

By the Committee on Regulated Industries; and Senator Latvala

580-02659-17

2017582c1

1 A bill to be entitled
2 An act relating to regulatory boards; amending ss.
3 455.203, 456.004, and 497.103, F.S.; requiring the
4 Department of Business and Professional Regulation,
5 the Department of Health, and the Department of
6 Financial Services, respectively, to determine whether
7 final board decisions constitute certain
8 anticompetitive conduct; requiring the departments to
9 review final board decisions for anticompetitive
10 conduct and issue orders approving, modifying, or
11 disapproving each decision; specifying that the
12 departments' anticompetitive review constitutes a
13 limited legal review and its resulting determination
14 is subject only to certain legal challenges;
15 specifying actions that are considered final board
16 decisions; requiring that legal costs for defense of
17 antitrust actions and financial damages be paid from
18 specified accounts or by a specified entity; providing
19 an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Subsection (11) is added to section 455.203,
24 Florida Statutes, to read:

25 455.203 Department; powers and duties.—The department, for
26 the boards under its jurisdiction, shall:

27 (11) (a) Determine whether final board decisions constitute
28 anticompetitive conduct that does not promote state policy, does
29 not comport with the standards established by the Legislature,

580-02659-17

2017582c1

30 or does not comport with the authority delegated to a board by
31 the Legislature. The department shall review each final board
32 decision for anticompetitive conduct and, based on its findings,
33 shall issue an order approving, modifying, or disapproving the
34 decision. The department's anticompetitive review constitutes a
35 limited legal review and its resulting determination is subject
36 to legal challenge only through state or federal antitrust
37 causes of action. For purposes of this paragraph, the term
38 "final board decisions" includes final disciplinary actions,
39 rules, declaratory statements, actions concerning unlicensed
40 activity, and licensure application decisions.

41 (b) Legal costs for defense of antitrust actions brought
42 against boards or board members shall be paid out of the
43 Professional Regulation Trust Fund. Financial damages resulting
44 from antitrust litigation shall be paid from the State Risk
45 Management Trust Fund by the Division of Risk Management within
46 the Department of Financial Services.

47 Section 2. Subsection (12) is added to section 456.004,
48 Florida Statutes, to read:

49 456.004 Department; powers and duties.—The department, for
50 the professions under its jurisdiction, shall:

51 (12) (a) Determine whether final board decisions constitute
52 anticompetitive conduct that does not promote state policy, does
53 not comport with the standards established by the Legislature,
54 or does not comport with the authority delegated to a board by
55 the Legislature. The department shall review each final board
56 decision for anticompetitive conduct and, based on its findings,
57 shall issue an order approving, modifying, or disapproving the
58 decision. The department's anticompetitive review constitutes a

580-02659-17

2017582c1

59 limited legal review and its resulting determination is subject
60 to legal challenge only through state or federal antitrust
61 causes of action. For purposes of this paragraph, the term
62 "final board decisions" includes final disciplinary actions,
63 rules, declaratory statements, actions concerning unlicensed
64 activity, and licensure application decisions.

65 (b) Legal costs for defense of antitrust actions brought
66 against boards or board members shall be paid out of the Medical
67 Quality Assurance Trust Fund. Financial damages resulting from
68 antitrust litigation shall be paid from the State Risk
69 Management Trust Fund by the Division of Risk Management within
70 the Department of Financial Services.

71 Section 3. Paragraph (e) is added to subsection (7) of
72 section 497.103, Florida Statutes, to read:

73 497.103 Authority of board and department; Chief Financial
74 Officer recommendations.—

75 (7) ACTIONS BY BOARD AND DEPARTMENT.—

76 (e)1. The department shall determine whether final board
77 decisions constitute anticompetitive conduct that does not
78 promote state policy, does not comport with the standards
79 established by the Legislature, or does not comport with the
80 authority delegated to a board by the Legislature. The
81 department shall review each final board decision for
82 anticompetitive conduct and, based on its findings, shall issue
83 an order approving, modifying, or disapproving the decision. The
84 department's anticompetitive review constitutes a limited legal
85 review and its resulting determination is subject to legal
86 challenge only through state or federal antitrust causes of
87 action. For purposes of this paragraph, the term "final board

580-02659-17

2017582c1

88 decisions" includes final disciplinary actions, rules,
89 declaratory statements, actions concerning unlicensed activity,
90 and licensure application decisions.

91 2. Legal costs for defense of antitrust actions brought
92 against boards or board members shall be paid out of the
93 Regulatory Trust Fund. Financial damages resulting from
94 antitrust litigation shall be paid from the State Risk
95 Management Trust Fund by the Division of Risk Management within
96 the Department of Financial Services.

97 Section 4. This act shall take effect upon becoming a law.