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LEGISLATIVE ACTION

Senate

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House

The Committee on Governmental Oversight and Accountability
(Margolis) recommended the following:

Senate Amendment (with title amendment)

Between lines 90 and 91
insert:

Section 2. Subsection (3) of section 766.103, Florida
Statutes, is republished, subsection (4) of that section is
amended, and subsection (5) is added to that section to read:

766.103 Florida Medical Consent Law.—

(3) No recovery shall be allowed in any court in this state
against any physician licensed under chapter 458, osteopathic
physician licensed under chapter 459, chiropractic physician
licensed under chapter 460, podiatric physician licensed under



13 chapter 461, dentist licensed under chapter 466, advanced
14 registered nurse practitioner certified under s. 464.012, or
15 physician assistant licensed under s. 458.347 or s. 459.022 in
16 an action brought for treating, examining, or operating on a
17 patient without his or her informed consent when:

18 (a)1. The action of the physician, osteopathic physician,
19 chiropractic physician, podiatric physician, dentist, advanced
20 registered nurse practitioner, or physician assistant in
21 obtaining the consent of the patient or another person
22 authorized to give consent for the patient was in accordance
23 with an accepted standard of medical practice among members of
24 the medical profession with similar training and experience in
25 the same or similar medical community as that of the person
26 treating, examining, or operating on the patient for whom the
27 consent is obtained; and

28 2. A reasonable individual, from the information provided
29 by the physician, osteopathic physician, chiropractic physician,
30 podiatric physician, dentist, advanced registered nurse
31 practitioner, or physician assistant, under the circumstances,
32 would have a general understanding of the procedure, the
33 medically acceptable alternative procedures or treatments, and
34 the substantial risks and hazards inherent in the proposed
35 treatment or procedures, which are recognized among other
36 physicians, osteopathic physicians, chiropractic physicians,
37 podiatric physicians, or dentists in the same or similar
38 community who perform similar treatments or procedures; or

39 (b) The patient would reasonably, under all the surrounding
40 circumstances, have undergone such treatment or procedure had he
41 or she been advised by the physician, osteopathic physician,



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42 chiropractic physician, podiatric physician, dentist, advanced
43 registered nurse practitioner, or physician assistant in
44 accordance with the provisions of paragraph (a).

45 (4) (a) Except as provided in subsection (5), a consent that
46 ~~which~~ is evidenced in writing and meets the requirements of
47 subsection (3) shall, if validly signed by the patient or
48 another authorized person, raise a rebuttable presumption of a
49 valid consent.

50 (b) A valid signature is one which is given by a person who
51 under all the surrounding circumstances is mentally and
52 physically competent to give consent.

53 (5) (a) A consent, signed by a patient or other person
54 authorized to give consent for a patient who will be undergoing
55 a Level II or Level III office surgery involving an elective
56 cosmetic surgical procedure or treatment is not valid unless the
57 physician, osteopathic physician, chiropractic physician,
58 podiatric physician, dentist, advanced registered nurse
59 practitioner, or physician assistant advised the patient or
60 other authorized person of the proposed treatment's or
61 procedure's substantial risks and inherent hazards, as provided
62 in subsection (3), and the written consent is signed by the
63 patient or other person authorized to give consent for the
64 patient at least 1 hour before such treatment or procedure is
65 performed.

66 (b) A consent signed by a patient or other person
67 authorized to give consent for the patient who will be
68 undergoing a Level II or Level III office surgery involving an
69 elective cosmetic surgical procedure or treatment is not valid
70 if the consent requires the patient or other authorized person



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71 to waive the assistance of personnel who, under the applicable
72 standard of medical practice and care and applicable law or
73 department rule, must assist in such treatment or procedure
74 because of the specific nature of treatment or procedure or
75 because of the patient's circumstances.

76 (c) This subsection does not apply to a surgical procedure
77 performed at a licensed hospital or an outpatient surgical
78 center owned or operated by a licensed hospital.

79 Section 3. Section 2 of this act may be cited as the "Rony
80 Stifelman Wendrow Comestic Patient Protection Act."

81
82 ===== T I T L E A M E N D M E N T =====

83 And the title is amended as follows:

84 Delete lines 2 - 3

85 and insert:

86 An act relating to health care practitioners; amending
87 s.

88
89 Delete line 12

90 and insert:

91 emergency order; amending s. 766.103, F.S.; providing
92 that consent to certain medical treatments and
93 procedures is not valid unless certain requirements
94 are met; providing a short title; amending s. 903.046,
95 F.S.; requiring