

1 A bill to be entitled
2 An act relating to treatment programs for impaired
3 licensees and applicants; amending s. 456.076, F.S.;
4 exempting an entity retained by the Department of
5 Health as an impaired practitioner consultant from
6 certain licensure requirements; authorizing impaired
7 practitioner consultants to contract with schools or
8 programs to provide services to impaired students who
9 are enrolled for the purpose of preparing for
10 licensure as a specified health care practitioner or
11 as a veterinarian; limiting the liability of those
12 schools or programs when they refer a student to an
13 impaired practitioner consultant; providing that the
14 impaired practitioner consultant is the official
15 custodian of records relating to the referral of the
16 licensee or applicant to the consultant and any other
17 interaction between them; clarifying the circumstances
18 under which an impaired practitioner consultant may
19 disclose certain information concerning an impaired
20 licensee or applicant; authorizing the Department of
21 Health and others that contract with an impaired
22 practitioner consultant to have administrative control
23 over the consultant to the extent necessary to receive
24 disclosures allowed under federal law; authorizing an
25 impaired licensee or applicant to obtain confidential
26 information from the department regarding a pending
27 disciplinary proceeding; amending ss. 458.331 and
28 459.015, F.S.; conforming cross-references; creating

29 s. 468.315, F.S.; providing that radiological
 30 personnel are subject to a treatment program for
 31 impaired licensees; providing an effective date.

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

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 35 Section 1. Subsection (2) and paragraph (e) of subsection
 36 (3) of section 456.076, Florida Statutes, are amended, and
 37 subsection (8) is added to that section, to read:

38 456.076 Treatment programs for impaired health
 39 professionals and students ~~practitioners.~~-

40 (2) (a) The department shall retain one or more impaired
 41 practitioner consultants who are each licensees. ~~The consultant~~
 42 ~~shall be a licensee~~ under the jurisdiction of the Division of
 43 Medical Quality Assurance within the department and who must be:

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

46 2. An entity that employs: ~~employing~~

47 a. A medical director who must be a practitioner or
 48 recovered practitioner licensed under chapter 458 or ~~or~~ chapter
 49 459; ~~or~~

50 b. An executive director who must be a registered nurse or
 51 a recovered registered nurse licensed under part I of chapter
 52 464.

53 (b) An entity retained as an impaired practitioner
 54 consultant under this section that employs a medical director or
 55 an executive director is not required to be licensed as a
 56 substance abuse provider or mental health treatment provider

57 | under chapter 394, chapter 395, or chapter 397.

58 | (c)1. The consultant shall assist the probable cause panel
59 | and the department in carrying out the responsibilities of this
60 | section. This includes ~~shall include~~ working with department
61 | investigators to determine whether a practitioner is, in fact,
62 | impaired.

63 | 2. The consultant may contract with a school or program to
64 | provide for services to a student ~~be provided, for appropriate~~
65 | ~~compensation, if requested by the school, for students~~ enrolled
66 | for the purpose of preparing in schools for licensure as a
67 | health care practitioner under this chapter or as a veterinarian
68 | under chapter 474 if the student is allegedly allopathic
69 | ~~physicians or physician assistants under chapter 458,~~
70 | ~~osteopathic physicians or physician assistants under chapter~~
71 | ~~459, nurses under chapter 464, or pharmacists under chapter 465~~
72 | ~~who are alleged to be~~ impaired as a result of the misuse or
73 | abuse of alcohol or drugs, or both, or due to a mental or
74 | physical condition. The department is not responsible ~~under any~~
75 | ~~circumstances~~ for paying for the ~~costs of~~ care provided by an
76 | approved treatment provider or a consultant ~~providers, and the~~
77 | ~~department is not responsible for paying the costs of~~
78 | ~~consultants' services provided for students.~~

79 | (d) A medical school accredited by the Liaison Committee
80 | on Medical Education or ~~of~~ the Commission on Osteopathic College
81 | Accreditation, or another ~~other~~ school providing for the
82 | education of students enrolled in preparation for licensure as a
83 | health care practitioner under this chapter or a veterinarian
84 | under chapter 474 ~~allopathic physicians under chapter 458 or~~

CS/HB 349

2013

85 ~~osteopathic physicians under chapter 459,~~ which is governed by
86 accreditation standards requiring notice and the provision of
87 due process procedures to students, is not liable in any civil
88 action for referring a student to the consultant retained by the
89 department or for disciplinary actions that adversely affect the
90 status of a student when the disciplinary actions are instituted
91 in reasonable reliance on the recommendations, reports, or
92 conclusions provided by such consultant, if the school, in
93 referring the student or taking disciplinary action, adheres to
94 the due process procedures adopted by the applicable
95 accreditation entities and if the school committed no
96 intentional fraud in carrying out the provisions of this
97 section.

98 (3)

99 (e) The probable cause panel, or the department when there
100 is no board, shall work directly with the consultant, and all
101 information concerning a practitioner obtained from the
102 consultant by the panel, or the department when there is no
103 board, shall remain confidential and exempt from the provisions
104 of s. 119.07(1), subject to the provisions of subsections (5),
105 ~~and (6), and (8).~~

106 (8) An impaired practitioner consultant is the official
107 custodian of records relating to the referral of an impaired
108 licensee or applicant to that consultant and any other
109 interaction between the licensee or applicant and the
110 consultant. The consultant may disclose to the impaired licensee
111 or applicant or his or her designee any information that is
112 disclosed to or obtained by the consultant or that is

113 confidential under paragraph (5) (a), but only to the extent that
114 it is necessary to do so to carry out the consultant's duties
115 under this section. The department, and any other entity that
116 enters into a contract with the consultant to receive the
117 services of the consultant, has direct administrative control
118 over the consultant to the extent necessary to receive
119 disclosures from the consultant as allowed by federal law. If a
120 disciplinary proceeding is pending, an impaired licensee may
121 obtain such information from the department under s. 456.073.

122 Section 2. Paragraph (e) of subsection (1) of section
123 458.331, Florida Statutes, is amended to read:

124 458.331 Grounds for disciplinary action; action by the
125 board and department.—

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

128 (e) Failing to report to the department any person who the
129 licensee knows is in violation of this chapter or of the rules
130 of the department or the board. A treatment provider approved
131 pursuant to s. 456.076 shall provide the department or
132 consultant with information in accordance with the requirements
133 of s. 456.076(3), (4), (5), ~~and~~ (6), and (8).

134 Section 3. Paragraph (e) of subsection (1) of section
135 459.015, Florida Statutes, is amended to read:

136 459.015 Grounds for disciplinary action; action by the
137 board and department.—

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

140 (e) Failing to report to the department or the

CS/HB 349

2013

141 department's impaired professional consultant any person who the
142 licensee or certificateholder knows is in violation of this
143 chapter or of the rules of the department or the board. A
144 treatment provider, approved pursuant to s. 456.076, shall
145 provide the department or consultant with information in
146 accordance with the requirements of s. 456.076(3), (4), (5), ~~and~~
147 (6), and (8).

148 Section 4. Section 468.315, Florida Statutes, is created
149 to read:

150 468.315 Treatment program for impaired radiological
151 personnel.—Radiological personnel who are subject to
152 certification under this part are governed by s. 456.076 as if
153 they were under the jurisdiction of the Division of Medical
154 Quality Assurance.

155 Section 5. This act shall take effect July 1, 2013.