

By Senator Baxley

12-01157-19

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1                   A bill to be entitled  
2       An act relating to sexual misconduct reporting in  
3       health care; amending s. 408.810, F.S.; requiring  
4       specified health care facilities, as a condition of  
5       obtaining or maintaining licensure, to enact policies  
6       requiring employees, contractors, volunteers, and  
7       interns of such licensees to report actual or  
8       suspected sexual misconduct involving a patient to the  
9       licensee, the Department of Children and Families, and  
10      the appropriate local law enforcement agency;  
11      requiring such persons to prepare an incident report  
12      that includes specified information; providing that a  
13      violation of the reporting requirements is a class II  
14      violation, subject to an administrative fine;  
15      providing criminal penalties; providing an effective  
16      date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

19  
20       Section 1. Subsection (5) of section 408.810, Florida  
21       Statutes, is amended to read:

22       408.810 Minimum licensure requirements.—In addition to the  
23       licensure requirements specified in this part, authorizing  
24       statutes, and applicable rules, each applicant and licensee must  
25       comply with the requirements of this section in order to obtain  
26       and maintain a license.

27       (5) (a) On or before the first day services are provided to  
28       a client, a licensee must inform the client and his or her  
29       immediate family or representative, if appropriate, of the right

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30 to report:

31 1. Complaints. The statewide toll-free telephone number for  
32 reporting complaints to the agency must be provided to clients  
33 in a manner that is clearly legible and must include the words:  
34 "To report a complaint regarding the services you receive,  
35 please call toll-free (phone number)."

36 2. Abusive, neglectful, or exploitative practices. The  
37 statewide toll-free telephone number for the central abuse  
38 hotline must be provided to clients in a manner that is clearly  
39 legible and must include the words: "To report abuse, neglect,  
40 or exploitation, please call toll-free (phone number)."

41 3. Medicaid fraud. An agency-written description of  
42 Medicaid fraud and the statewide toll-free telephone number for  
43 the central Medicaid fraud hotline must be provided to clients  
44 in a manner that is clearly legible and must include the words:  
45 "To report suspected Medicaid fraud, please call toll-free  
46 (phone number)."

47  
48 The agency shall publish a minimum of a 90-day advance notice of  
49 a change in the toll-free telephone numbers.

50 (b) Each licensee shall establish appropriate policies and  
51 procedures for providing such notice to clients.

52 (c) Each licensee shall enact a policy that requires all  
53 employees, contractors, volunteers, and interns of the licensee  
54 who witness sexual misconduct, as defined in s. 394.4593(1), or  
55 who otherwise know or have reasonable cause to suspect that a  
56 person has engaged in sexual misconduct to immediately report  
57 the sexual misconduct to the licensee, the Department of  
58 Children and Families' central abuse hotline, and the

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59 appropriate local law enforcement agency. The employee,  
60 contractor, volunteer, or intern also must prepare, date, sign,  
61 and provide to the licensee an independent report that  
62 specifically describes the nature of the sexual misconduct, the  
63 location and time of the incident, and the persons involved in  
64 the incident.

65 1. Failure of the licensee to enact or enforce the policy  
66 required under this paragraph is a Class II violation as  
67 established in s. 408.813.

68 2. Any person who is required to make a report under this  
69 paragraph and who knowingly or willfully fails to do so, or who  
70 knowingly or willfully prevents another person from doing so,  
71 commits a misdemeanor of the first degree, punishable as  
72 provided in s. 775.082 or s. 775.083.

73 3. Any person who knowingly or willfully submits  
74 inaccurate, incomplete, or untruthful information with respect  
75 to a report required under this paragraph commits a misdemeanor  
76 of the first degree, punishable as provided in s. 775.082 or s.  
77 775.083.

78 4. Any person who knowingly or willfully coerces or  
79 threatens any other person with the intent to alter testimony or  
80 a written report regarding an incident of sexual misconduct  
81 commits a felony of the third degree, punishable as provided in  
82 s. 775.082, s. 775.083, or s. 775.084.

83 Section 2. This act shall take effect July 1, 2019.