

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

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

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

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

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

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

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

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

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

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

51 (f) "Inability to progress" means a determination by a
52 consultant based on a participant's response to treatment and
53 prognosis that the participant is unable to safely practice
54 despite compliance with treatment requirements and his or her
55 participant contract.

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

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

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

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

75 (k) "Referral" means a practitioner who has been referred

76 | to a consultant for impaired practitioner program services,
 77 | either as a self-referral or otherwise, but who is not under a
 78 | participant contract.

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

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

101 ~~expulsion of professionals from the program.~~

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

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

109 2. An entity that employs:

110 a. A medical director who is ~~must be a practitioner or~~
111 ~~recovered practitioner~~ licensed under chapter 458 or chapter
112 459; or

113 b. An executive director who is ~~must be a registered nurse~~
114 ~~or a recovered registered nurse~~ licensed under part I of chapter
115 464.

116 (3) The terms and conditions of the impaired practitioner
117 program must be established by the department by contract with a
118 consultant for the protection of the health, safety, and welfare
119 of the public and must provide, at a minimum, for each
120 consultant to accept referrals of practitioners who have or are
121 suspected of having an impairment, arrange for the evaluation
122 and treatment of such practitioners as recommended by the
123 consultant, and monitor the recovery progress and status of
124 impaired practitioners to ensure that such practitioners are
125 able to practice the profession in which they are licensed with

126 skill and safety until such time as the consultant or department
127 concludes that monitoring by the consultant is no longer
128 required for the protection of the public or the practitioner's
129 participation in the program is terminated for material
130 noncompliance or inability to progress.

131 (4) The department shall specify, in its contract with
132 each consultant, the types of licenses, registrations, or
133 certifications of the practitioners to be served by that
134 consultant.

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

145 (6) A consultant may not evaluate, treat, or otherwise
146 provide direct patient care to practitioners in the operation of
147 the impaired practitioner program.

148 (7)(b) A ~~An entity retained as an impaired practitioner~~
149 ~~consultant under this section which employs a medical director~~
150 ~~or an executive director~~ is not required to be licensed as a

151 substance abuse provider or mental health treatment provider
152 under chapter 394, chapter 395, or chapter 397 for purposes of
153 providing services under this program.

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

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

169 ~~(d)~~ ~~A medical school accredited by the Liaison Committee~~
170 ~~on Medical Education or the Commission on Osteopathic College~~
171 ~~Accreditation, or another school providing for the education of~~
172 ~~students enrolled in preparation for licensure as a health care~~
173 ~~practitioner as defined in this chapter or a veterinarian under~~
174 ~~chapter 474 which is governed by accreditation standards~~
175 ~~requiring notice and the provision of due process procedures to~~

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

187 | (9)(3) Before certifying or declining to certify an
188 | application for licensure to the department, each board and
189 | profession within the Division of Medical Quality Assurance may
190 | delegate to its chair or other designee its authority to
191 | ~~determine, before certifying or declining to certify an~~
192 | ~~application for licensure to the department,~~ that an applicant
193 | for licensure under its jurisdiction may have an impairment ~~be~~
194 | ~~impaired as a result of the misuse or abuse of alcohol or drugs,~~
195 | ~~or both, or due to a mental or physical condition that could~~
196 | ~~affect the applicant's ability to practice with skill and~~
197 | ~~safety.~~ Upon such determination, the chair or other designee may
198 | refer the applicant to the consultant to facilitate ~~for~~ an
199 | evaluation before the board certifies or declines to certify his
200 | or her application to the department. If the applicant agrees to

201 | be evaluated ~~by the consultant~~, the department's deadline for
202 | approving or denying the application pursuant to s. 120.60(1) is
203 | tolled until the evaluation is completed and the result of the
204 | evaluation and recommendation ~~by the consultant~~ is communicated
205 | to the board by the consultant. If the applicant declines to be
206 | evaluated ~~by the consultant~~, the board shall certify or decline
207 | to certify the applicant's application to the department
208 | notwithstanding the lack of an evaluation and recommendation by
209 | the consultant.

210 | (10)(4)(a) When ~~Whenever~~ the department receives a ~~written~~
211 | ~~or oral~~ legally sufficient complaint alleging that a
212 | practitioner has an impairment licensee under the jurisdiction
213 | ~~of the Division of Medical Quality Assurance within the~~
214 | ~~department is impaired as a result of the misuse or abuse of~~
215 | ~~alcohol or drugs, or both, or due to a mental or physical~~
216 | ~~condition which could affect the licensee's ability to practice~~
217 | ~~with skill and safety, and no complaint exists against the~~
218 | practitioner licensee other than impairment exists, the
219 | department shall refer the practitioner to the consultant, along
220 | with all information in the department's possession relating to
221 | the impairment. The impairment does ~~reporting of such~~
222 | ~~information shall~~ not constitute grounds for discipline pursuant
223 | to s. 456.072 or ~~the corresponding grounds for discipline within~~
224 | the applicable practice act if ~~the probable cause panel of the~~
225 | ~~appropriate board, or the department when there is no board,~~

226 ~~finds:~~

227 1. The practitioner licensee has acknowledged the
228 impairment ~~problem~~.

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

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

240 4. The practitioner licensee has provided to the
241 consultant, or has authorized the consultant to obtain, all
242 records and information relating to the impairment from any
243 source and all other medical records of the practitioner
244 requested by the consultant ~~executed releases for medical~~
245 ~~records, authorizing the release of all records of evaluations,~~
246 ~~diagnoses, and treatment of the licensee, including records of~~
247 ~~treatment for emotional or mental conditions, to the consultant.~~
248 ~~The consultant shall make no copies or reports of records that~~
249 ~~do not regard the issue of the licensee's impairment and his or~~
250 ~~her participation in a treatment program.~~

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

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

271 ~~(c) Inquiries related to impairment treatment programs~~
272 ~~designed to provide information to the licensee and others and~~
273 ~~which do not indicate that the licensee presents a danger to the~~
274 ~~public shall not constitute a complaint within the meaning of s.~~
275 ~~456.073 and shall be exempt from the provisions of this~~

276 subsection.

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

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

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

298 (11)(5) In any disciplinary action for a violation other
299 than impairment in which a practitioner licensee establishes the
300 violation for which the licensee is being prosecuted was due to

301 or connected with impairment and further establishes the
302 practitioner licensee is satisfactorily progressing through or
303 has successfully completed an approved treatment program
304 pursuant to this section, such information may be considered by
305 the board, or the department when there is no board, as a
306 mitigating factor in determining the appropriate penalty. This
307 subsection does not limit mitigating factors the board may
308 consider.

309 (12)(6)(a) Upon request by the consultant, and with the
310 authorization of the practitioner when required by law, an
311 approved evaluator, treatment program, or treatment provider
312 ~~shall, upon request, disclose to the consultant all information~~
313 ~~in its possession regarding a referral or participant the issue~~
314 ~~of a licensee's impairment and participation in the treatment~~
315 ~~program. All information obtained by the consultant and~~
316 ~~department pursuant to this section is confidential and exempt~~
317 ~~from the provisions of s. 119.07(1), subject to the provisions~~
318 ~~of this subsection and subsection (7).~~ Failure to provide such
319 information to the consultant is grounds for withdrawal of
320 approval of such evaluator, treatment program, or treatment
321 provider.

322 (b) When a referral or participant is terminated from the
323 impaired practitioner program for material noncompliance with a
324 participant contract, inability to progress, or any other
325 reason, the consultant shall disclose all information in the

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

341 (13) All information obtained by the consultant pursuant
 342 to this section is confidential and exempt from s. 119.07(1) and
 343 s. 24(a), Art. I of the State Constitution.

344 (14) ~~(7)~~ A consultant, or a director, officer, employee or
 345 agent of a consultant, may not be held liable financially or
 346 have a cause of action for damages brought against them for
 347 making a disclosure pursuant to this section, or for any other
 348 action or omission relating to the impaired practitioner
 349 program, or the consequences of such disclosure or action or
 350 omission, including, without limitation, action by the

351 department against a license, registration, or certification.
352 ~~licensee, or approved treatment provider who makes a disclosure~~
353 ~~pursuant to this section is not subject to civil liability for~~
354 ~~such disclosure or its consequences.~~

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

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

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

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

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

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

380 ~~5. The consultant operate under policies and procedures~~
 381 ~~approved by the department.~~

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

385 ~~7. The department be entitled to review the records~~
 386 ~~relating to the consultant's performance under the contract for~~
 387 ~~the purpose of management audits, financial audits, or program~~
 388 ~~evaluation.~~

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

391 ~~9. The department be entitled to terminate the contract~~
 392 ~~with the consultant for noncompliance with the contract.~~

393 (16)(b) In accordance with s. 284.385, the Department of
 394 Financial Services shall defend any claim, suit, action, or
 395 proceeding, including a claim, suit, action, or proceeding for
 396 injunctive, affirmative, or declaratory relief, against the
 397 consultant, the consultant's directors, officers, or employees,
 398 or agents brought as the result of any action or omission
 399 relating to the impaired practitioner program or those acting at
 400 the direction of the consultant for the limited purpose of an

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

411 (17)(e) ~~If a~~ the consultant retained by the department
412 pursuant to this section ~~subsection (2)~~ is also retained by
413 another any other state agency to operate an impaired
414 practitioner program for that agency, this section also applies
415 to the consultant's operation of an impaired practitioner
416 program for that agency, ~~and if the contract between such state~~
417 ~~agency and the consultant complies with the requirements of this~~
418 ~~section, the consultant, the consultant's officers and~~
419 ~~employees, and those acting under the direction of the~~
420 ~~consultant for the limited purpose of an emergency intervention~~
421 ~~on behalf of a licensee or student as described in subsection~~
422 ~~(2) when the consultant is unable to perform such intervention~~
423 ~~shall be considered agents of the state for the purposes of this~~
424 ~~section while acting within the scope of and pursuant to~~
425 ~~guidelines established in the contract between such state agency~~

426 | ~~and the consultant.~~

427 | ~~(18)(9) A An impaired practitioner consultant is the~~
428 | ~~official custodian of records relating to the referral of an~~
429 | ~~impaired licensee or applicant to that consultant and any other~~
430 | ~~interaction between the licensee or applicant and the~~
431 | ~~consultant. The consultant may disclose to a referral or~~
432 | ~~participant documents, records, or other information from the~~
433 | ~~consultant's file on the referral or participant the impaired~~
434 | ~~licensee or applicant or his or her designee any information~~
435 | ~~that is disclosed to or obtained by the consultant or that is~~
436 | ~~confidential under paragraph (6) (a), but only to the extent that~~
437 | ~~it is necessary to do so to carry out the consultant's duties~~
438 | ~~under the impaired practitioner program and this section, or as~~
439 | ~~otherwise required by law. The department, and any other entity~~
440 | ~~that enters into a contract with the consultant to receive the~~
441 | ~~services of the consultant, has direct administrative control~~
442 | ~~over the consultant to the extent necessary to receive~~
443 | ~~disclosures from the consultant as allowed by federal law. If a~~
444 | ~~disciplinary proceeding is pending, a referral or participant~~
445 | ~~may obtain a complete copy of the consultant's file from the~~
446 | ~~department as provided by an impaired licensee may obtain such~~
447 | ~~information from the department under s. 456.073.~~

448 | (19) (a) The consultant may contract with a school or
449 | program to provide impaired practitioner program services to a
450 | student enrolled for the purpose of preparing for licensure as a

451 health care practitioner as defined in this chapter or as a
452 veterinarian under chapter 474 if the student has or is
453 suspected of having an impairment. The department is not
454 responsible for paying for the care provided by approved
455 treatment providers or approved treatment programs or for the
456 services provided by a consultant to a student.

457 (b) A medical school accredited by the Liaison Committee
458 on Medical Education or the Commission on Osteopathic College
459 Accreditation, or another school providing for the education of
460 students enrolled in preparation for licensure as a health care
461 practitioner, as defined in this chapter, or a veterinarian
462 under chapter 474, which is governed by accreditation standards
463 requiring notice and the provision of due process procedures to
464 students, is not liable in any civil action for referring a
465 student to the consultant retained by the department or for
466 disciplinary actions that adversely affect the status of a
467 student when the disciplinary actions are instituted in
468 reasonable reliance on the recommendations, reports, or
469 conclusions provided by such consultant, if the school, in
470 referring the student or taking disciplinary action, adheres to
471 the due process procedures adopted by the applicable
472 accreditation entities and if the school committed no
473 intentional fraud in carrying out the provisions of this
474 section.

475 Section 2. Paragraph (1) of subsection (1) of section

476 401.411, Florida Statutes, is amended to read:

477 401.411 Disciplinary action; penalties.—

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

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

491 Section 3. Paragraph (u) of subsection (1) of section
 492 455.227, Florida Statutes, is amended to read:

493 455.227 Grounds for discipline; penalties; enforcement.—

494 (1) The following acts shall constitute grounds for which
 495 the disciplinary actions specified in subsection (2) may be
 496 taken:

497 (u) Termination from an impaired practitioner program ~~a~~
 498 ~~treatment program for impaired practitioners~~ as described in s.
 499 456.076 for failure to comply, without good cause, with the
 500 terms of the monitoring or participant ~~treatment~~ contract

501 entered into by the licensee or failing to successfully complete
 502 a drug or alcohol treatment program.

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

505 456.072 Grounds for discipline; penalties; enforcement.—

506 (1) The following acts shall constitute grounds for which
 507 the disciplinary actions specified in subsection (2) may be
 508 taken:

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

519 (hh) Being terminated from an impaired practitioner
 520 program ~~a treatment program for impaired practitioners~~, which is
 521 overseen by a ~~an impaired practitioner~~ consultant as described
 522 in s. 456.076, for failure to comply, without good cause, with
 523 the terms of the monitoring or participant ~~treatment~~ contract
 524 entered into by the licensee, or for not successfully completing
 525 any drug treatment or alcohol treatment program.

526 Section 5. Paragraph (f) of subsection (1) of section
 527 457.109, Florida Statutes, is amended to read:

528 457.109 Disciplinary actions; grounds; action by the
 529 board.—

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

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

541 Section 6. Paragraph (e) of subsection (1) of section
 542 458.331, Florida Statutes, is amended to read:

543 458.331 Grounds for disciplinary action; action by the
 544 board and department.—

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

547 (e) Failing to report to the department any person who the
 548 licensee knows is in violation of this chapter or of the rules
 549 of the department or the board. However, a person who the
 550 licensee knows is unable to practice medicine with reasonable

551 skill and safety to patients by reason of illness or use of
552 alcohol, drugs, narcotics, chemicals, or any other type of
553 material, or as a result of a mental or physical condition may
554 be reported to a consultant operating an impaired practitioner
555 program as described in s. 456.076 rather than to the department
556 ~~A treatment provider approved pursuant to s. 456.076 shall~~
557 ~~provide the department or consultant with information in~~
558 ~~accordance with the requirements of s. 456.076(4), (5), (6),~~
559 ~~(7), and (9).~~

560 Section 7. Paragraph (e) of subsection (1) of section
561 459.015, Florida Statutes, is amended to read:

562 459.015 Grounds for disciplinary action; action by the
563 board and department.—

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

566 (e) Failing to report to the department or the
567 department's impaired professional consultant any person who the
568 licensee or certificateholder knows is in violation of this
569 chapter or of the rules of the department or the board. However,
570 a person who the licensee knows is unable to practice
571 osteopathic medicine with reasonable skill and safety to
572 patients by reason of illness or use of alcohol, drugs,
573 narcotics, chemicals, or any other type of material, or as a
574 result of a mental or physical condition may be reported to a
575 consultant operating an impaired practitioner program as

576 described in s. 456.076 rather than to the department A
 577 ~~treatment provider, approved pursuant to s. 456.076, shall~~
 578 ~~provide the department or consultant with information in~~
 579 ~~accordance with the requirements of s. 456.076(4), (5), (6),~~
 580 ~~(7), and (9).~~

581 Section 8. Paragraph (g) of subsection (1) of section
 582 460.413, Florida Statutes, is amended to read:

583 460.413 Grounds for disciplinary action; action by board
 584 or department.—

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

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

597 Section 9. Paragraph (f) of subsection (1) of section
 598 461.013, Florida Statutes, is amended to read:

599 461.013 Grounds for disciplinary action; action by the
 600 board; investigations by department.—

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

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

613 Section 10. Paragraph (f) of subsection (1) of section
 614 462.14, Florida Statutes, is amended to read:

615 462.14 Grounds for disciplinary action; action by the
 616 department.—

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

619 (f) Failing to report to the department any person who the
 620 licensee knows is in violation of this chapter or of the rules
 621 of the department. However, a person who the licensee knows is
 622 unable to practice naturopathic medicine with reasonable skill
 623 and safety to patients by reason of illness or use of alcohol,
 624 drugs, narcotics, chemicals, or any other type of material, or
 625 as a result of a mental or physical condition may be reported to

626 | a consultant operating an impaired practitioner program as
 627 | described in s. 456.076 rather than to the department.

628 | Section 11. Paragraph (l) of subsection (1) of section
 629 | 463.016, Florida Statutes, is amended to read:

630 | 463.016 Grounds for disciplinary action; action by the
 631 | board.—

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

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

643 | Section 12. Paragraph (k) of subsection (1) of section
 644 | 464.018, Florida Statutes, is amended to read:

645 | 464.018 Disciplinary actions.—

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

648 | (k) Failing to report to the department any person who the
 649 | licensee knows is in violation of this part or of the rules of
 650 | the department or the board. However, a person who the licensee

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

661 Section 13. Paragraph (c) of subsection (2) of section
662 464.204, Florida Statutes, is amended to read:

663 464.204 Denial, suspension, or revocation of
664 certification; disciplinary actions.—

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

668 (c) Imposition of probation or restriction of
669 certification, including conditions such as corrective actions
670 as retraining or compliance with the department's impaired
671 practitioner program, operated by a consultant as described in
672 s. 456.076 ~~an approved treatment program for impaired~~
673 ~~practitioners.~~

674 Section 14. Paragraph (o) of subsection (1) of section
675 465.016, Florida Statutes, is amended to read:

676 465.016 Disciplinary actions.—

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

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

693 Section 15. Paragraph (f) of subsection (1) of section
694 466.028, Florida Statutes, is amended to read:

695 466.028 Grounds for disciplinary action; action by the
696 board.—

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

699 (f) Failing to report to the department any person who the
700 licensee knows, or has reason to believe, is clearly in

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

710 Section 16. Paragraph (h) of subsection (1) of section
 711 467.203, Florida Statutes, is amended to read:

712 467.203 Disciplinary actions; penalties.—

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

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

724 Section 17. Paragraph (f) of subsection (1) of section
 725 468.217, Florida Statutes, is amended to read:

726 468.217 Denial of or refusal to renew license; suspension
 727 and revocation of license and other disciplinary measures.—

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

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

740 Section 18. Paragraph (n) of subsection (1) of section
 741 468.3101, Florida Statutes, is amended to read:

742 468.3101 Disciplinary grounds and actions.—

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

749 (n) Being terminated from an impaired practitioner program
 750 operated by a consultant as described in s. 456.076 for failure

751 to comply, without good cause, with the terms of monitoring or a
 752 participant contract entered into by the licensee, or for not
 753 successfully completing a drug treatment or alcohol treatment
 754 program ~~Failing to comply with the recommendations of the~~
 755 ~~department's impaired practitioner program for treatment,~~
 756 ~~evaluation, or monitoring. A letter from the director of the~~
 757 ~~impaired practitioner program that the certificateholder is not~~
 758 ~~in compliance shall be considered conclusive proof under this~~
 759 ~~part.~~

760 Section 19. Section 474.221, Florida Statutes, is amended
 761 to read:

762 474.221 Impaired practitioner provisions; applicability.—
 763 Notwithstanding the transfer of the Division of Medical Quality
 764 Assurance to the Department of Health or any other provision of
 765 law to the contrary, veterinarians licensed under this chapter
 766 shall be governed by the ~~treatment of~~ impaired practitioner
 767 program provisions of s. 456.076 as if they were under the
 768 jurisdiction of the Division of Medical Quality Assurance,
 769 except that for veterinarians the Department of Business and
 770 Professional Regulation shall, at its option, exercise any of
 771 the powers granted to the Department of Health by that section,
 772 and "board" shall mean board as defined in this chapter.

773 Section 20. Paragraph (o) of subsection (1) of section
 774 483.825, Florida Statutes, is amended to read:

775 483.825 Grounds for disciplinary action.—

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

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

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

789 Section 21. This act shall take effect upon becoming a
790 law.