

HB 349

2013

1 A bill to be entitled

2 An act relating to treatment programs for impaired  
3 professionals; amending s. 456.076, F.S.; exempting an  
4 entity retained by the Department of Health as an  
5 impaired practitioner consultant from certain  
6 licensing requirements if the entity employs or  
7 contracts with licensed professionals; authorizing the  
8 department to refer an applicant for licensure to the  
9 consultant; clarifying requirements for an impaired  
10 practitioner consultant to maintain certain  
11 information as confidential; authorizing the  
12 department and certain other entities to have  
13 administrative control over the impaired practitioner  
14 consultant to the extent necessary to receive  
15 disclosures; creating s. 468.315, F.S.; providing that  
16 radiological personnel required to be certified under  
17 pt. IV of ch. 468, F.S., may be subject to a treatment  
18 program for impaired practitioners at the election of  
19 an impaired practitioner consultant; providing an  
20 effective date.

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

23  
24 Section 1. Subsection (2) and paragraph (d) of subsection  
25 (3) of section 456.076, Florida Statutes, are amended, and  
26 subsection (8) is added to that section, to read:

27 456.076 Treatment programs for impaired practitioners.—

28 (2) (a) The department shall retain one or more impaired

29 | practitioner consultants who are each licensees. ~~The consultant~~  
 30 | ~~shall be a licensee~~ under the jurisdiction of the Division of  
 31 | Medical Quality Assurance within the department and who must be:

32 |     1. A practitioner or recovered practitioner licensed under  
 33 | chapter 458, chapter 459, or part I of chapter 464;~~;~~ or

34 |     2. An entity employing a medical director, or employing a  
 35 | registered nurse as an executive director, each of whom ~~who~~ must  
 36 | be a practitioner or recovered practitioner licensed under  
 37 | chapter 458, chapter 459, or part I of chapter 464.

38 |     (b) An entity that is retained as a consultant under this  
 39 | section and employs a medical director or a registered nurse as  
 40 | an executive director is not required to be licensed as a  
 41 | substance abuse provider or mental health treatment provider  
 42 | under chapter 394, chapter 395, or chapter 397 in order to  
 43 | operate as a consultant under this section if the entity employs  
 44 | or contracts with licensed professionals to perform or  
 45 | appropriately supervise any specific treatment or evaluation  
 46 | that requires individual licensing or supervision.

47 |     (c) The consultant shall assist the probable cause panel  
 48 | and department in carrying out the responsibilities of this  
 49 | section. This includes ~~shall include~~ working with department  
 50 | investigators to determine whether a practitioner is, in fact,  
 51 | impaired. The consultant may contract for services to be  
 52 | provided, for appropriate compensation, if requested by a ~~the~~  
 53 | school or program, for students enrolled in a school ~~schools~~ for  
 54 | licensure as a health care practitioner under chapter 456 or a  
 55 | veterinarian under chapter 474 ~~allopathic physicians or~~  
 56 | ~~physician assistants under chapter 458, osteopathic physicians~~

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57 | ~~or physician assistants under chapter 459, nurses under chapter~~  
58 | ~~464, or pharmacists under chapter 465~~ who are alleged to be  
59 | impaired as a result of the misuse or abuse of alcohol or drugs,  
60 | or both, or due to a mental or physical condition.

61 |       (d) The department is not responsible under any  
62 | circumstances for paying the costs of care provided by approved  
63 | treatment providers, and the department is not responsible for  
64 | paying the costs of consultants' services provided for students.

65 |       (e) A medical school accredited by the Liaison Committee  
66 | on Medical Education of the Commission on Osteopathic College  
67 | Accreditation, or another ~~other~~ school providing for the  
68 | education of students enrolled in preparation for licensure as a  
69 | health care practitioner under chapter 456 or a veterinarian  
70 | under chapter 474 ~~allopathic physicians under chapter 458 or~~  
71 | ~~osteopathic physicians under chapter 459~~, which school is  
72 | governed by accreditation standards requiring notice and the  
73 | provision of due process procedures to students, is not liable  
74 | in any civil action for referring a student to the consultant  
75 | retained by the department or for disciplinary actions that  
76 | adversely affect the status of a student when the disciplinary  
77 | actions are instituted in reasonable reliance on the  
78 | recommendations, reports, or conclusions provided by such  
79 | consultant, if the school, in referring the student or taking  
80 | disciplinary action, adheres to the due process procedures  
81 | adopted by the applicable accreditation entities and if the  
82 | school committed no intentional fraud in carrying out the  
83 | provisions of this section.

84 |       (3)

85 (d) Whenever the department receives a legally sufficient  
 86 complaint alleging that a licensee or applicant is impaired as  
 87 described in paragraph (a) and no complaint against the licensee  
 88 or applicant other than impairment exists, the appropriate  
 89 board, the board's designee, or the department shall forward all  
 90 information in its possession regarding the impaired licensee or  
 91 applicant to the consultant. For the purposes of this section, a  
 92 suspension from hospital staff privileges due to the impairment  
 93 does not constitute a complaint.

94 (8) An impaired practitioner consultant is the official  
 95 custodian of records relating to the referral of any  
 96 practitioner to that consultant or any other interaction between  
 97 the practitioner and the consultant. The consultant may not,  
 98 except to the extent necessary for carrying out the consultant's  
 99 duties under this section, disclose to the impaired licensee or  
 100 his or her designee any information that is disclosed to or  
 101 obtained by the consultant and is confidential under paragraph  
 102 (5) (a). The department, and any other entity with which the  
 103 consultant contracts, shall have direct administrative control  
 104 over the consultant to the extent necessary to receive  
 105 disclosures from the consultant as allowed by federal law. If a  
 106 disciplinary proceeding is pending, an impaired licensee may  
 107 obtain such information from the department under s.  
 108 456.073(10).

109 Section 2. Section 468.315, Florida Statutes, is created  
 110 to read:

111 468.315 Treatment program for impaired radiological  
 112 personnel.—Radiological personnel subject to certification under

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113 | this part are governed by s. 456.076 as if the person were under  
114 | the jurisdiction of the Division of Medical Quality Assurance.

115 | Section 3. This act shall take effect July 1, 2013.