

By the Committee on Criminal Justice; and Senators Baxley and Bracy

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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 maintaining licensure, to enact policies requiring
6 employees, contractors, volunteers, and interns of
7 such licensees to report actual or suspected sexual
8 misconduct involving a patient to the licensee, the
9 statewide toll-free complaint telephone number of the
10 Agency for Health Care Administration, and the
11 appropriate local law enforcement agency; requiring
12 such persons to prepare an incident report that
13 includes specified information; providing that a
14 violation of the reporting requirements is a class II
15 violation, subject to an administrative fine;
16 providing criminal penalties; providing an effective
17 date.

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

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

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

28 (5) (a) On or before the first day services are provided to
29 a client, a licensee must inform the client and his or her

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30 immediate family or representative, if appropriate, of the right
31 to report:

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

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

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

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

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

54 (c) Each licensee shall enact a policy that requires any
55 employee, contractor, volunteer, or intern of the licensee who
56 witnesses sexual misconduct, as defined in s. 394.4593(1),
57 involving a patient in the care of the licensee, or who
58 otherwise knows or has reasonable cause to suspect that a person

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59 has engaged in sexual misconduct involving a patient in the care
60 of the licensee, to immediately report the sexual misconduct to
61 the licensee, the statewide toll-free complaint telephone number
62 of the department, and the appropriate local law enforcement
63 agency. The policy shall require the employee, contractor,
64 volunteer, or intern to prepare, to the best of his or her
65 ability, an independent report that specifically describes the
66 nature of the sexual misconduct, the location and time of the
67 incident, and the persons involved in the incident. The
68 employee, contractor, volunteer, or intern who prepares such
69 report shall date and sign the report and provide it to the
70 licensee.

71 1. Failure of the licensee to enact or enforce the policy
72 required under this paragraph is a class II violation as
73 established in s. 408.813.

74 2. Any person who is required to make a report under this
75 paragraph and who knowingly or willfully fails to do so, or who
76 knowingly or willfully prevents another person from doing so,
77 commits a misdemeanor of the first degree, punishable as
78 provided in s. 775.082 or s. 775.083.

79 3. Any person who knowingly or willfully submits
80 inaccurate, incomplete, or untruthful information with respect
81 to a report required under this paragraph commits a misdemeanor
82 of the first degree, punishable as provided in s. 775.082 or s.
83 775.083.

84 4. Any person who knowingly or willfully coerces or
85 threatens any other person with the intent to alter a testimony
86 or a written report regarding an incident of sexual misconduct
87 commits a felony of the third degree, punishable as provided in

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88 s. 775.082, s. 775.083, or s. 775.084.

89 Section 2. This act shall take effect October 1, 2019.