

By Senator Geller

31-1162-03

1 A bill to be entitled
2 An act relating to complaints against health
3 care practitioners; amending s. 456.073, F.S.;
4 providing that a state prisoner must exhaust
5 all available administrative remedies before
6 filing a complaint with the Department of
7 Health against a health care practitioner who
8 is providing health care services within the
9 Department of Corrections; providing an
10 effective date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Subsection (1) of section 456.073, Florida
15 Statutes, is amended to read:

16 456.073 Disciplinary proceedings.--Disciplinary
17 proceedings for each board shall be within the jurisdiction of
18 the department.

19 (1) The department, for the boards under its
20 jurisdiction, shall cause to be investigated any complaint
21 that is filed before it if the complaint is in writing, signed
22 by the complainant, and legally sufficient. A complaint filed
23 by a state prisoner against a health care practitioner
24 employed by or otherwise providing health care services within
25 a facility of the Department of Corrections is not legally
26 sufficient unless there is a showing that the prisoner
27 complainant has exhausted all available administrative
28 remedies within the state correctional system before filing
29 the complaint. A complaint is legally sufficient if it
30 contains ultimate facts that show that a violation of this
31 chapter, of any of the practice acts relating to the

1 professions regulated by the department, or of any rule
2 adopted by the department or a regulatory board in the
3 department has occurred. In order to determine legal
4 sufficiency, the department may require supporting information
5 or documentation. The department may investigate, and the
6 department or the appropriate board may take appropriate final
7 action on, a complaint even though the original complainant
8 withdraws it or otherwise indicates a desire not to cause the
9 complaint to be investigated or prosecuted to completion. The
10 department may investigate an anonymous complaint if the
11 complaint is in writing and is legally sufficient, if the
12 alleged violation of law or rules is substantial, and if the
13 department has reason to believe, after preliminary inquiry,
14 that the violations alleged in the complaint are true. The
15 department may investigate a complaint made by a confidential
16 informant if the complaint is legally sufficient, if the
17 alleged violation of law or rule is substantial, and if the
18 department has reason to believe, after preliminary inquiry,
19 that the allegations of the complainant are true. The
20 department may initiate an investigation if it has reasonable
21 cause to believe that a licensee or a group of licensees has
22 violated a Florida statute, a rule of the department, or a
23 rule of a board. Except as provided in ss. 458.331(9),
24 459.015(9), 460.413(5), and 461.013(6), when an investigation
25 of any subject is undertaken, the department shall promptly
26 furnish to the subject or the subject's attorney a copy of the
27 complaint or document that resulted in the initiation of the
28 investigation. The subject may submit a written response to
29 the information contained in such complaint or document within
30 20 days after service to the subject of the complaint or
31 document. The subject's written response shall be considered

1 by the probable cause panel. The right to respond does not
2 prohibit the issuance of a summary emergency order if
3 necessary to protect the public. However, if the secretary, or
4 the secretary's designee, and the chair of the respective
5 board or the chair of its probable cause panel agree in
6 writing that such notification would be detrimental to the
7 investigation, the department may withhold notification. The
8 department may conduct an investigation without notification
9 to any subject if the act under investigation is a criminal
10 offense.

11 Section 2. This act shall take effect upon becoming a
12 law.

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15 SENATE SUMMARY

16 Provides that a state prisoner must exhaust all available
17 administrative remedies before filing a complaint with
18 the Department of Health against a health care
19 practitioner who is providing health care services within
20 the Department of Corrections.
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