

1                   A bill to be entitled  
2           An act relating to treatment programs for impaired  
3           professionals; amending s. 20.165, F.S.; authorizing  
4           the Department of Business and Professional Regulation  
5           to require a person licensed by or applying for a  
6           license from the department to be governed by  
7           provisions providing programs for impaired  
8           practitioners under the jurisdiction of the Division  
9           of Medical Quality Assurance within the Department of  
10          Health; authorizing the Department of Business and  
11          Professional Regulation to exercise any of the powers  
12          granted to the Department of Health with respect to  
13          such programs; creating s. 401.466, F.S.; providing  
14          that an emergency medical technician or paramedic who  
15          is certified or has applied to be certified may be  
16          subject to a treatment program for impaired  
17          practitioners at the election of the impaired  
18          practitioner consultant; prohibiting charging the  
19          associated costs to the Medical Quality Assurance  
20          Trust Fund within the Department of Health; amending  
21          s. 456.076, F.S.; exempting an entity retained by the  
22          Department of Health as an impaired practitioner  
23          consultant from certain licensing requirements if the  
24          entity employs or contracts with licensed  
25          professionals; revising the schools or programs that  
26          may contract for impaired practitioner consulting  
27          services; limiting the liability of certain medical  
28          schools and schools that prepare health care

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29 practitioners and veterinarians for licensure for  
30 referring a student to an impaired practitioner  
31 consultant; authorizing the Department of Health to  
32 refer an applicant for licensure to the consultant;  
33 clarifying the types of legal proceedings related to  
34 services provided by impaired practitioner consultants  
35 which are defended by the Department of Financial  
36 Services; clarifying requirements for an impaired  
37 practitioner consultant to maintain as confidential  
38 certain information concerning an impaired  
39 practitioner; authorizing the department and certain  
40 other entities to have administrative control over the  
41 impaired practitioner consultant to the extent  
42 necessary to receive disclosures; creating s. 468.315,  
43 F.S.; providing that a radiologic technologist who is  
44 certified or who has applied to be certified may be  
45 subject to a treatment program for impaired  
46 practitioners at the election of an impaired  
47 practitioner consultant; providing an effective date.

48  
49 Be It Enacted by the Legislature of the State of Florida:

50  
51 Section 1. Subsection (10) is added to section 20.165,  
52 Florida Statutes, to read:

53 20.165 Department of Business and Professional  
54 Regulation.—There is created a Department of Business and  
55 Professional Regulation.

56 (10) The Department of Business and Professional

57 Regulation may require a person licensed by or applying for a  
 58 license from the department to be governed by s. 456.076 as if  
 59 the person were under the jurisdiction of the Division of  
 60 Medical Quality Assurance. The Department of Business and  
 61 Professional Regulation may exercise any of the powers granted  
 62 to the Department of Health by s. 456.076, and the term "board"  
 63 means the board from which the license was granted or is sought.

64 Section 2. Section 401.466, Florida Statutes, is created  
 65 to read:

66 401.466 Treatment program for impaired emergency medical  
 67 technicians and paramedics.—An emergency medical technician or  
 68 paramedic who is certified or has applied to be certified under  
 69 this part may be subject to s. 456.076 at the election of an  
 70 impaired practitioner consultant; however, associated costs may  
 71 not be charged to the Medical Quality Assurance Trust Fund  
 72 within the Department of Health.

73 Section 3. Subsection (2), paragraph (d) of subsection  
 74 (3), and paragraph (b) of subsection (7) of section 456.076,  
 75 Florida Statutes, are amended, and subsection (8) is added to  
 76 that section, to read:

77 456.076 Treatment programs for impaired practitioners.—

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

82 1. A practitioner or recovered practitioner licensed under  
 83 chapter 458, chapter 459, or part I of chapter 464;~~7~~ or

84 2. An entity employing a medical director or employing a

85 registered nurse as an executive director, who must be a  
 86 practitioner or recovered practitioner licensed under chapter  
 87 458, chapter 459, or part I of chapter 464.

88 (b) An entity that is retained as a consultant under this  
 89 section and employs a medical director or registered nurse as an  
 90 executive director is not required to be licensed as a substance  
 91 abuse provider or mental health treatment provider under chapter  
 92 394, chapter 395, or chapter 397 in order to operate as a  
 93 consultant under this section if the entity employs or contracts  
 94 with licensed professionals to perform or appropriately  
 95 supervise any specific treatment or evaluation that requires  
 96 individual licensing or supervision.

97 (c) The consultant shall assist the probable cause panel  
 98 and department in carrying out the responsibilities of this  
 99 section. This includes ~~shall include~~ working with department  
 100 investigators to determine whether a practitioner is, in fact,  
 101 impaired. The consultant may contract for services to be  
 102 provided, for appropriate compensation, if requested by a ~~the~~  
 103 school or program, for students enrolled in a school ~~schools~~ for  
 104 licensure as a health care practitioner under this chapter or a  
 105 veterinarian under chapter 474 ~~allopathic physicians or~~  
 106 ~~physician assistants under chapter 458, osteopathic physicians~~  
 107 ~~or physician assistants under chapter 459, nurses under chapter~~  
 108 ~~464, or pharmacists under chapter 465~~ who are alleged to be  
 109 impaired as a result of the misuse or abuse of alcohol or drugs,  
 110 or both, or due to a mental or physical condition.

111 (d) The department is not responsible under any  
 112 circumstances for paying the costs of care provided by approved

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113 treatment providers, and the department is not responsible for  
114 paying the costs of consultants' services provided for such  
115 students.

116 (e) A medical school accredited by the Liaison Committee  
117 on Medical Education of the Commission on Osteopathic College  
118 Accreditation, or another ~~other~~ school providing for the  
119 education of students enrolled in preparation for licensure as a  
120 health care practitioner under this chapter or a veterinarian  
121 under chapter 474 ~~allopathic physicians under chapter 458 or~~  
122 ~~osteopathic physicians under chapter 459~~, which school is  
123 governed by accreditation standards requiring notice and the  
124 provision of due process procedures to students, is not liable  
125 in any civil action for referring a student to the consultant  
126 retained by the department or for disciplinary actions that  
127 adversely affect the status of a student when the disciplinary  
128 actions are instituted in reasonable reliance on the  
129 recommendations, reports, or conclusions provided by such  
130 consultant, if the school, in referring the student or taking  
131 disciplinary action, adheres to the due process procedures  
132 adopted by the applicable accreditation entities and if the  
133 school committed no intentional fraud in carrying out the  
134 provisions of this section.

135 (3)

136 (d) Whenever the department receives a legally sufficient  
137 complaint alleging that a licensee or applicant is impaired as  
138 described in paragraph (a) and no complaint against the licensee  
139 or applicant other than impairment exists, the appropriate  
140 board, the board's designee, or the department shall forward all

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141 information in its possession regarding the impaired licensee or  
 142 applicant to the consultant. For the purposes of this section, a  
 143 suspension from hospital staff privileges due to the impairment  
 144 does not constitute a complaint.

145 (7)

146 (b) In accordance with s. 284.385, the Department of  
 147 Financial Services shall defend any claim, suit, action, or  
 148 proceeding, including a claim, suit, action, or proceeding for  
 149 injunctive, affirmative, or declaratory relief, against the  
 150 consultant, the consultant's officers or employees, or those  
 151 acting at the direction of the consultant for the limited  
 152 purpose of an emergency intervention on behalf of a licensee or  
 153 student as described in subsection (2) when the consultant is  
 154 unable to perform such intervention that ~~which~~ is brought as a  
 155 result of any act or omission by any of the consultant's  
 156 officers and employees and those acting under the direction of  
 157 the consultant for the limited purpose of an emergency  
 158 intervention on behalf of a licensee or student as described in  
 159 subsection (2) when the consultant is unable to perform such  
 160 intervention when such act or omission arises out of and in the  
 161 scope of the consultant's duties under its contract with the  
 162 department.

163 (8) An impaired practitioner consultant is the official  
 164 custodian of records concerning any impaired licensee monitored  
 165 by that consultant. The consultant may not, except to the extent  
 166 necessary for carrying out the consultant's duties under this  
 167 section, disclose to the impaired licensee or his or her  
 168 designee any information that is disclosed to or obtained by the

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169 consultant and is confidential under paragraph (5)(a). The  
170 department, and any other entity to which the consultant  
171 contracts, shall have direct administrative control over the  
172 consultant to the extent necessary to receive disclosures from  
173 the consultant as allowed by federal law. If a disciplinary  
174 proceeding is pending, an impaired licensee may obtain such  
175 information from the department under s. 456.073(10).

176 Section 4. Section 468.315, Florida Statutes, is created  
177 to read:

178 468.315 Treatment program for impaired radiological  
179 personnel.—A radiologic technologist who is certified or who has  
180 applied to be certified under this part may be subject to s.  
181 456.076 at the election of an impaired practitioner consultant.

182 Section 5. This act shall take effect July 1, 2012.