

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1477 w/CS Impaired Health Care Practitioners

SPONSOR(S): Ambler and others

TIED BILLS: None.

IDEN./SIM. BILLS: SB 2386 (s)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Standards (Sub)	6 Y, 0 N	Mitchell	Collins
2) Health Care	16 Y, 0 N w/CS	Mitchell	Collins
3) Appropriations			
4)			
5)			

SUMMARY ANALYSIS

HB 1477 addresses problems faced by physicians who have been falsely accused of being impaired and had difficulties using existing procedures to clear themselves. Impairment includes misuse or abuse of alcohol and drugs, and mental or physical conditions which could affect the licensee's ability to practice. The bill amends s. 456.076, F.S., to clarify the role and procedures of consultants who handle cases of health care practitioners regulated under ch. 456, F.S., who have had a complaint involving impairment filed against them.

Currently when the Department of Health receives a complaint alleging impairment only, the complaint is processed immediately to determine whether emergency action (in the form of the emergency suspension or restriction of the licensee) is necessary.

If impairment is the only allegation and the practitioner has entered into treatment and monitoring through a consultant approved by the department, the department may not discipline the license of a health care practitioner for impairment.

Impaired practitioner consultants assist the probable cause panel and department to determine whether a practitioner is, in fact, impaired. They work with practitioners involved in the impaired practitioners program that provides treatment, support, and referral for health care practitioners in lieu of discipline, or prior to, during and after discipline. According to the program, approximately 84% of all referrals occur prior to any violation of the Medical Practice Act or any evidence of patient harm. Participation is confidential unless there is failure to progress in recovery. The program is administered by the Physician's Recovery Network (PRN) and the Intervention Project for Nurses.

The bill clarifies the role and procedures used by consultants involved in investigating and managing treatment of impaired practitioners. The bill requires consultants to give notice of the investigative process to licensees who are subject to investigations of impairment within 24 hours. When the consultant requests the licensee to participate in a voluntary examination to determine impairment, the bill allows the licensee reasonable time to locate an examiner who agrees to record the examination. The bill prohibits the examiner from soliciting the licensee to enroll in a treatment program in which they have a financial interest.

The effective date of the bill is July 1, 2003.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1477b.hc.doc

DATE: 04/20/03

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

The bill clarifies the role and procedures used by consultants involved in investigating and managing treatment of impaired practitioners.

B. EFFECT OF PROPOSED CHANGES:

The bill amends s. 456.076, F.S., to clarify the role and procedures of consultants who handle cases of health care practitioners regulated under ch. 456, F.S., who have had a complaint involving impairment filed against them. Impairment includes misuse or abuse of alcohol and drugs, and mental or physical conditions which could affect the licensee's ability to practice.

The bill clarifies the role and procedures used by consultants involved in investigating and managing cases of impaired practitioners. The bill requires consultants to give notice of the investigative process to licensees who are subject to investigations of impairment within 24 hours. When the consultant requests the licensee to participate in a voluntary examination to determine impairment, the bill allows the licensee reasonable time to locate an examiner who agrees to record the examination. The bill prohibits the examiner from soliciting the licensee to enroll in a treatment program in which they have a financial interest.

The effective date of the bill is July 1, 2003.

CURRENT SITUATION

Professional Licensing Boards and Councils

Most health care practitioners in Florida are governed by professional licensing boards or councils that are independent entities assigned to the Department of Health for administrative support purposes. The department's Division of Medical Quality Assurance also directly regulates some practitioner groups that are not governed by an external board or council, as well as some health care facilities, such as pharmacies.

The Department of Health's Division of Medical Quality Assurance

The department's Division of Medical Quality Assurance (MQA) regulates health care practitioners to ensure they meet the standards of their profession. Currently, the program supports licensure and disciplinary activities for 37 professions and 6 facilities, and works with 22 boards and 6 councils. In total, MQA regulates more than 750,000 health care practitioners and facilities. Practitioners must demonstrate their proficiency by meeting testing, licensing, credentialing and continuing education requirements. (MQA Annual Report 2001-2002.)

Current MQA Enforcement Activities

The division's enforcement procedures include a consumer complaint call center, investigation of complaints and legal services in handling cases before licensing boards. The program investigates complaints and assesses probable cause for each case. Cases are then presented to licensing boards

and councils for final action. If a board finds that an allegation is justified, it may take disciplinary action. If a practitioner contests a finding of probable cause, the case is heard by an administrative law judge. Disciplinary measures can range from a reprimand and fine to suspension or revocation of the practitioner's license. (MQA Annual Report 2001-2002.)

Department of Health Procedures for Handling Practitioner Impairment Cases

Section 456.076, F.S., provides for treatment for impaired practitioners. Practitioner impairment includes misuse or abuse of alcohol and drugs, and mental or physical conditions which could affect the licensee's ability to practice. When the Department of Health receives a complaint alleging impairment only, the complaint is processed immediately to determine whether emergency action (in the form of the emergency suspension or restriction of the licensee) is necessary.

Under existing statutes, the department must institute formal disciplinary proceedings against the license of the health care practitioner affected by emergency action within twenty (20) days of the emergency action. Only the secretary of the department has the statutory authority to take emergency action against the license of health care practitioners.

The department may not discipline the license of a health care practitioner for impairment, if impairment is the only allegation and the practitioner has entered into treatment and monitoring through a consultant approved by the department.

Impairment cases are handled by Impaired Practitioner Consultants. These consultants are licensed under the Division of Medical Quality Assurance, and at least one consultant is statutorily required to be a practitioner or recovered practitioner licensed under chapter 458, chapter 459, or part I of chapter 464. The consultant assists the probable cause panel and department, including working with department investigators to determine whether a practitioner is, in fact, impaired.

The Impaired Practitioner Program

The department's Impaired Practitioners Program was established in the late 1970's. It is administered by the Physician's Recovery Network (PRN) and the Intervention Project for Nurses. Professionals licensed within the Division of Medical Quality Assurance who may be impaired or who may present a danger to the public are evaluated under the Impaired Practitioners Program. The Physician's Recovery Network is funded by charitable contributions and licensing fees of health-care workers.

According to the program, approximately 84% of all referrals to the PRN occur prior to any violation of the Medical Practice Act or any evidence of patient harm. Participation is confidential unless there is failure to progress in recovery.

The PRN program provides treatment, support, and referral for physicians in lieu of discipline, prior to discipline, or during discipline and post-discipline. The program handles, mental disorders, substance abuse, and chemical dependency.

Should other problems or patient harm occur, discipline may be imposed concurrently. The disciplinary process remains confidential unless the licensee waves confidentiality or probable cause is found. If a complaint concerns a matter of immediate and serious threat to the public, an emergency suspension may be requested by the director of the PRN. This power has been used successfully as a motivational factor to participants. Every case that does not progress becomes disciplinary, and the entire record of the impaired physician is open to review by the public and the press.

C. SECTION DIRECTORY:

Section 1. Amends s. 456.076, F.S., relating to treatment programs for impaired practitioners, to provide new procedures for consultants handling impaired practitioner cases.

Section 2. Provides an effective date of July 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenues.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

According to the department, the bill does not require promulgation of a new rule.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On April 9, 2003, the Subcommittee on Health Standards adopted a "strike-all" amendment to the bill and reported the bill favorably to the Committee on Health Care.

Amendment 1 clarifies the role and procedures used by consultants involved in investigating and managing treatment of impaired practitioners. The amendment requires consultants to give notice of the investigative process to licensees who are subject to investigations of impairment. When the consultant requests the licensee to participate in a voluntary examination to determine impairment, the amendment allows the licensee to locate an examiner who agrees to record the examination. The amendment prohibits the examiner from soliciting the licensee to enroll in a treatment program in which they have a financial interest.

On April 15, 2003, the Committee on Health Care adopted the amendment and reported the bill favorably “with a CS.”