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LEGISLATIVE ACTION

Senate

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House

Floor: 1/AD/2R

04/24/2019 11:26 AM

Senator Flores moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (6) is added to section 456.074,
Florida Statutes, to read:

456.074 Certain health care practitioners; immediate
suspension of license.—

(6) The department may issue an emergency order suspending
or restricting the registration of an office registered under s.
458.328 or s. 459.0139 upon a finding of probable cause that the



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12 office or a physician practicing in the office is not in
13 compliance with the standards of practice for office surgery
14 adopted by the boards pursuant to s. 458.328 or s. 459.0138, as
15 applicable, or is in violation of s. 458.331(1)(v) or s.
16 459.015(1)(z), and that such noncompliance or violation
17 constitutes an immediate danger to the public. The department
18 shall revoke the registration of an office if the noncompliance
19 constitutes an immediate or imminent danger to the health or
20 safety of the public.

21 Section 2. Subsection (3) of section 458.309, Florida
22 Statutes, is amended to read:

23 458.309 Rulemaking authority.—

24 ~~(3) A physician who performs liposuction procedures in~~
25 ~~which more than 1,000 cubic centimeters of supernatant fat is~~
26 ~~removed, level 2 procedures lasting more than 5 minutes, and all~~
27 ~~level 3 surgical procedures in an office setting must register~~
28 ~~the office with the department unless that office is licensed as~~
29 ~~a facility under chapter 395. The department shall inspect the~~
30 ~~physician's office annually unless the office is accredited by a~~
31 ~~nationally recognized accrediting agency or an accrediting~~
32 ~~organization subsequently approved by the Board of Medicine. The~~
33 ~~actual costs for registration and inspection or accreditation~~
34 ~~shall be paid by the person seeking to register and operate the~~
35 ~~office setting in which office surgery is performed.~~

36 Section 3. Section 458.328, Florida Statutes, is created to
37 read:

38 458.328 Office surgeries.—

39 (1) REGISTRATION.—

40 (a) An office in which a physician performs a liposuction



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41 procedure in which more than 1,000 cubic centimeters of
42 supernatant fat is removed, a Level II office surgery, or a
43 Level III office surgery must register with the department
44 unless the office is licensed as a facility under chapter 395.

45 (b) By January 1, 2020, each office registered under this
46 section or s. 459.0138 must designate a physician who is
47 responsible for the office's compliance with the office health
48 and safety requirements of this section and rules adopted
49 hereunder. A designated physician must have a full, active, and
50 unencumbered license under this chapter or chapter 459 and shall
51 practice at the office for which he or she has assumed
52 responsibility. Within 10 calendar days after the termination of
53 a designated physician relationship, the office must notify the
54 department of the designation of another physician to serve as
55 the designated physician. The department may suspend the
56 registration of an office if the office fails to comply with the
57 requirements of this paragraph.

58 (c) As a condition of registration, each office must
59 establish financial responsibility by demonstrating that it has
60 met and continues to maintain, at a minimum, the same
61 requirements applicable to physicians in ss. 458.320 and
62 459.0085. Each physician practicing at an office registered
63 under this section or s. 459.0138 must meet the financial
64 responsibility requirements under s. 458.320 or s. 459.0085, as
65 applicable.

66 (d) Each physician practicing at an office registered under
67 this section or s. 459.0138 shall advise the board, in writing,
68 within 10 calendar days after beginning or ending his or her
69 practice at a registered office.



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70 (e) The department shall inspect a registered office at
71 least annually, including a review of patient records, to ensure
72 that the office is in compliance with this section and rules
73 adopted hereunder unless the office is accredited by a
74 nationally recognized accrediting agency approved by the board.
75 The inspection may be unannounced, except for the inspection of
76 an office that meets the description of a clinic specified in s.
77 458.3265(1)(a)3.h., and those wholly owned and operated
78 physician offices described in s. 458.3265(1)(a)3.g. which
79 perform procedures referenced in s. 458.3265(1)(a)3.h., which
80 must be announced.

81 (f) The department may suspend or revoke the registration
82 of an office in which a procedure or surgery identified in
83 paragraph (a) is performed for failure of any of its physicians,
84 owners, or operators to comply with this section and rules
85 adopted hereunder or s. 459.0138 and rules adopted thereunder.
86 The department must revoke the registration if the noncompliance
87 constitutes an immediate or imminent danger to the health or
88 safety of the public. If an office's registration is revoked for
89 any reason, the department may deny any person named in the
90 registration documents of the office, including the persons who
91 own or operate the office, individually or as part of a group,
92 from registering an office to perform procedures or office
93 surgeries pursuant to this section or s. 459.0138 for 5 years
94 after the revocation date.

95 (g) The department may impose any penalty set forth in s.
96 456.072(2) against the designated physician for failure of the
97 office to operate in compliance with the office health and
98 safety requirements of this section and rules adopted hereunder



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99 or s. 459.0138 and rules adopted thereunder.

100 (h) A physician may only perform a procedure or surgery
101 identified in paragraph (a) in an office that is registered with
102 the department. The board shall impose a fine of \$5,000 per day
103 on a physician who performs a procedure or surgery in an office
104 that is not registered with the department.

105 (i) The actual costs of registration and inspection or
106 accreditation shall be paid by the person seeking to register
107 and operate the office in which a procedure or surgery
108 identified in paragraph (a) will be performed.

109 (2) RULEMAKING.—

110 (a) The board shall adopt by rule standards of practice for
111 physicians who perform procedures or office surgeries pursuant
112 to this section.

113 (b) The board may adopt rules to administer the
114 registration, inspection, and safety of offices in which a
115 physician performs procedures or office surgeries pursuant to
116 this section.

117 Section 4. Paragraph (vv) is added to subsection (1) of
118 section 458.331, Florida Statutes, to read:

119 458.331 Grounds for disciplinary action; action by the
120 board and department.—

121 (1) The following acts constitute grounds for denial of a
122 license or disciplinary action, as specified in s. 456.072(2):

123 (vv) Performing a liposuction procedure in which more than
124 1,000 cubic centimeters of supernatant fat is removed, a Level
125 II office surgery, or a Level III office surgery in an office
126 that is not registered with the department pursuant to s.
127 458.328 or s. 459.0138.



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128 Section 5. Subsection (2) of section 459.005, Florida
129 Statutes, is amended to read:

130 459.005 Rulemaking authority.—

131 ~~(2) A physician who performs liposuction procedures in~~
132 ~~which more than 1,000 cubic centimeters of supernatant fat is~~
133 ~~removed, level 2 procedures lasting more than 5 minutes, and all~~
134 ~~level 3 surgical procedures in an office setting must register~~
135 ~~the office with the department unless that office is licensed as~~
136 ~~a facility under chapter 395. The department shall inspect the~~
137 ~~physician's office annually unless the office is accredited by a~~
138 ~~nationally recognized accrediting agency or an accrediting~~
139 ~~organization subsequently approved by the Board of Osteopathic~~
140 ~~Medicine. The actual costs for registration and inspection or~~
141 ~~accreditation shall be paid by the person seeking to register~~
142 ~~and operate the office setting in which office surgery is~~
143 ~~performed.~~

144 Section 6. Section 459.0138, Florida Statutes, is created
145 to read:

146 459.0138 Office surgeries.—

147 (1) REGISTRATION.—

148 (a) An office in which a physician performs a liposuction
149 procedure in which more than 1,000 cubic centimeters of
150 supernatant fat is removed, a Level II office surgery, or a
151 Level III office surgery must register with the department
152 unless the office is licensed as a facility under chapter 395.

153 (b) By January 1, 2020, each office registered under this
154 section or s. 458.328 must designate a physician who is
155 responsible for the office's compliance with the office health
156 and safety requirements of this section and rules adopted



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157 hereunder. A designated physician must have a full, active, and
158 unencumbered license under this chapter or chapter 458 and shall
159 practice at the office for which he or she has assumed
160 responsibility. Within 10 calendar days after the termination of
161 a designated physician relationship, the office must notify the
162 department of the designation of another physician to serve as
163 the designated physician. The department may suspend a
164 registration for an office if the office fails to comply with
165 the requirements of this paragraph.

166 (c) As a condition of registration, each office must
167 establish financial responsibility by demonstrating that it has
168 met and continues to maintain, at a minimum, the same
169 requirements applicable to physicians in ss. 458.320 and
170 459.0085. Each physician practicing at an office registered
171 under this section or s. 458.328 must meet the financial
172 responsibility requirements under s. 458.320 or s. 459.0085, as
173 applicable.

174 (d) Each physician practicing at an office registered under
175 this section or s. 458.328 shall advise the board, in writing,
176 within 10 calendar days after beginning or ending his or her
177 practice at the registered office.

178 (e) The department shall inspect a registered office at
179 least annually, including a review of patient records, to ensure
180 that the office is in compliance with this section and rules
181 adopted hereunder unless the office is accredited by a
182 nationally recognized accrediting agency approved by the board.
183 The inspection may be unannounced, except for the inspection of
184 an office that meets the description of clinic specified in s.
185 459.0137(1)(a)3.h., and those wholly owned and operated



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186 physician offices described in s. 459.0137(1)(a)3.g. which
187 perform procedures referenced in s. 459.0237(1)(a)3.h., which
188 must be announced.

189 (f) The department may suspend or revoke the registration
190 of an office in which a procedure or surgery identified in
191 paragraph (a) is performed for failure of any of its physicians,
192 owners, or operators to comply with this section and rules
193 adopted hereunder or s. 458.328 and rules adopted thereunder.
194 The department must revoke the registration if the noncompliance
195 constitutes an immediate or imminent danger to the health or
196 safety of the public. If an office's registration is revoked for
197 any reason, the department may deny any person named in the
198 registration documents of the office, including the persons who
199 own or operate the office, individually or as part of a group,
200 from registering an office to perform procedures or office
201 surgeries pursuant to this section or s. 458.328 for 5 years
202 after the revocation date.

203 (g) The department may impose any penalty set forth in s.
204 456.072(2) against the designated physician for failure of the
205 office to operate in compliance with the office health and
206 safety requirements of this section and rules adopted hereunder
207 or s. 458.328 and rules adopted thereunder.

208 (h) A physician may only perform a procedure or surgery
209 identified in paragraph (a) in an office that is registered with
210 the department. The board shall impose a fine of \$5,000 per day
211 on a physician who performs a procedure or surgery in an office
212 that is not registered with the department.

213 (i) The actual costs of registration and inspection or
214 accreditation shall be paid by the person seeking to register



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215 and operate the office in which a procedure or surgery
216 identified in paragraph (a) will be performed.

217 (2) RULEMAKING.—

218 (a) The board shall adopt by rule standards of practice for
219 physicians who perform procedures or office surgeries pursuant
220 to this section.

221 (b) The board may adopt rules to administer the
222 registration, inspection, and safety of offices in which a
223 physician performs procedures or office surgeries pursuant to
224 this section.

225 Section 7. Paragraph (xx) is added to subsection (1) of
226 section 459.015, Florida Statutes, to read:

227 459.015 Grounds for disciplinary action; action by the
228 board and department.—

229 (1) The following acts constitute grounds for denial of a
230 license or disciplinary action, as specified in s. 456.072(2):

231 (xx) Performing a liposuction procedure in which more than
232 1,000 cubic centimeters of supernatant fat is removed, a Level
233 II office surgery, or a Level III office surgery in an office
234 that is not registered with the department pursuant to s.
235 458.328 or s. 459.0138.

236 Section 8. This act shall take effect January 1, 2020.

237
238 ===== T I T L E A M E N D M E N T =====

239 And the title is amended as follows:

240 Delete everything before the enacting clause
241 and insert:

242 A bill to be entitled

243 An act relating to office surgery; amending s.



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244 456.074, F.S.; authorizing the Department of Health to
245 issue an emergency order suspending or restricting the
246 registration of certain facilities upon specified
247 findings; requiring the department to revoke the
248 registration of an office when its noncompliance
249 constitutes an immediate or imminent danger to the
250 health or safety of the public; amending s. 458.309,
251 F.S.; deleting a provision relating to registration
252 and inspection of an office in which a physician
253 performs certain procedures or office surgeries;
254 creating s. 458.328, F.S.; requiring an office in
255 which a physician performs certain procedures or
256 office surgeries to register with the department;
257 requiring an office to designate a physician to be
258 responsible for certain compliance requirements as
259 part of registration by a specified date; requiring an
260 office and physicians practicing at the office to meet
261 certain financial responsibility requirements;
262 authorizing the department to deny or revoke the
263 registration of or impose certain penalties against a
264 facility in which certain procedures or office
265 surgeries are performed under certain circumstances;
266 requiring the department to conduct certain
267 inspections; providing exceptions; requiring the
268 department to revoke the registration of an office in
269 which certain procedures or office surgeries are
270 performed under certain circumstances; requiring the
271 Board of Medicine to adopt rules governing the
272 standards of practice for physicians practicing in



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273 such offices and to impose a specified fine on
274 physicians who perform certain procedures or office
275 surgeries in an unregistered office; authorizing the
276 board to adopt rules to administer the registration,
277 inspection, and safety of offices in which certain
278 procedures or office surgeries are performed; amending
279 s. 458.331, F.S.; providing that a physician
280 performing certain procedures or office surgeries in
281 an unregistered office constitutes grounds for denial
282 of a license or disciplinary action; amending s.
283 459.005, F.S.; deleting a provision relating to
284 registration and inspection of an office in which a
285 physician performs certain procedures or office
286 surgeries; creating s. 459.0138, F.S.; requiring an
287 office in which a physician performs certain
288 procedures or office surgeries to register with the
289 department; requiring an office to designate a
290 physician to be responsible for certain compliance
291 requirements as part of registration by a specified
292 date; requiring an office and physicians practicing at
293 the office to meet certain financial responsibility
294 requirements; authorizing the department to deny or
295 revoke the registration of or impose certain penalties
296 against a facility in which certain procedures or
297 office surgeries are performed under certain
298 circumstances; requiring the department to conduct
299 certain inspections; providing exceptions; requiring
300 the department to revoke the registration of an office
301 in which certain procedures or office surgeries are



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302 performed under certain circumstances; requiring the
303 Board of Osteopathic Medicine to adopt rules governing
304 the standards of practice for physicians practicing in
305 such offices and to impose a specified fine on
306 physicians who perform certain procedures or office
307 surgeries in an unregistered office; authorizing the
308 board to adopt rules to administer the registration,
309 inspection, and safety of offices in which certain
310 procedures or office surgeries are performed; amending
311 s. 459.015, F.S.; providing that the performance of
312 certain procedures or office surgeries by a physician
313 in an unregistered office constitutes grounds for
314 denial of a license or disciplinary action; providing
315 an effective date.