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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/10/2019	.	
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Appropriations Subcommittee on Health and Human Services
(Flores) recommended the following:

Senate Amendment (with title amendment)

Delete lines 414 - 624

and insert:

must register the office with the department ~~unless that office~~
~~is licensed as a facility under chapter 395~~. The department
shall inspect the physician's office annually unless the office
is accredited by a nationally recognized accrediting agency or
an accrediting organization ~~subsequently~~ approved by the Board
of Medicine. The actual costs for registration and inspection or



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11 accreditation shall be paid by the person seeking to register
12 and operate the office setting in which office surgery is
13 performed. As a condition of registration, a physician who
14 performs such surgical procedures in an office setting, and the
15 office itself if it is a separate legal entity from the
16 physician, must maintain the same levels of financial
17 responsibility required in s. 458.320.

18 (4) (a) The board may adopt rules to administer the
19 registration, inspection, and safety of offices in which a
20 physician performs office surgery.

21 (b) As a part of registration, such an office must
22 designate a physician who is responsible for the office's
23 compliance with this section and the rules adopted hereunder.
24 Within 10 days after termination of the designated physician,
25 the office must notify the department of the identity of another
26 designated physician for that office. The designated physician
27 must have a full, active, and unencumbered license under this
28 chapter or chapter 459 and shall practice at the office for
29 which he or she has assumed responsibility. The department may
30 suspend a registration certificate for an office without a
31 designated physician who practices at the office.

32 (c) The department shall inspect the office at least
33 annually, including a review of patient records, to ensure that
34 it complies with this section and rules adopted hereunder unless
35 the office is accredited by a nationally recognized accrediting
36 agency approved by the board. The inspection must be
37 unannounced.

38 (d) The board shall adopt by rule standards of practice for
39 physicians who perform office surgery. The board shall impose a



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40 fine of \$5,000 per day on a physician who performs a surgical
41 procedure identified in subsection (3) in an office that is not
42 registered with the department.

43 Section 9. Paragraph (vv) is added to subsection (1) of
44 section 458.331, Florida Statutes, to read:

45 458.331 Grounds for disciplinary action; action by the
46 board and department.-

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

49 (vv) Performing a liposuction procedure in which more than
50 1,000 cubic centimeters of supernatant fat is removed, a Level
51 II office surgery, or a Level III office surgery in an office
52 that is not registered with the department pursuant to s.
53 458.309(3).

54 Section 10. Section 459.003, Florida Statutes, is amended
55 to read:

56 459.003 Definitions.-As used in this chapter, the term:

57 (1) "Board" means the Board of Osteopathic Medicine.

58 (2) "Deep sedation and analgesia" means a drug-induced
59 depression of consciousness during which all of the following
60 apply:

61 (a) The patient cannot be easily aroused but responds by
62 purposefully following repeated or painful stimulation.

63 (b) The patient's ability to independently maintain
64 ventilatory function may be impaired.

65 (c) The patient may require assistance in maintaining a
66 patent airway, and spontaneous ventilation may be inadequate.

67 (d) The patient's cardiovascular function is usually
68 maintained.



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69 (e) The patient's reflex withdrawal from painful stimulus
70 is not considered a purposeful response.

71 (3)~~(2)~~ "Department" means the Department of Health.

72 (5) "Epidural anesthesia" means anesthesia produced by the
73 injection of an anesthetic agent into the space on or around the
74 dura mater of the spinal cord.

75 (6) "General anesthesia" means a drug-induced loss of
76 consciousness administered by a qualified general anesthesia
77 provider during which all of the following apply:

78 (a) The patient is not able to be aroused, even by painful
79 stimulation.

80 (b) The patient's ability to independently maintain
81 ventilatory function is often impaired.

82 (c) The patient has a level of depressed neuromuscular
83 function.

84 (d) The patient may require assistance in maintaining a
85 patent airway, and positive pressure ventilation may be
86 required.

87 (e) The patient's cardiovascular function may be impaired.

88 (7) "Minimal sedation" means a drug-induced state during
89 which patients respond normally to verbal commands. Although
90 cognitive function and physical coordination may be impaired,
91 airway reflexes, and respiratory and cardiovascular functions
92 are unaffected.

93 (8) "Moderate sedation and analgesia" or "conscious
94 sedation" means drug-induced depression of consciousness and a
95 state of consciousness during which all of the following apply:

96 (a) The patient responds purposefully to verbal commands,
97 either alone or accompanied by light tactile stimulation.



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98 (b) Interventions are not required to maintain a patent
99 airway, and spontaneous ventilation is adequate.

100 (c) Cardiovascular function is maintained.

101 (d) Reflex withdrawal from a painful stimulus is not
102 considered a purposeful response.

103 (9) "Office surgery" means a surgery that is performed in a
104 physician's office or any facility that is not licensed under
105 chapter 390 or chapter 395.

106 (a) "Level I office surgery" includes any surgery that
107 consists of only minor procedures and in which anesthesia is
108 limited to minimal sedation.

109 (b) "Level II office surgery" includes any surgery in which
110 the patient's level of sedation is that of moderate sedation and
111 analgesia or conscious sedation.

112 (c) "Level III office surgery" includes any surgery in
113 which the patient's level of sedation is that of deep sedation
114 and analgesia or general anesthesia. The term includes any
115 surgery that includes the use of spinal anesthesia or epidural
116 anesthesia.

117 (11)~~(3)~~ "Practice of osteopathic medicine" means the
118 diagnosis, treatment, operation, or prescription for any human
119 disease, pain, injury, deformity, or other physical or mental
120 condition, which practice is based in part upon educational
121 standards and requirements which emphasize the importance of the
122 musculoskeletal structure and manipulative therapy in the
123 maintenance and restoration of health.

124 (12) "Spinal anesthesia" means anesthesia produced by the
125 injection of an anesthetic agent into the subarachnoid space of
126 the spinal cord.



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127 (13) "Surgeon" means a physician who performs surgery.

128 (14) "Surgery" means any manual or operative procedure,
129 including the use of lasers, performed upon the body of a living
130 human being for the purposes of preserving health, diagnosing or
131 curing disease, repairing injury, correcting deformity or
132 defects, prolonging life, or relieving suffering or any elective
133 procedure for aesthetic, reconstructive, or cosmetic purposes,
134 including, but not limited to: incision or curettage of tissue
135 or an organ; suture or other repair of tissue or organ,
136 including a closed as well as an open reduction of a fracture;
137 extraction of tissue including premature extraction of the
138 products of conception from the uterus; insertion of natural or
139 artificial implants; or an endoscopic procedure with use of
140 local or general anesthetic.

141 (10)-(4) "Osteopathic physician" means a person who is
142 licensed to practice osteopathic medicine in this state.

143 (4)-(5) "Doctor of Osteopathy" and "Doctor of Osteopathic
144 Medicine," when referring to degrees, shall be construed to be
145 equivalent and equal degrees.

146 Section 11. Subsection (2) of section 459.005, Florida
147 Statutes, is amended and subsection (3) is added to that
148 section, to read:

149 459.005 Rulemaking authority.—

150 (2) A physician who performs any liposuction procedure
151 ~~procedures~~ in which more than 1,000 cubic centimeters of
152 supernatant fat is removed, any Level II office surgery ~~level 2~~
153 ~~procedures lasting more than 5 minutes,~~ or any Level III office
154 surgery and all ~~level 3 surgical procedures~~ in an office setting
155 must register the office with the department ~~unless that office~~



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156 ~~is licensed as a facility under chapter 395.~~ The department
157 shall inspect the physician's office annually unless the office
158 is accredited by a nationally recognized accrediting agency or
159 an accrediting organization ~~subsequently~~ approved by the Board
160 of Osteopathic Medicine. The actual costs for registration and
161 inspection or accreditation shall be paid by the person seeking
162 to register and operate the office setting in which office
163 surgery is performed. As a condition of registration, a
164 physician who performs such surgical procedures in an office
165 setting, and the office itself if it is a separate legal entity
166 from the physician, must maintain the same levels of financial
167 responsibility required in s. 459.0085.

168 (3) (a) The board may adopt rules to administer the
169 registration, inspection, and safety of offices in which a
170 physician performs office surgery.

171 (b) As a part of registration, such an office must
172 designate a physician who is responsible for the office's
173 compliance with this section and the rules adopted hereunder.
174 Within 10 days after termination of the designated physician,
175 the office must notify the department of the identity of another
176 designated physician for that office. The designated physician
177 must have a full, active, and unencumbered license under this
178 chapter or chapter 458 and shall practice at the office for
179 which he or she has assumed responsibility. The department may
180 suspend a registration certificate for an office without a
181 designated physician who practices at the office.

182 (c) The department shall inspect the office at least
183 annually, including a review of patient records, to ensure that
184 it complies with this section and rules adopted hereunder unless



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185 the office is accredited by a nationally recognized accrediting
186 agency approved by the board. The inspection must be
187 unannounced.

188 (d) The board shall adopt by rule standards of practice for
189 physicians who perform office surgery. The board shall impose a
190 fine of \$5,000 per day on a physician who performs a surgical
191 procedure identified in subsection (2) in an office that is not
192 registered with the department.

193 Section 12. Paragraph (xx) is added to subsection (1) of
194 section 459.015, Florida Statutes, to read:

195 459.015 Grounds for disciplinary action; action by the
196 board and department.-

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

199 (xx) Performing a liposuction procedure in which more than
200 1,000 cubic centimeters of supernatant fat is removed, a Level
201 II office surgery, or a Level III office surgery in an office
202 that is not registered with the department pursuant to s.
203 459.005(2).

204
205 ===== T I T L E A M E N D M E N T =====

206 And the title is amended as follows:

207 Delete lines 32 - 63

208 and insert:

209 Board of Medicine to adopt rules to administer the
210 registration, inspection, and safety of offices that
211 perform certain office surgery; requiring such an
212 office to designate a certain physician responsible
213 for the office's compliance with specified provisions;



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214 authorizing the department to suspend an office's
215 registration certificate under certain circumstances;
216 requiring the department to conduct certain
217 inspections; providing an exception; requiring the
218 board to adopt rules governing the standard of care
219 for physicians practicing in such offices; requiring
220 the board to impose a specified fine on physicians who
221 perform certain office surgeries in an unregistered
222 office; amending s. 458.331, F.S.; providing that a
223 physician performing certain office surgeries in an
224 unregistered office constitutes grounds for denial of
225 a license or disciplinary action; amending s. 459.003,
226 F.S.; defining terms; amending s. 459.005, F.S.;
227 requiring a physician who performs certain office
228 surgery and the office in which the surgery is
229 performed to maintain specified levels of financial
230 responsibility; authorizing the Board of Osteopathic
231 Medicine to adopt rules to administer the
232 registration, inspection, and safety of offices that
233 perform certain office surgery; requiring such an
234 office to designate a certain physician responsible
235 for the office's compliance with specified provisions;
236 authorizing the department to suspend an office's
237 registration certificate under certain circumstances;
238 requiring the department to conduct certain
239 inspections; providing an exception; requiring the
240 board to adopt rules governing the standard of care
241 for physicians practicing in such offices; requiring
242 the board to impose a specified fine on physicians who



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243 perform certain office surgeries in an unregistered
244 office; amending s. 459.015, F.S.; providing that a
245 physician performing certain office surgeries in an
246 unregistered office constitutes grounds for denial of
247 a license or disciplinary action; amending s. 766.101,
248 F.S.;