entered a plea of guilty or  
616 nolo contendere to, regardless of adjudication, a felony under  
617 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396, unless the  
618 sentence and any subsequent period of probation for such  
619 conviction or plea ended more than 15 years before the date of  
620 the application;

621           (c) Has been terminated for cause from the Florida Medicaid  
622 program pursuant to s. 409.913, unless the candidate or  
623 applicant has been in good standing with the Florida Medicaid  
624 program for the most recent 5 years;

625           (d) Has been terminated for cause, pursuant to the appeals  
626 procedures established by the state, from any other state  
627 Medicaid program, unless the candidate or applicant has been in  
628 good standing with a state Medicaid program for the most recent  
629 5 years and the termination occurred at least 20 years before  
630 the date of the application; or

631           (e) Is currently listed on the United States Department of  
632 Health and Human Services Office of Inspector General's List of  
633 Excluded Individuals and Entities.

634

635 This subsection does not apply to an applicant for initial  
636 licensure, certification, or registration who was arrested for  
637 or charged with a felony specified in paragraph (a) or paragraph  
638 (b) before July 1, 2009.

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639 (3) The department shall refuse to renew a license,  
640 certificate, or registration of any applicant if the applicant  
641 or any principal, officer, agent, managing employee, or  
642 affiliated person of the applicant:

643 (a) Has been convicted of, or entered a plea of guilty or  
644 nolo contendere to, regardless of adjudication, a felony under  
645 chapter 409, chapter 817, or chapter 893, or a similar felony  
646 offense committed in another state or jurisdiction, unless the  
647 applicant is currently enrolled in a pretrial diversion or drug  
648 court program that allows the withdrawal of the plea for that  
649 felony upon successful completion of that program. Any such  
650 conviction or plea excludes the applicant from licensure renewal  
651 unless the sentence and any subsequent period of probation for  
652 such conviction or plea ended:

653 1. For felonies of the first or second degree, more than 15  
654 years before the date of application.

655 2. For felonies of the third degree, more than 10 years  
656 before the date of application, except for felonies of the third  
657 degree under s. 893.13(6) (a).

658 3. For felonies of the third degree under s. 893.13(6) (a),  
659 more than 5 years before the date of application.

660 (b) Has been convicted of, or entered a plea of guilty or  
661 nolo contendere to, regardless of adjudication, a felony under  
662 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396 since July 1,  
663 2009, unless the sentence and any subsequent period of probation  
664 for such conviction or plea ended more than 15 years before the  
665 date of the application.

666 (c) Has been terminated for cause from the Florida Medicaid  
667 program pursuant to s. 409.913, unless the applicant has been in

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668 good standing with the Florida Medicaid program for the most  
669 recent 5 years.

670 (d) Has been terminated for cause, pursuant to the appeals  
671 procedures established by the state, from any other state  
672 Medicaid program, unless the applicant has been in good standing  
673 with a state Medicaid program for the most recent 5 years and  
674 the termination occurred at least 20 years before the date of  
675 the application.

676 (e) Is currently listed on the United States Department of  
677 Health and Human Services Office of Inspector General's List of  
678 Excluded Individuals and Entities.

679

680 This subsection does not apply to an applicant for renewal of  
681 licensure, certification, or registration who was arrested for  
682 or charged with a felony specified in paragraph (a) or paragraph  
683 (b) before July 1, 2009.

684 Section 5. Paragraphs (i) and (hh) of subsection (1) of  
685 section 456.072, Florida Statutes, are amended to read:

686 456.072 Grounds for discipline; penalties; enforcement.—

687 (1) The following acts shall constitute grounds for which  
688 the disciplinary actions specified in subsection (2) may be  
689 taken:

690 (i) Except as provided in s. 465.016, failing to report to  
691 the department any person who the licensee knows is in violation  
692 of this chapter, the chapter regulating the alleged violator, or  
693 the rules of the department or the board. However, a person who  
694 the licensee knows is unable to practice with reasonable skill  
695 and safety to patients by reason of illness or use of alcohol,  
696 drugs, narcotics, chemicals, or any other type of material, or



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697 as a result of a mental or physical condition, may be reported  
698 to a consultant operating an impaired practitioner program as  
699 described in s. 456.076 rather than to the department.

700 (hh) Being terminated from an impaired practitioner program  
701 that a treatment program for impaired practitioners, which is  
702 overseen by a an impaired practitioner consultant as described  
703 in s. 456.076, for failure to comply, without good cause, with  
704 the terms of the monitoring or participant treatment contract  
705 entered into by the licensee, or for not successfully completing  
706 any drug treatment or alcohol treatment program.

707 Section 6. Paragraph (f) of subsection (1) of section  
708 457.109, Florida Statutes, is amended to read:

709 457.109 Disciplinary actions; grounds; action by the  
710 board.—

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

713 (f) Failing to report to the department any person who the  
714 licensee knows is in violation of this chapter or of the rules  
715 of the department. However, a person who the licensee knows is  
716 unable to practice acupuncture with reasonable skill and safety  
717 to patients by reason of illness or use of alcohol, drugs,  
718 narcotics, chemicals, or any other type of material, or as a  
719 result of a mental or physical condition, may be reported to a  
720 consultant operating an impaired practitioner program as  
721 described in s. 456.076 rather than to the department.

722 Section 7. Paragraph (e) of subsection (1) of section  
723 458.331, Florida Statutes, is amended to read:

724 458.331 Grounds for disciplinary action; action by the  
725 board and department.—

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

728 (e) Failing to report to the department any person who the  
729 licensee knows is in violation of this chapter or of the rules  
730 of the department or the board. However, a person who the  
731 licensee knows is unable to practice medicine with reasonable  
732 skill and safety to patients by reason of illness or use of  
733 alcohol, drugs, narcotics, chemicals, or any other type of  
734 material, or as a result of a mental or physical condition, may  
735 be reported to a consultant operating an impaired practitioner  
736 program as described in s. 456.076 rather than to the department  
737 ~~A treatment provider approved pursuant to s. 456.076 shall~~  
738 ~~provide the department or consultant with information in~~  
739 ~~accordance with the requirements of s. 456.076(4), (5), (6),~~  
740 ~~(7), and (9).~~

741 Section 8. Paragraph (e) of subsection (1) of section  
742 459.015, Florida Statutes, is amended to read:

743 459.015 Grounds for disciplinary action; action by the  
744 board and department.—

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

747 (e) Failing to report to the department or the department's  
748 impaired professional consultant any person who the licensee or  
749 certificateholder knows is in violation of this chapter or of  
750 the rules of the department or the board. However, a person who  
751 the licensee knows is unable to practice osteopathic medicine  
752 with reasonable skill and safety to patients by reason of  
753 illness or use of alcohol, drugs, narcotics, chemicals, or any  
754 other type of material, or as a result of a mental or physical

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755 condition, may be reported to a consultant operating an impaired  
756 practitioner program as described in s. 456.076 rather than to  
757 the department ~~A treatment provider, approved pursuant to s.~~  
758 ~~456.076, shall provide the department or consultant with~~  
759 ~~information in accordance with the requirements of s.~~  
760 ~~456.076(4), (5), (6), (7), and (9).~~

761 Section 9. Paragraph (g) of subsection (1) of section  
762 460.413, Florida Statutes, is amended to read:

763 460.413 Grounds for disciplinary action; action by board or  
764 department.—

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

767 (g) Failing to report to the department any person who the  
768 licensee knows is in violation of this chapter or of the rules  
769 of the department or the board. However, a person who the  
770 licensee knows is unable to practice chiropractic medicine with  
771 reasonable skill and safety to patients by reason of illness or  
772 use of alcohol, drugs, narcotics, chemicals, or any other type  
773 of material, or as a result of a mental or physical condition,  
774 may be reported to a consultant operating an impaired  
775 practitioner program as described in s. 456.076 rather than to  
776 the department.

777 Section 10. Paragraph (f) of subsection (1) of section  
778 461.013, Florida Statutes, is amended to read:

779 461.013 Grounds for disciplinary action; action by the  
780 board; investigations by department.—

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

783 (f) Failing to report to the department any person who the

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784 licensee knows is in violation of this chapter or of the rules  
785 of the department or the board. However, a person who the  
786 licensee knows is unable to practice podiatric medicine with  
787 reasonable skill and safety to patients by reason of illness or  
788 use of alcohol, drugs, narcotics, chemicals, or any other type  
789 of material, or as a result of a mental or physical condition,  
790 may be reported to a consultant operating an impaired  
791 practitioner program as described in s. 456.076 rather than to  
792 the department.

793 Section 11. Paragraph (f) of subsection (1) of section  
794 462.14, Florida Statutes, is amended to read:

795 462.14 Grounds for disciplinary action; action by the  
796 department.—

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

799 (f) Failing to report to the department any person who the  
800 licensee knows is in violation of this chapter or of the rules  
801 of the department. However, a person who the licensee knows is  
802 unable to practice naturopathic medicine with reasonable skill  
803 and safety to patients by reason of illness or use of alcohol,  
804 drugs, narcotics, chemicals, or any other type of material, or  
805 as a result of a mental or physical condition, may be reported  
806 to a consultant operating an impaired practitioner program as  
807 described in s. 456.076 rather than to the department.

808 Section 12. Paragraph (1) of subsection (1) of section  
809 463.016, Florida Statutes, is amended to read:

810 463.016 Grounds for disciplinary action; action by the  
811 board.—

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

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

814 (1) Willfully failing to report any person who the licensee  
815 knows is in violation of this chapter or of rules of the  
816 department or the board. However, a person who the licensee  
817 knows is unable to practice optometry with reasonable skill and  
818 safety to patients by reason of illness or use of alcohol,  
819 drugs, narcotics, chemicals, or any other type of material, or  
820 as a result of a mental or physical condition, may be reported  
821 to a consultant operating an impaired practitioner program as  
822 described in s. 456.076 rather than to the department.

823 Section 13. Paragraph (k) of subsection (1) of section  
824 464.018, Florida Statutes, is amended to read:

825 464.018 Disciplinary actions.—

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

828 (k) Failing to report to the department any person who the  
829 licensee knows is in violation of this part or of the rules of  
830 the department or the board. However, a person who the licensee  
831 knows is unable to practice nursing with reasonable skill and  
832 safety to patients by reason of illness or use of alcohol,  
833 drugs, narcotics, chemicals, or any other type of material, or  
834 as a result of a mental or physical condition, may be reported  
835 to a consultant operating an impaired practitioner program as  
836 described in s. 456.076 rather than to the department; however,  
837 ~~if the licensee verifies that such person is actively~~  
838 ~~participating in a board-approved program for the treatment of a~~  
839 ~~physical or mental condition, the licensee is required to report~~  
840 ~~such person only to an impaired professionals consultant.~~

841 Section 14. Paragraph (c) of subsection (2) of section

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842 464.204, Florida Statutes, is amended to read:

843 464.204 Denial, suspension, or revocation of certification;  
844 disciplinary actions.—

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

848 (c) Imposition of probation or restriction of  
849 certification, including conditions such as corrective actions  
850 as retraining or compliance with the department's impaired  
851 practitioner program operated by a consultant as described in s.  
852 456.076 ~~an approved treatment program for impaired~~  
853 ~~practitioners.~~

854 Section 15. Paragraph (o) of subsection (1) of section  
855 465.016, Florida Statutes, is amended to read:

856 465.016 Disciplinary actions.—

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

859 (o) Failing to report to the department any licensee under  
860 chapter 458 or under chapter 459 who the pharmacist knows has  
861 violated the grounds for disciplinary action set out in the law  
862 under which that person is licensed and who provides health care  
863 services in a facility licensed under chapter 395, or a health  
864 maintenance organization certificated under part I of chapter  
865 641, in which the pharmacist also provides services. However, a  
866 person who the licensee knows is unable to practice medicine or  
867 osteopathic medicine with reasonable skill and safety to  
868 patients by reason of illness or use of alcohol, drugs,  
869 narcotics, chemicals, or any other type of material, or as a  
870 result of a mental or physical condition, may be reported to a

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871 consultant operating an impaired practitioner program as  
872 described in s. 456.076 rather than to the department.

873 Section 16. Paragraph (f) of subsection (1) of section  
874 466.028, Florida Statutes, is amended to read:

875 466.028 Grounds for disciplinary action; action by the  
876 board.—

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

879 (f) Failing to report to the department any person who the  
880 licensee knows, or has reason to believe, is clearly in  
881 violation of this chapter or of the rules of the department or  
882 the board. However, a person who the licensee knows, or has  
883 reason to believe, is clearly unable to practice her or his  
884 profession with reasonable skill and safety to patients by  
885 reason of illness or use of alcohol, drugs, narcotics,  
886 chemicals, or any other type of material, or as a result of a  
887 mental or physical condition, may be reported to a consultant  
888 operating an impaired practitioner program as described in s.  
889 456.076 rather than to the department.

890 Section 17. Paragraph (h) of subsection (1) of section  
891 467.203, Florida Statutes, is amended to read:

892 467.203 Disciplinary actions; penalties.—

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

895 (h) Failing to report to the department any person who the  
896 licensee knows is in violation of this chapter or of the rules  
897 of the department. However, a person who the licensee knows is  
898 unable to practice midwifery with reasonable skill and safety to  
899 patients by reason of illness or use of alcohol, drugs,

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900 narcotics, chemicals, or any other type of material, or as a  
901 result of a mental or physical condition, may be reported to a  
902 consultant operating an impaired practitioner program as  
903 described in s. 456.076 rather than to the department.

904 Section 18. Paragraph (f) of subsection (1) of section  
905 468.217, Florida Statutes, is amended to read:

906 468.217 Denial of or refusal to renew license; suspension  
907 and revocation of license and other disciplinary measures.—

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

910 (f) Failing to report to the department any person who the  
911 licensee knows is in violation of this part or of the rules of  
912 the department or of the board. However, a person who the  
913 licensee knows is unable to practice occupational therapy with  
914 reasonable skill and safety to patients by reason of illness or  
915 use of alcohol, drugs, narcotics, chemicals, or any other type  
916 of material, or as a result of a mental or physical condition,  
917 may be reported to a consultant operating an impaired  
918 practitioner program as described in s. 456.076 rather than to  
919 the department.

920 Section 19. Paragraph (n) of subsection (1) of section  
921 468.3101, Florida Statutes, is amended to read:

922 468.3101 Disciplinary grounds and actions.—

923 (1) The department may make or require to be made any  
924 investigations, inspections, evaluations, and tests, and require  
925 the submission of any documents and statements, which it  
926 considers necessary to determine whether a violation of this  
927 part has occurred. The following acts shall be grounds for  
928 disciplinary action as set forth in this section:



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929           (n) Being terminated from an impaired practitioner program  
930 operated by a consultant as described in s. 456.076 for failure  
931 to comply, without good cause, with the terms of monitoring or a  
932 participant contract entered into by the licensee, or for not  
933 successfully completing a drug treatment or alcohol treatment  
934 program ~~Failing to comply with the recommendations of the~~  
935 ~~department's impaired practitioner program for treatment,~~  
936 ~~evaluation, or monitoring. A letter from the director of the~~  
937 ~~impaired practitioner program that the certificateholder is not~~  
938 ~~in compliance shall be considered conclusive proof under this~~  
939 ~~part.~~

940           Section 20. Section 474.221, Florida Statutes, is amended  
941 to read:

942           474.221 Impaired practitioner provisions; applicability.—  
943 Notwithstanding the transfer of the Division of Medical Quality  
944 Assurance to the Department of Health or any other provision of  
945 law to the contrary, veterinarians licensed under this chapter  
946 shall be governed by the ~~treatment of~~ impaired practitioner  
947 program provisions of s. 456.076 as if they were under the  
948 jurisdiction of the Division of Medical Quality Assurance,  
949 except that for veterinarians the Department of Business and  
950 Professional Regulation shall, at its option, exercise any of  
951 the powers granted to the Department of Health by that section,  
952 and "board" shall mean board as defined in this chapter.

953           Section 21. Paragraph (o) of subsection (1) of section  
954 483.825, Florida Statutes, is amended to read:

955           483.825 Grounds for disciplinary action.—

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

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958 (o) Failing to report to the department a person or other  
959 licensee who the licensee knows is in violation of this chapter  
960 or the rules of the department or board adopted hereunder.  
961 However, a person or other licensee who the licensee knows is  
962 unable to perform or report on clinical laboratory examinations  
963 with reasonable skill and safety to patients by reason of  
964 illness or use of alcohol, drugs, narcotics, chemicals, or any  
965 other type of material, or as a result of a mental or physical  
966 condition, may be reported to a consultant operating an impaired  
967 practitioner program as described in s. 456.076 rather than to  
968 the department.

969 Section 22. Section 456.0495, Florida Statutes, is created  
970 to read:

971 456.0495 Reporting adverse incidents occurring in out-of-  
972 hospital births.-

973 (1) A midwife licensed under chapter 467 or health care  
974 provider, as applicable, shall report any adverse incident, as  
975 defined by department rule, occurring as a result of an  
976 attempted or completed, planned birthing center or out-of-  
977 hospital birth, along with a medical summary of events, to the  
978 department within 15 days after the adverse incident occurs.

979 (2) The department shall adopt rules establishing  
980 guidelines for reporting adverse incidents, including, but not  
981 limited to:

982 (a) Maternal deaths that occur during delivery or within 42  
983 days after delivery.

984 (b) Transfers of maternal patients to a hospital intensive  
985 care unit.

986 (c) Maternal patients who experience hemorrhagic shock or

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987 who require a transfusion of more than 4 units of blood or blood  
988 products.

989 (d) Fetal or infant deaths, including stillbirths,  
990 associated with obstetrical deliveries.

991 (e) Transfers of infants to a neonatal intensive care unit  
992 due to a traumatic physical or neurological birth injury,  
993 including any degree of a brachial plexus injury.

994 (f) Transfers of infants to a neonatal intensive care unit  
995 within the first 72 hours after birth if the infant remains in  
996 such unit for more than 72 hours.

997 Section 23. This act shall take effect upon becoming a law.