

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Healthcare Regulation
 2 Subcommittee

3 Representative Hunschofsky offered the following:

4

5 **Amendment (with title amendment)**

6 Remove line 1227 and insert:

7 Section 2. Subsection (10) of section 456.073, Florida
 8 Statutes, is amended to read:

9 456.073 Disciplinary proceedings.—Disciplinary proceedings
 10 for each board shall be within the jurisdiction of the
 11 department.

12 (10) The complaint and all information obtained pursuant
 13 to the investigation by the department are confidential and
 14 exempt from s. 119.07(1) until 10 days after probable cause has
 15 been found to exist by the probable cause panel or by the
 16 department, or until the regulated professional or subject of

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17 the investigation waives his or her privilege of
18 confidentiality, whichever occurs first. The department shall
19 report any significant investigation information relating to a
20 nurse holding a multistate license to the coordinated licensure
21 information system pursuant to s. 464.0095, ~~and~~ any significant
22 investigatory information relating to a health care practitioner
23 practicing under the Professional Counselors Licensure Compact
24 to the data system pursuant to s. 491.017, ~~and~~ any significant
25 investigatory information relating to a psychologist practicing
26 under the Psychology Interjurisdictional Compact to the
27 coordinated licensure information system pursuant to s.
28 490.0075, and any significant investigatory information relating
29 a clinical social worker practicing under the Social Work
30 Licensure Interstate Compact to the coordinated data system
31 pursuant to s. 491.022. Upon completion of the investigation and
32 a recommendation by the department to find probable cause, and
33 pursuant to a written request by the subject or the subject's
34 attorney, the department shall provide the subject an
35 opportunity to inspect the investigative file or, at the
36 subject's expense, forward to the subject a copy of the
37 investigative file. Notwithstanding s. 456.057, the subject may
38 inspect or receive a copy of any expert witness report or
39 patient record connected with the investigation if the subject
40 agrees in writing to maintain the confidentiality of any
41 information received under this subsection until 10 days after

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42 probable cause is found and to maintain the confidentiality of
43 patient records pursuant to s. 456.057. The subject may file a
44 written response to the information contained in the
45 investigative file. Such response must be filed within 20 days
46 of mailing by the department, unless an extension of time has
47 been granted by the department. This subsection does not
48 prohibit the department from providing such information to any
49 law enforcement agency or to any other regulatory agency.

50 Section 3. Subsection (5) of section 456.076, Florida
51 Statutes, is amended to read:

52 456.076 Impaired practitioner programs.—

53 (5) A consultant shall enter into a participant contract
54 with an impaired practitioner and shall establish the terms of
55 monitoring and shall include the terms in a participant
56 contract. In establishing the terms of monitoring, the
57 consultant may consider the recommendations of one or more
58 approved evaluators, treatment programs, or treatment providers.
59 A consultant may modify the terms of monitoring if the
60 consultant concludes, through the course of monitoring, that
61 extended, additional, or amended terms of monitoring are
62 required for the protection of the health, safety, and welfare
63 of the public. If the impaired practitioner is a health care
64 practitioner practicing under the Professional Counselors
65 Licensure Compact pursuant to s. 491.017, the terms of the
66 monitoring contract must include the impaired practitioner's

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67 withdrawal from all practice under the compact. If the impaired
68 practitioner is a psychologist practicing under the Psychology
69 Interjurisdictional Compact pursuant to s. 490.0075, the terms
70 of the monitoring contract must include the impaired
71 practitioner's withdrawal from all practice under the compact.
72 If the impaired practitioner is a clinical social worker
73 practicing under the Social Work Licensure Interstate Compact,
74 pursuant to s. 491.022, the terms of the monitoring contract
75 must include the impaired practitioner's withdrawal from all
76 practice under the compact.

77 Section 4. Subsection (9) is added to section 491.004,
78 Florida Statutes, to read:

79 491.004 Board of Clinical Social Work, Marriage and Family
80 Therapy, and Mental Health Counseling.—

81 (9) The board shall appoint an individual to serve as the
82 state's delegate on the Social Work Licensure Interstate Compact
83 Commission, as required under s. 491.022.

84 Section 5. Subsection (6) of section 491.005, Florida
85 Statutes, is amended to read:

86 491.005 Licensure by examination.—

87 (6) EXEMPTION.— (a) A person licensed as a clinical social
88 worker, marriage and family therapist, or mental health
89 counselor in another state who is practicing under the
90 Professional Counselors Licensure Compact pursuant to s.

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91 491.017, and only within the scope provided therein, is exempt
92 from the licensure requirements of this section, as applicable.

93 (b) A person licensed as a clinical social worker in
94 another state who is practicing under the Social Worker
95 Licensure Interstate Compact pursuant to s. 491.022, and only
96 within the scope provided therein, is exempt from the licensure
97 requirements of this section, as applicable.

98 Section 6. Subsection (4) is added to section 491.006,
99 Florida Statutes, to read:

100 491.006 Licensure or certification by endorsement.—

101 (4) A person licensed as a clinical social worker in
102 another state who is practicing under the Social Worker
103 Licensure Interstate Compact pursuant to s. 491.022, and only
104 within the scope provided therein, is exempt from the licensure
105 requirements of this section, as applicable.

106 Section 7. Section 491.009, Florida Statutes, is amended
107 to read:

108 491.009 Discipline.—

109 (1) The following acts constitute grounds for denial of a
110 license or disciplinary action, as specified in s. 456.072(2), l
111 ~~or~~ s. 491.017, or s. 491.022:

112 (a) Attempting to obtain, obtaining, or renewing a
113 license, registration, or certificate under this chapter by
114 bribery or fraudulent misrepresentation or through an error of
115 the board or the department.

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116 (b) Having a license, registration, or certificate to
117 practice a comparable profession revoked, suspended, or
118 otherwise acted against, including the denial of certification
119 or licensure by another state, territory, or country.

120 (c) Being convicted or found guilty of, regardless of
121 adjudication, or having entered a plea of nolo contendere to, a
122 crime in any jurisdiction which directly relates to the practice
123 of his or her profession or the ability to practice his or her
124 profession. However, in the case of a plea of nolo contendere,
125 the board shall allow the person who is the subject of the
126 disciplinary proceeding to present evidence in mitigation
127 relevant to the underlying charges and circumstances surrounding
128 the plea.

129 (d) False, deceptive, or misleading advertising or
130 obtaining a fee or other thing of value on the representation
131 that beneficial results from any treatment will be guaranteed.

132 (e) Advertising, practicing, or attempting to practice
133 under a name other than one's own.

134 (f) Maintaining a professional association with any person
135 who the applicant, licensee, registered intern, or
136 certificateholder knows, or has reason to believe, is in
137 violation of this chapter or of a rule of the department or the
138 board.

139 (g) Knowingly aiding, assisting, procuring, or advising
140 any nonlicensed, nonregistered, or noncertified person to hold

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141 himself or herself out as licensed, registered, or certified
142 under this chapter.

143 (h) Failing to perform any statutory or legal obligation
144 placed upon a person licensed, registered, or certified under
145 this chapter.

146 (i) Willfully making or filing a false report or record;
147 failing to file a report or record required by state or federal
148 law; willfully impeding or obstructing the filing of a report or
149 record; or inducing another person to make or file a false
150 report or record or to impede or obstruct the filing of a report
151 or record. Such report or record includes only a report or
152 record which requires the signature of a person licensed,
153 registered, or certified under this chapter.

154 (j) Paying a kickback, rebate, bonus, or other
155 remuneration for receiving a patient or client, or receiving a
156 kickback, rebate, bonus, or other remuneration for referring a
157 patient or client to another provider of mental health care
158 services or to a provider of health care services or goods;
159 referring a patient or client to oneself for services on a fee-
160 paid basis when those services are already being paid for by
161 some other public or private entity; or entering into a
162 reciprocal referral agreement.

163 (k) Committing any act upon a patient or client which
164 would constitute sexual battery or which would constitute sexual
165 misconduct as defined pursuant to s. 491.0111.

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166 (l) Making misleading, deceptive, untrue, or fraudulent
167 representations in the practice of any profession licensed,
168 registered, or certified under this chapter.

169 (m) Soliciting patients or clients personally, or through
170 an agent, through the use of fraud, intimidation, undue
171 influence, or a form of overreaching or vexatious conduct.

172 (n) Failing to make available to a patient or client, upon
173 written request, copies of tests, reports, or documents in the
174 possession or under the control of the licensee, registered
175 intern, or certificateholder which have been prepared for and
176 paid for by the patient or client.

177 (o) Failing to respond within 30 days to a written
178 communication from the department or the board concerning any
179 investigation by the department or the board, or failing to make
180 available any relevant records with respect to any investigation
181 about the licensee's, registered intern's, or
182 certificateholder's conduct or background.

183 (p) Being unable to practice the profession for which he
184 or she is licensed, registered, or certified under this chapter
185 with reasonable skill or competence as a result of any mental or
186 physical condition or by reason of illness; drunkenness; or
187 excessive use of drugs, narcotics, chemicals, or any other
188 substance. In enforcing this paragraph, upon a finding by the
189 State Surgeon General, the State Surgeon General's designee, or
190 the board that probable cause exists to believe that the

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191 licensee, registered intern, or certificateholder is unable to
192 practice the profession because of the reasons stated in this
193 paragraph, the department shall have the authority to compel a
194 licensee, registered intern, or certificateholder to submit to a
195 mental or physical examination by psychologists, physicians, or
196 other licensees under this chapter, designated by the department
197 or board. If the licensee, registered intern, or
198 certificateholder refuses to comply with such order, the
199 department's order directing the examination may be enforced by
200 filing a petition for enforcement in the circuit court in the
201 circuit in which the licensee, registered intern, or
202 certificateholder resides or does business. The licensee,
203 registered intern, or certificateholder against whom the
204 petition is filed may not be named or identified by initials in
205 any public court records or documents, and the proceedings shall
206 be closed to the public. The department shall be entitled to the
207 summary procedure provided in s. 51.011. A licensee, registered
208 intern, or certificateholder affected under this paragraph shall
209 at reasonable intervals be afforded an opportunity to
210 demonstrate that he or she can resume the competent practice for
211 which he or she is licensed, registered, or certified with
212 reasonable skill and safety to patients.

213 (q) Performing any treatment or prescribing any therapy
214 which, by the prevailing standards of the mental health
215 professions in the community, would constitute experimentation

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216 on human subjects, without first obtaining full, informed, and
217 written consent.

218 (r) Failing to meet the minimum standards of performance
219 in professional activities when measured against generally
220 prevailing peer performance, including the undertaking of
221 activities for which the licensee, registered intern, or
222 certificateholder is not qualified by training or experience.

223 (s) Delegating professional responsibilities to a person
224 who the licensee, registered intern, or certificateholder knows
225 or has reason to know is not qualified by training or experience
226 to perform such responsibilities.

227 (t) Violating a rule relating to the regulation of the
228 profession or a lawful order of the department or the board
229 previously entered in a disciplinary hearing.

230 (u) Failure of the licensee, registered intern, or
231 certificateholder to maintain in confidence a communication made
232 by a patient or client in the context of such services, except
233 as provided in s. 491.0147.

234 (v) Making public statements which are derived from test
235 data, client contacts, or behavioral research and which identify
236 or damage research subjects or clients.

237 (w) Violating any provision of this chapter or chapter
238 456, or any rules adopted pursuant thereto.

239 (2) (a) The board or, in the case of certified master
240 social workers, the department may enter an order denying

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241 licensure or imposing any of the penalties authorized in s.
242 456.072(2) against any applicant for licensure or any licensee
243 who violates subsection (1) or s. 456.072(1).

244 (b) The board may take adverse action against a clinical
245 social worker's, a marriage and family therapist's, or a mental
246 health counselor's privilege to practice under the Professional
247 Counselors Licensure Compact pursuant to s. 491.017 and may
248 impose any of the penalties in s. 456.072(2) if the clinical
249 social worker, marriage and family therapist, or mental health
250 counselor commits an act specified in subsection (1) or s.
251 456.072(1).

252 (c) The board may take adverse action against a clinical
253 social worker's privilege to practice under the Social Worker
254 Licensure Interstate Compact pursuant to s. 491.022, and may
255 impose any of the penalties in s. 456.072(2) if the clinical
256 social worker commits an act specified in subsection (1) or s.
257 456.072(1).

258 Section 8. Paragraph (j) is added to subsection (10) of
259 section 768.28, Florida Statutes, to read:

260 768.28 Waiver of sovereign immunity in tort actions;
261 recovery limits; civil liability for damages caused during a
262 riot; limitation on attorney fees; statute of limitations;
263 exclusions; indemnification; risk management programs.—

264 (10)

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265 (j) For purposes of this section, the individual appointed
 266 under s. 491.004(9) as the state's delegate on the Social Work
 267 Licensure Compact Commission, pursuant to s. 491.022, and any
 268 administrator, officer, executive director, employee, or
 269 representative of the commission, when acting within the scope
 270 of his or her employment, duties, or responsibilities in this
 271 state, is considered an agent of the state. The commission shall
 272 pay any claims or judgments pursuant to this section and may
 273 maintain insurance coverage to pay any such claims or judgments.

274 Section 8. The Department of Health shall notify the
 275 Division of Law Revision upon enactment of the Social Work
 276 Licensure Interstate Compact into law by 7 states.

277 Section 9. This act shall take effect upon enactment of the
 278 Social Work Licensure Interstate Compact into law by 7 states.
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T I T L E A M E N D M E N T

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Remove line 79 and insert:

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For severability; amending s. 456.073, F.S.; requiring the

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Department of Health to report certain investigative information

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to the data system; amending s. 456.076, F.S.; requiring

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monitoring contracts for impaired practitioners participating in

288

treatment programs to contain certain terms; amending s.

289

491.004, F.S.; requiring the Board of Clinical Social Work,

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 99 (2024)

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290 Marriage and Family Therapy, and Mental Health Counseling to
291 appoint an individual to serve as the state's delegate on the
292 commission; amending ss. 491.005 and 491.006, F.S.; exempting
293 certain persons from licensure requirements; amending s.
294 491.009, F.S.; authorizing certain disciplinary action under the
295 compact for specified prohibited acts; amending s. 768.28, F.S.;
296 designating the state delegate and other members or employees of
297 the commission as state agents for the purpose of applying
298 waivers of sovereign immunity; requiring the commission to pay
299 certain claims or judgments; authorizing the commission to
300 maintain insurance coverage to pay such claims or judgments;
301 requiring the department to notify the Division of Law Revision
302 upon enactment of the compact into law by 7 states; providing a
303 contingent effective date.

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