

By the Committee on Health, Aging and Long-Term Care; and
Senator Campbell

317-1883-99

1 A bill to be entitled
2 An act relating to the practice of medicine;
3 creating s. 458.351, F.S.; requiring that a
4 physician or person licensed under ch. 458,
5 F.S., notify the Department of Health of any
6 adverse incident occurring in a setting that is
7 not licensed under ch. 395, F.S.; defining the
8 term "adverse incident"; requiring that the
9 department review adverse incidents;
10 authorizing the Board of Medicine to adopt
11 rules; amending s. 458.331, F.S., relating to
12 grounds for disciplinary action by the board;
13 deleting provisions made obsolete by the act;
14 amending s. 458.309, F.S.; authorizing the
15 board to adopt standards of practice and care
16 for particular practice settings; authorizing
17 the board to adopt standards for conducting
18 surgery in settings other than a hospital;
19 authorizing the board to approve other agencies
20 to conduct inspections; creating s. 459.026,
21 F.S.; requiring that an osteopathic physician
22 or person licensed under ch. 459, F.S., notify
23 the Department of Health of any adverse
24 incident occurring in a setting that is not
25 licensed under ch. 395, F.S.; defining the term
26 "adverse incident"; requiring that the
27 department review adverse incidents;
28 authorizing the Board of Osteopathic Medicine
29 to adopt rules; providing an effective date.
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31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Section 458.351, Florida Statutes, is
2 created to read:

3 458.351 Reports of adverse incidents in specified
4 settings.--

5 (1) Any adverse incident that occurs on or after
6 January 1, 2000, in any office maintained by a physician for
7 the practice of medicine which is not licensed under chapter
8 395 must be reported to the department in accordance with this
9 section.

10 (2) Any physician or other licensee under this chapter
11 practicing in this state must notify the department if the
12 physician or licensee was involved in an adverse incident that
13 occurred on or after January 1, 2000, in any office maintained
14 by a physician for the practice of medicine which is not
15 licensed under chapter 395.

16 (3) The required notification to the department must
17 be submitted in writing by certified mail of the adverse
18 incident, which notice must be postmarked within 15 days after
19 the occurrence of the adverse incident.

20 (4) For purposes of notification to the department
21 pursuant to this section, the term "adverse incident" means an
22 event over which the physician or licensee could exercise
23 control and which is associated in whole or in part with a
24 medical intervention, rather than the condition for which such
25 intervention occurred, and which results in the following
26 patient injuries:

27 (a) The death of a patient.

28 (b) Brain or spinal damage to a patient.

29 (c) The performance of a surgical procedure on the
30 wrong patient.

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1 (d)1. The performance of a wrong-site surgical
2 procedure;

3 2. The performance of a wrong surgical procedure; or

4 3. The surgical repair of damage to a patient
5 resulting from a planned surgical procedure where the damage
6 is not a recognized specific risk as disclosed to the patient
7 and documented through the informed-consent process

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9 if it results in: death; brain or spinal damage; permanent
10 disfigurement not to include the incision scar; fracture or
11 dislocation of bones or joints; a limitation of neurological,
12 physical, or sensory function; or any condition that required
13 the transfer of the patient.

14 (e) A procedure to remove unplanned foreign objects
15 remaining from a surgical procedure.

16 (f) Any condition that required the transfer of a
17 patient to a hospital licensed under chapter 395 from an
18 ambulatory surgical center licensed under chapter 395 or any
19 facility or any office maintained by a physician for the
20 practice of medicine which is not licensed under chapter 395.

21 (5) The department shall review each incident and
22 determine whether it potentially involved conduct by a health
23 care professional who is subject to disciplinary action, in
24 which case s. 455.621 applies. Disciplinary action, if any,
25 shall be taken by the board under which the health care
26 professional is licensed.

27 (6) The board may adopt rules to administer this
28 section.

29 Section 2. Paragraph (v) of subsection (1) of section
30 458.331, Florida Statutes, 1998 Supplement, is amended to
31 read:

1 458.331 Grounds for disciplinary action; action by the
2 board and department.--

3 (1) The following acts shall constitute grounds for
4 which the disciplinary actions specified in subsection (2) may
5 be taken:

6 (v) Practicing or offering to practice beyond the
7 scope permitted by law or accepting and performing
8 professional responsibilities which the licensee knows or has
9 reason to know that he or she is not competent to perform. ~~The~~
10 ~~board may establish by rule standards of practice and~~
11 ~~standards of care for particular practice settings, including,~~
12 ~~but not limited to, education and training, equipment and~~
13 ~~supplies, medications including anesthetics, assistance of and~~
14 ~~delegation to other personnel, transfer agreements,~~
15 ~~sterilization, records, performance of complex or multiple~~
16 ~~procedures, informed consent, and policy and procedure~~
17 ~~manuals.~~

18 Section 3. Subsections (3) and (4) are added to
19 section 458.309, Florida Statutes, 1998 Supplement, to read:

20 458.309 Authority to make rules.--

21 (3) The board may establish by rule standards of
22 practice and standards of care for particular practice
23 settings, including, but not limited to, education and
24 training, equipment and supplies, medications including
25 anesthetics, assistance of and delegation to other personnel,
26 transfer agreements, sterilization, records, performance of
27 complex or multiple procedures, informed consent, and policy
28 and procedure manuals.

29 (4) In addition to the standards listed under
30 subsection (3), the board may establish by rule requirements
31 for the registration and inspection of settings in which Level

1 II or III office surgery, as defined by board rule, is
2 performed. Such registration and inspections shall be
3 conducted by the department for the purpose of determining
4 compliance with board rules. The board may approve appropriate
5 accreditation agencies for the purpose of conducting
6 inspections. The actual costs for registration and inspection
7 shall be paid by the person seeking to register and operate
8 the office setting in which Level II or III office surgery is
9 performed.

10 Section 4. Section 459.026, Florida Statutes, is
11 created to read:

12 459.026 Reports of adverse incidents in office
13 practice settings.--

14 (1) Any adverse incident that occurs on or after
15 January 1, 2000, in any office maintained by an osteopathic
16 physician for the practice of osteopathic medicine which is
17 not licensed under chapter 395 must be reported to the
18 department in accordance with the provisions of this section.

19 (2) Any osteopathic physician or other licensee under
20 this chapter practicing in this state must notify the
21 department if the osteopathic physician or licensee was
22 involved in an adverse incident that occurred on or after
23 January 1, 2000, in any office maintained by an osteopathic
24 physician for the practice of osteopathic medicine which is
25 not licensed under chapter 395.

26 (3) The required notification to the department must
27 be submitted in writing by certified mail and postmarked
28 within 15 days after the occurrence of the adverse incident.

29 (4) For purposes of notification to the department
30 pursuant to this section, the term "adverse incident" means an
31 event over which the osteopathic physician or licensee could

1 exercise control and which is associated in whole or in part
2 with medical intervention, rather than the condition for which
3 such intervention occurred, and which results in any of the
4 following patient injuries:
5 (a) The death of a patient;
6 (b) Brain or spinal damage to a patient;
7 (c) The performance of a surgical procedure on the
8 wrong patient;
9 (d)1. The performance of a wrong-site surgical
10 procedure;
11 2. The performance of a wrong surgical procedure; or
12 3. The surgical repair of damage to a patient
13 resulting from a planned surgical procedure where the damage
14 is not a recognized specific risk as disclosed to the patient
15 and documented through the informed-consent process
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17 if it results in: death; brain or spinal damage; permanent
18 disfigurement not to include the incision scar; fracture or
19 dislocation of bones or joints; a limitation of neurological,
20 physical, or sensory function; or any condition that required
21 the transfer of the patient.
22 (e) The performance of procedures to remove foreign
23 objects left unintentionally during a previous surgical
24 procedure.
25 (f) Any condition that required the transfer of a
26 patient to a hospital licensed under chapter 395 from an
27 ambulatory surgical center licensed under chapter 395 or any
28 facility or any office maintained by a physician for the
29 practice of medicine which is not licensed under chapter 395.
30 (5) The department shall review each incident and
31 determine whether it potentially involved conduct by a health

1 care professional who is subject to disciplinary action, in
2 which case the provisions of s. 455.621 shall apply; and
3 disciplinary action, if any, shall be taken by the board under
4 which the health care professional is licensed.

5 (6) The board may adopt rules to implement this
6 section.

7 Section 5. This act shall take effect July 1, 1999.

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9 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
10 COMMITTEE SUBSTITUTE FOR
11 Senate Bill 1348

12 Requires any medical physician, osteopathic physician, or
13 physician assistant to notify the Department of Health of any
14 adverse incident that involved the physician or physician
15 assistant which occurred on or after January 1, 2000, in any
16 office maintained by the physician for the practice of
17 medicine that is not licensed under chapter 395, F.S.,
18 relating to licensure for hospitals and ambulatory surgical
19 centers. Revises the definition of adverse incident. Limits
20 the Board of Medicine's authority to establish by rule
21 requirements for the registration and inspection of settings
22 in which Level II or Level III office surgery, as defined by
23 the board rule, is performed rather than all office surgery
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