

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Health Care Appropriations
 2 Subcommittee

3 Representative Rodriguez, A. offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (12) is added to section 456.004,
 8 Florida Statutes, to read:

9 456.004 Department; powers and duties.—The department, for
 10 the professions under its jurisdiction, shall:

11 (12) Deny or revoke the registration of, or impose any
 12 penalty set forth in s. 456.072(2) against, any facility where
 13 office surgery, as defined in ss. 458.305(8) and 459.003(9), is
 14 performed for failure of any of its physicians, owners, or
 15 operators to comply with rules adopted under ss. 458.309(3) and
 16 459.005(2). Section 456.073 applies to enforcement actions

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17 brought against such facilities. If a facility's registration is
18 revoked, the department may deny any person named in the
19 registration documents of the facility, including the persons
20 who own or operate the facility, individually or as part of a
21 group, from registering a facility to perform surgical
22 procedures pursuant to s. 458.309(3) or s. 459.005(2) for 5
23 years after the revocation date.

24 Section 2. Subsection (6) is added to section 456.074,
25 Florida Statutes, to read:

26 456.074 Certain health care practitioners; immediate
27 suspension of license.-

28 (6) The department may issue an emergency order suspending
29 or restricting the registration of a facility in which
30 liposuction procedures in which more than 1,000 cubic
31 centimeters of supernatant fat is removed, Level II office
32 surgery, or Level III office surgery, as those terms are defined
33 in ss. 458.305(8) and 459.003(9), are performed upon a finding
34 of probable cause that the facility or its surgeons are not in
35 compliance with the standards of practice for office surgery
36 adopted by the boards pursuant to s. 458.309(4) or s.
37 459.005(3), as applicable, or are in violation of s.
38 458.331(1)(v) or s. 459.015(1)(z) and that such noncompliance
39 constitutes an immediate danger to the public.

40 Section 3. Section 458.305, Florida Statutes, is amended
41 to read:

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42 458.305 Definitions.—As used in this chapter, the term:

43 (1) "Board" means the Board of Medicine.

44 (2) "Deep sedation and analgesia" means a drug-induced
45 depression of consciousness during which all of the following
46 apply:

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

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

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

53 (d) The patient's cardiovascular function is usually
54 maintained.

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

57 (3) ~~(2)~~ "Department" means the Department of Health.

58 (4) "Epidural anesthesia" means anesthesia produced by the
59 injection of an anesthetic agent into the space on or around the
60 dura mater of the spinal cord.

61 (5) "General anesthesia" means a drug-induced loss of
62 consciousness administered by a qualified general anesthesia
63 provider during which all of the following apply:

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

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

68 (c) The patient has a level of depressed neuromuscular
69 function.

70 (d) The patient may require assistance in maintaining a
71 patent airway, and positive pressure ventilation may be
72 required.

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

74 (6) "Minimal sedation" means a drug-induced state during
75 which patients respond normally to verbal commands. Although
76 cognitive function and physical coordination may be impaired,
77 airway reflexes and respiratory and cardiovascular functions are
78 unaffected.

79 (7) "Moderate sedation and analgesia" or "conscious
80 sedation" means drug-induced depression of consciousness and a
81 state of consciousness during which all of the following apply:

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

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

86 (c) Cardiovascular function is maintained.

87 (d) Reflex withdrawal from a painful stimulus is not
88 considered a purposeful response.

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89 (8) "Office surgery" means a surgery that is performed in
90 a physician's office or any facility that is not licensed under
91 chapter 390 or chapter 395.

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

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

98 (c) "Level III office surgery" includes any surgery in
99 which the patient's level of sedation is that of deep sedation
100 and analgesia or general anesthesia. The term includes any
101 surgery that includes the use of spinal anesthesia or epidural
102 anesthesia.

103 (9)-(4) "Physician" means a person who is licensed to
104 practice medicine in this state.

105 (10)-(3) "Practice of medicine" means the diagnosis,
106 treatment, operation, or prescription for any human disease,
107 pain, injury, deformity, or other physical or mental condition.

108 (11) "Spinal anesthesia" means anesthesia produced by the
109 injection of an anesthetic agent into the subarachnoid space of
110 the spinal cord.

111 (12) "Surgeon" means a physician who performs surgery.

112 (13) "Surgery" means any manual or operative procedure,
113 including the use of lasers, performed upon the body of a living

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114 human being for the purposes of preserving health, diagnosing or
115 curing disease, repairing injury, correcting deformity or
116 defects, prolonging life, or relieving suffering or any elective
117 procedure for aesthetic, reconstructive, or cosmetic purposes,
118 including, but not limited to: incision or curettage of tissue
119 or an organ; suture or other repair of tissue or organ,
120 including a closed as well as an open reduction of a fracture;
121 extraction of tissue including premature extraction of the
122 products of conception from the uterus; insertion of natural or
123 artificial implants; or an endoscopic procedure with use of
124 local or general anesthetic.

125 Section 4. Subsection (3) of section 458.309, Florida
126 Statutes, is amended, and subsection (4) is added to that
127 section, to read:

128 458.309 Rulemaking authority.—

129 (3) A physician who performs any liposuction procedure
130 ~~procedures~~ in which more than 1,000 cubic centimeters of
131 supernatant fat is removed, any Level II office surgery level 2
132 ~~procedures lasting more than 5 minutes,~~ or any Level III office
133 surgery and all level 3 surgical procedures in an office setting
134 must register the office with the department unless that office
135 is licensed as a facility under chapter 395. The department
136 shall inspect the physician's office annually unless the office
137 is accredited by a nationally recognized accrediting agency or
138 an accrediting organization ~~subsequently~~ approved by the Board

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139 of Medicine. The actual costs for registration and inspection or
140 accreditation shall be paid by the person seeking to register
141 and operate the office setting in which office surgery is
142 performed. As a condition of registration, a physician who
143 performs such surgical procedures in an office setting, and the
144 office itself if it is a separate legal entity from the
145 physician, must maintain the same levels of financial
146 responsibility required in s. 458.320.

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

150 (b) As a part of registration, such an office must
151 designate a physician who is responsible for the office's
152 compliance with this section and the rules adopted hereunder.
153 Within 10 days after termination of the designated physician,
154 the office must notify the department of the identity of another
155 designated physician for that office. The designated physician
156 must have a full, active, and unencumbered license under this
157 chapter or chapter 459 and shall practice at the office for
158 which he or she has assumed responsibility. The department may
159 suspend a registration certificate for an office without a
160 designated physician who practices at the office.

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

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164 the office is accredited by a nationally recognized accrediting
165 agency approved by the board. The inspection may be unannounced,
166 except for the inspection of a physician's office that meets the
167 description of a clinic specified in s. 458.3265(1) (a)3.h.,
168 which must be announced.

169 (d) The board shall adopt by rule standards of practice
170 for physicians who perform office surgery. The board shall
171 impose a fine of \$5,000 per day on a physician who performs a
172 surgical procedure identified in subsection (3) in an office
173 that is not registered with the department.

174 Section 5. Paragraph (vv) is added to subsection (1) of
175 section 458.331, Florida Statutes, to read:

176 458.331 Grounds for disciplinary action; action by the
177 board and department.—

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

180 (vv) Performing a liposuction procedure in which more than
181 1,000 cubic centimeters of supernatant fat is removed, a Level
182 II office surgery, or a Level III office surgery in an office
183 that is not registered with the department pursuant to s.
184 458.309(3).

185 Section 6. Section 459.003, Florida Statutes, is amended
186 to read:

187 459.003 Definitions.—As used in this chapter, the term:

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

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189 (2) "Deep sedation and analgesia" means a drug-induced
190 depression of consciousness during which all of the following
191 apply:

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

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

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

198 (d) The patient's cardiovascular function is usually
199 maintained.

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

202 (3)-(2) "Department" means the Department of Health.

203 (4)-(5) "Doctor of Osteopathy" and "Doctor of Osteopathic
204 Medicine," when referring to degrees, shall be construed to be
205 equivalent and equal degrees.

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

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

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

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

216 (c) The patient has a level of depressed neuromuscular
217 function.

218 (d) The patient may require assistance in maintaining a
219 patent airway, and positive pressure ventilation may be
220 required.

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

222 (7) "Minimal sedation" means a drug-induced state during
223 which patients respond normally to verbal commands. Although
224 cognitive function and physical coordination may be impaired,
225 airway reflexes, and respiratory and cardiovascular functions
226 are unaffected.

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

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

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

234 (c) Cardiovascular function is maintained.

235 (d) Reflex withdrawal from a painful stimulus is not
236 considered a purposeful response.

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

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

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

246 (c) "Level III office surgery" includes any surgery in
247 which the patient's level of sedation is that of deep sedation
248 and analgesia or general anesthesia. The term includes any
249 surgery that includes the use of spinal anesthesia or epidural
250 anesthesia.

251 (10)-(4) "Osteopathic physician" means a person who is
252 licensed to practice osteopathic medicine in this state.

253 (11)-(3) "Practice of osteopathic medicine" means the
254 diagnosis, treatment, operation, or prescription for any human
255 disease, pain, injury, deformity, or other physical or mental
256 condition, which practice is based in part upon educational
257 standards and requirements which emphasize the importance of the
258 musculoskeletal structure and manipulative therapy in the
259 maintenance and restoration of health.

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260 (12) "Spinal anesthesia" means anesthesia produced by the
261 injection of an anesthetic agent into the subarachnoid space of
262 the spinal cord.

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

264 (14) "Surgery" means any manual or operative procedure,
265 including the use of lasers, performed upon the body of a living
266 human being for the purposes of preserving health, diagnosing or
267 curing disease, repairing injury, correcting deformity or
268 defects, prolonging life, or relieving suffering or any elective
269 procedure for aesthetic, reconstructive, or cosmetic purposes,
270 including, but not limited to: incision or curettage of tissue
271 or an organ; suture or other repair of tissue or organ,
272 including a closed as well as an open reduction of a fracture;
273 extraction of tissue including premature extraction of the
274 products of conception from the uterus; insertion of natural or
275 artificial implants; or an endoscopic procedure with use of
276 local or general anesthetic.

277 Section 7. Subsection (2) of section 459.005, Florida
278 Statutes, is amended, and subsection (3) is added to that
279 section, to read:

280 459.005 Rulemaking authority.—

281 (2) A physician who performs any liposuction procedure
282 ~~procedures~~ in which more than 1,000 cubic centimeters of
283 supernatant fat is removed, any Level II office surgery level 2
284 ~~procedures lasting more than 5 minutes, or any Level III office~~

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285 surgery and all level 3 surgical procedures in an office setting
286 must register the office with the department unless that office
287 is licensed as a facility under chapter 395. The department
288 shall inspect the physician's office annually unless the office
289 is accredited by a nationally recognized accrediting agency or
290 an accrediting organization ~~subsequently~~ approved by the Board
291 of Osteopathic Medicine. The actual costs for registration and
292 inspection or accreditation shall be paid by the person seeking
293 to register and operate the office setting in which office
294 surgery is performed. As a condition of registration, a
295 physician who performs such surgical procedures in an office
296 setting, and the office itself if it is a separate legal entity
297 from the physician, must maintain the same levels of financial
298 responsibility required in s. 459.0085.

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

302 (b) As a part of registration, such an office must
303 designate a physician who is responsible for the office's
304 compliance with this section and the rules adopted hereunder.
305 Within 10 days after termination of the designated physician,
306 the office must notify the department of the identity of another
307 designated physician for that office. The designated physician
308 must have a full, active, and unencumbered license under this
309 chapter or chapter 458 and shall practice at the office for

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310 which he or she has assumed responsibility. The department may
311 suspend a registration certificate for an office without a
312 designated physician who practices at the office.

313 (c) The department shall inspect the office at least
314 annually, including a review of patient records, to ensure that
315 it complies with this section and rules adopted hereunder unless
316 the office is accredited by a nationally recognized accrediting
317 agency approved by the board. The inspection may be unannounced,
318 except for the inspection of a physician's office that meets the
319 description of a clinic specified in s. 459.0137(1)(a)3.h.,
320 which must be announced.

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

326 Section 8. Paragraph (xx) is added to subsection (1) of
327 section 459.015, Florida Statutes, to read:

328 459.015 Grounds for disciplinary action; action by the
329 board and department.—

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

332 (xx) Performing a liposuction procedure in which more than
333 1,000 cubic centimeters of supernatant fat is removed, a Level
334 II office surgery, or a Level III office surgery in an office

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335 that is not registered with the department pursuant to s.
336 459.005(2).

337 Section 9. Paragraph (a) of subsection (1) of section
338 766.101, Florida Statutes, is amended to read:

339 766.101 Medical review committee, immunity from
340 liability.—

341 (1) As used in this section:

342 (a) The term "medical review committee" or "committee"
343 means:

344 1.a. A committee of a hospital or ambulatory surgical
345 center licensed under chapter 395 or a health maintenance
346 organization certificated under part I of chapter 641;

347 b. A committee of a physician-hospital organization, a
348 provider-sponsored organization, or an integrated delivery
349 system;

350 c. A committee of a state or local professional society of
351 health care providers;

352 d. A committee of a medical staff of a licensed hospital
353 or nursing home, provided the medical staff operates pursuant to
354 written bylaws that have been approved by the governing board of
355 the hospital or nursing home;

356 e. A committee of the Department of Corrections or the
357 Correctional Medical Authority as created under s. 945.602, or
358 employees, agents, or consultants of either the department or
359 the authority or both;

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360 f. A committee of a professional service corporation
361 formed under chapter 621 or a corporation organized under part I
362 of chapter 607 or chapter 617, which is formed and operated for
363 the practice of medicine as defined in s. 458.305 ~~s. 458.305(3)~~,
364 and which has at least 25 health care providers who routinely
365 provide health care services directly to patients;

366 g. A committee of the Department of Children and Families
367 which includes employees, agents, or consultants to the
368 department as deemed necessary to provide peer review,
369 utilization review, and mortality review of treatment services
370 provided pursuant to chapters 394, 397, and 916;

371 h. A committee of a mental health treatment facility
372 licensed under chapter 394 or a community mental health center
373 as defined in s. 394.907, provided the quality assurance program
374 operates pursuant to the guidelines that have been approved by
375 the governing board of the agency;

376 i. A committee of a substance abuse treatment and
377 education prevention program licensed under chapter 397 provided
378 the quality assurance program operates pursuant to the
379 guidelines that have been approved by the governing board of the
380 agency;

381 j. A peer review or utilization review committee organized
382 under chapter 440;

383 k. A committee of the Department of Health, a county
384 health department, healthy start coalition, or certified rural

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385 health network, when reviewing quality of care, or employees of
386 these entities when reviewing mortality records; or

387 1. A continuous quality improvement committee of a
388 pharmacy licensed pursuant to chapter 465,

389
390 which committee is formed to evaluate and improve the quality of
391 health care rendered by providers of health service, to
392 determine that health services rendered were professionally
393 indicated or were performed in compliance with the applicable
394 standard of care, or that the cost of health care rendered was
395 considered reasonable by the providers of professional health
396 services in the area; or

397 2. A committee of an insurer, self-insurer, or joint
398 underwriting association of medical malpractice insurance, or
399 other persons conducting review under s. 766.106.

400

401 -----

402 **T I T L E A M E N D M E N T**

403 Remove everything before the enacting clause and insert:

404 A bill to be entitled

405 An act relating to clinics and office surgery;

406 amending s. 456.004, F.S.; requiring the Department of

407 Health to deny or revoke the registration of or impose

408 certain penalties against a facility in which certain

409 office surgeries are performed under certain

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410 circumstances; specifying provisions that apply
411 enforcement actions against such facilities;
412 authorizing the department to deny certain persons
413 associated with an office of which the registration
414 was revoked from registering a new office to perform
415 certain office surgery; amending s. 456.074, F.S.;
416 authorizing the department to issue an emergency order
417 suspending or restricting the registration of a
418 certain office if it makes certain findings; amending
419 s. 458.305, F.S.; defining terms; amending s. 458.309,
420 F.S.; requiring a physician who performs certain
421 office surgery and the office in which the surgery is
422 performed to maintain specified levels of financial
423 responsibility; authorizing the Board of Medicine to
424 adopt rules to administer the registration,
425 inspection, and safety of offices that perform certain
426 office surgery; requiring such an office to designate
427 a certain physician who will be responsible for the
428 office's compliance with specified provisions;
429 authorizing the department to suspend an office's
430 registration certificate under certain circumstances;
431 requiring the department to conduct certain
432 inspections; providing an exception; requiring the
433 board to adopt rules governing the standard of care
434 for physicians practicing in such offices; requiring

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435 the board to impose a specified fine on physicians who
436 perform certain office surgeries in an unregistered
437 office; amending s. 458.331, F.S.; providing that a
438 physician performing certain office surgeries in an
439 unregistered office constitutes grounds for denial of
440 a license or disciplinary action; amending s. 459.003,
441 F.S.; defining terms; amending s. 459.005, F.S.;
442 requiring a physician who performs certain office
443 surgery and the office in which the surgery is
444 performed to maintain specified levels of financial
445 responsibility; authorizing the Board of Osteopathic
446 Medicine to adopt rules to administer the
447 registration, inspection, and safety of offices that
448 perform certain office surgery; requiring such an
449 office to designate a certain physician who will be
450 responsible for the office's compliance with specified
451 provisions; authorizing the department to suspend an
452 office's registration certificate under certain
453 circumstances; requiring the department to conduct
454 certain inspections; providing an exception; requiring
455 the board to adopt rules governing the standard of
456 care for physicians practicing in such offices;
457 requiring the board to impose a specified fine on
458 physicians who perform certain office surgeries in an
459 unregistered office; amending s. 459.015, F.S.;

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 933 (2019)

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460 providing that a physician performing certain office
461 surgeries in an unregistered office constitutes
462 grounds for denial of a license or disciplinary
463 action; amending s. 766.101, F.S.; conforming a cross-
464 reference; providing an effective date.

465

466