

1 A bill to be entitled
2 An act relating to regulation of health care
3 practitioners; creating ss. 458.351 and
4 459.026, F.S.; requiring reports to the
5 Department of Health of adverse incidents in
6 specified settings; providing for review of
7 such incidents and initiation of disciplinary
8 proceedings, where appropriate; authorizing
9 department access to certain records and
10 preserving exemption from public access
11 thereto; providing rulemaking authority;
12 providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Paragraph (v) of subsection (1) of section
17 458.331, Florida Statutes, 1998 Supplement, is amended to
18 read:

19 458.331 Grounds for disciplinary action; action by the
20 board and department.--

21 (1) The following acts shall constitute grounds for
22 which the disciplinary actions specified in subsection (2) may
23 be taken:

24 (v) Practicing or offering to practice beyond the
25 scope permitted by law or accepting and performing
26 professional responsibilities which the licensee knows or has
27 reason to know that he or she is not competent to perform. ~~The~~
28 ~~board may establish by rule standards of practice and~~
29 ~~standards of care for particular practice settings, including,~~
30 ~~but not limited to, education and training, equipment and~~
31 ~~supplies, medications including anesthetics, assistance of and~~

1 ~~delegation to other personnel, transfer agreements,~~
2 ~~sterilization, records, performance of complex or multiple~~
3 ~~procedures, informed consent, and policy and procedure~~
4 ~~manuals.~~

5 Section 2. Subsections (3) and (4) are added to
6 section 458.309, Florida Statutes, 1998 Supplement, to read:

7 458.309 Authority to make rules.--

8 (3) The board may establish by rule standards of
9 practice and standards of care for particular practice
10 settings, including, but not limited to, education and
11 training, equipment and supplies, medications including
12 anesthetics, assistance of and delegation to other personnel,
13 transfer agreements, sterilization, records, performance of
14 complex or multiple procedures, informed consent, and policy
15 and procedure manuals.

16 (4) In addition to the standards listed under
17 subsection (3), the board may establish by rule requirements
18 for the registration and inspection of settings in which Level
19 II or III office surgery, as defined by board rule, is
20 performed. Such registration and inspections shall be
21 conducted by the department for the purpose of determining
22 compliance with board rules. The board may approve appropriate
23 accreditation agencies for the purpose of conducting
24 inspections. The actual costs for registration and inspection
25 shall be paid by the person seeking to register and operate
26 the office setting in which Level II or III office surgery is
27 performed.

28 Section 3. Section 458.351, Florida Statutes, is
29 created to read:

30 458.351 Reports of adverse incidents in office
31 practice settings.--

1 (1) Any adverse incident that occurs on or after
2 January 1, 2000, in any office maintained by a physician for
3 the practice of medicine which is not licensed under chapter
4 395 must be reported to the department in accordance with the
5 provisions of this section.

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

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

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

22 (a) The death of a patient.

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

24 (c) The performance of a surgical procedure on the
25 wrong patient.

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

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

29 3. The surgical repair of damage to a patient
30 resulting from a planned surgical procedure where the damage
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1 is not a recognized specific risk as disclosed to the patient
2 and documented through the informed-consent process

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4 if it results in: death; brain or spinal damage; permanent
5 disfigurement not to include the incision scar; fracture or
6 dislocation of bones or joints; a limitation of neurological,
7 physical or sensory function; or any condition that required
8 the transfer of the patient.

9 (e) A procedure to remove unplanned foreign objects
10 remaining from a surgical procedure.

11 (f) Any condition that required the transfer of a
12 patient to a hospital licensed under chapter 395 from an
13 ambulatory surgical center licensed under chapter 395 or any
14 facility or any office maintained by a physician for the
15 practice of medicine which is not licensed under chapter 395.

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

22 (6) The board may adopt rules to administer this
23 section.

24 Section 4. Section 459.026, Florida Statutes, is
25 created to read:

26 459.026 Reports of adverse incidents in office
27 practice settings.--

28 (1) Any adverse incident that occurs on or after
29 January 1, 2000, in any office maintained by an osteopathic
30 physician for the practice of osteopathic medicine which is

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1 not licensed under chapter 395 must be reported to the
2 department in accordance with the provisions of this section.

3 (2) Any osteopathic physician or other licensee under
4 this chapter practicing in this state must notify the
5 department if the osteopathic physician or licensee was
6 involved in an adverse incident that occurred on or after
7 January 1, 2000, in any office maintained by an osteopathic
8 physician for the practice of osteopathic medicine which is
9 not licensed under chapter 395.

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

13 (4) For purposes of notification to the department
14 pursuant to this section, the term "adverse incident" means an
15 event over which the physician or licensee could exercise
16 control and which is associated in whole or in part with a
17 medical intervention, rather than the condition for which such
18 intervention occurred, and which results in the following
19 patient injuries:

20 (a) The death of a patient.

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

22 (c) The performance of a surgical procedure on the
23 wrong patient.

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

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

27 3. The surgical repair of damage to a patient
28 resulting from a planned surgical procedure where the damage
29 is not a recognized specific risk as disclosed to the patient
30 and documented through the informed-consent process
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1 if it results in: death; brain or spinal damage; permanent
2 disfigurement not to include the incision scar; fracture or
3 dislocation of bones or joints; a limitation of neurological,
4 physical or sensory function; or any condition that required
5 the transfer of the patient.

6 (e) A procedure to remove unplanned foreign objects
7 remaining from a surgical procedure.

8 (f) Any condition that required the transfer of a
9 patient to a hospital licensed under chapter 395 from an
10 ambulatory surgical center licensed under chapter 395 or any
11 facility or any office maintained by a physician for the
12 practice of medicine which is not licensed under chapter 395.

13 (5) The department shall review each incident and
14 determine whether it potentially involved conduct by a health
15 care professional who is subject to disciplinary action, in
16 which case s. 455.621 applies. Disciplinary action, if any,
17 shall be taken by the board under which the health care
18 professional is licensed.

19 (6) The board may adopt rules to administer this
20 section.

21 Section 5. This act shall take effect upon becoming a
22 law.