

Prisoner Complaints against State Corrections Health Officials

This Act provides that a complaint filed by a state prisoner with the state department of health against a health practitioner employed by the state department of corrections, is not legally sufficient unless there is a showing that the prisoner has exhausted all available administrative remedies within the state correctional system. This Act does not limit or prevent access to the department of health for review of legitimate health concerns.

This Act permits the department of health after a preliminary inquiry to determine legal sufficiency and proceed to discipline a practitioner if the department determines that "the practitioner may present a serious threat to the health and safety of any individual who is not a state prisoner." The department of health must be notified within 15 days whenever the department of corrections disciplines or allows a health care practitioner to resign for an offense related to the practice of their profession.

Submitted as:

Florida

[Chapter 2003-27](#)

Status: Enacted into law in 2003.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act may be described as "An Act Concerning Prisoner
2 Complaints against State Corrections Health Officials."
3

4 Section 2. [*Disciplinary Proceedings.*]

5 (1) The [Department of Corrections], for the boards under its jurisdiction, shall cause to
6 be investigated any complaint that is filed before it if the complaint is in writing, signed by the
7 complainant, and legally sufficient. A complaint filed by a state prisoner against a health care
8 practitioner employed by or otherwise providing health care services within a facility of the
9 [Department of Corrections] is not legally sufficient unless there is a showing that the prisoner
10 complainant has exhausted all available administrative remedies within the state correctional
11 system before filing the complaint. However, if the [Department of Health] determines after a
12 preliminary inquiry of a state prisoner's complaint that the practitioner may present a serious
13 threat to the health and safety of any individual who is not a state prisoner, the [Department of
14 Health] may determine legal sufficiency and proceed with discipline. The [Department of
15 Health] shall be notified within [15 days] after the [Department of Corrections] disciplines or
16 allows a health care practitioner to resign for an offense related to the practice of his or her
17 profession. A complaint is legally sufficient if it contains ultimate facts that show that a violation
18 of this Act, of any of the practice acts relating to the professions regulated by the department, or
19 of any rule adopted by the department or a regulatory board in the department has occurred. In
20 order to determine legal sufficiency, the department may require supporting information or
21 documentation. The [Department of Corrections] may investigate, and the [Department of
22 Corrections] or the appropriate board may take appropriate final action on, a complaint even
23 though the original complainant withdraws it or otherwise indicates a desire not to cause the
24 complaint to be investigated or prosecuted to completion. The [Department of Corrections] may

25 investigate an anonymous complaint if the complaint is in writing and is legally sufficient, if the
26 alleged violation of law or rules is substantial, and if the department has reason to believe, after
27 preliminary inquiry, that the violations alleged in the complaint are true. The [Department of
28 Corrections] may investigate a complaint made by a confidential informant if the complaint is
29 legally sufficient, if the alleged violation of law or rule is substantial, and if the department has
30 reason to believe, after preliminary inquiry, that the allegations of the complainant are true. The
31 department may initiate an investigation if it has reasonable cause to believe that a licensee or a
32 group of licensees has violated a state statute, a rule of the [Department of Corrections], or a rule
33 of a board.

34 (2) Except as provided in [insert citation], when an investigation of any subject is
35 undertaken, the [Department of Corrections] shall promptly furnish to the subject or the subject's
36 attorney a copy of the complaint or document that resulted in the initiation of the investigation.
37 The subject may submit a written response to the information contained in such complaint or
38 document within [20 days] after service to the subject of the complaint or document. The
39 subject's written response shall be considered by the [probable cause panel]. The right to respond
40 does not prohibit the issuance of a summary emergency order if necessary to protect the public.
41 However, if the [Secretary of the Department of Corrections, or the secretary's designee], and the
42 [chair of the respective board or the chair of its probable cause panel] agree in writing that such
43 notification would be detrimental to the investigation, the [Department of Corrections] may
44 withhold notification. The [department] may conduct an investigation without notification to any
45 subject if the act under investigation is a criminal offense.

46

47 Section 3. [*Severability*.] [Insert severability clause.]

48

49 Section 4. [*Repealer*.] [Insert repealer clause.]

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51 Section 5. [*Effective Date*.] [Insert effective date.]