A bill to be entitled

An act relating to notification of an adverse incident provided to the Agency for Health Care Administration; amending s. 395.0197, F.S.; eliminating the requirement of a hospital, ambulatory surgical center, or mobile surgical facility licensed under ch. 395, F.S., to notify the Agency for Health Care Administration of the occurrence of specified adverse incidents; correcting cross references; repealing s. 395.0198, F.S., which provides an exemption from public records requirements for information contained in a notification of an adverse incident provided to the Agency for Health Care Administration by a hospital, ambulatory surgical center, or mobile surgical facility licensed under ch. 395, F.S.; providing an effective date.

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

Section 1. Subsections (7) of section 395.0197, Florida Statutes, is amended, subsections (13), (14), and (15) are renumbered as subsections (12), (13), and (14), and amended, and subsections (8), (9), (10), (11), (12), (16), (17), (18), (19), and (20) are renumbered as subsections (7) (8), (9), (10), (11), (15), (16), (17), (18), and (19), respectively, to read:

395.0197 Internal risk management program.--

~~(7) The licensed facility shall notify the agency no later than 1 business day after the risk manager or his or her designee has received a report pursuant to paragraph (1)(d) and can determine within 1 business day that any of the following adverse incidents has occurred, whether occurring in the~~

~~licensed facility or arising from health care prior to admission in the licensed facility:~~

~~(a) The death of a patient;~~

~~(b) Brain or spinal damage to a patient;~~

~~(c) The performance of a surgical procedure on the wrong patient;~~

~~(d) The performance of a wrong-site surgical procedure; or~~

~~(e) The performance of a wrong surgical procedure.~~

~~The notification must be made in writing and be provided by facsimile device or overnight mail delivery. The notification must include information regarding the identity of the affected patient, the type of adverse incident, the initiation of an investigation by the facility, and whether the events causing or resulting in the adverse incident represent a potential risk to other patients.~~

(13) In addition to any penalty imposed pursuant to this section, the agency shall require a written plan of correction from the facility. For a single incident or series of isolated incidents that are nonwillful violations of the reporting requirements of this section, the agency shall first seek to obtain corrective action by the facility. If the correction is not demonstrated within the timeframe established by the agency or if there is a pattern of nonwillful violations of this section, the agency may impose an administrative fine, not to exceed $5,000 for any violation of the reporting requirements of this section. The administrative fine for repeated nonwillful violations shall not exceed $10,000 for any violation. The administrative fine for each intentional and willful violation may not exceed $25,000 per violation, per day. The fine for an

intentional and willful violation of this section may not exceed $250,000. In determining the amount of fine to be levied, the agency shall be guided by s. 395.1065(2)(b). ~~This subsection does not apply to the notice requirements under subsection (7).~~

(14) The agency shall have access to all licensed facility records necessary to carry out the provisions of this section. The records obtained by the agency under subsection (6), subsection (7)~~(8)~~, or subsection (9)~~(10)~~ are not available to the public under s. 119.07(1), nor shall they be discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or the appropriate regulatory board, nor shall records obtained pursuant to s. 456.071 be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the agency or the appropriate regulatory board. However, the agency or the appropriate regulatory board shall make available, upon written request by a health care professional against whom probable cause has been found, any such records which form the basis of the determination of probable cause, except that, with respect to medical review committee records, s. 766.101 controls.

(15) The meetings of the committees and governing board of a licensed facility held solely for the purpose of achieving the objectives of risk management as provided by this section shall not be open to the public under the provisions of chapter 286. The records of such meetings are confidential and exempt from s. 119.07(1), except as provided in subsection (13)~~(14)~~.

Section 2. Section 395.0198, Florida Statutes, is repealed. Section 3. This act shall take effect upon becoming a law.