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1 A bill to be entitled
2 An act relating to reproductive health; amending s.
3 456.072, F.S.; providing grounds for disciplinary
4 action; amending s. 456.074, F.S.; requiring the
5 department to immediately suspend the license of
6 certain health care practitioners under certain
7 circumstances; creating s. 456.51, F.S.; defining the
8 term "pelvic examination"; prohibiting certain
9 students from performing a pelvic examination on a
10 patient without first obtaining the written consent of
11 the patient or the patient's legal representative;
12 providing exceptions; amending ss. 458.331 and
13 459.015, F.S.; providing grounds for disciplinary
14 action; creating s. 784.086, F.S.; defining terms;
15 establishing the criminal offense of reproductive
16 battery; providing criminal penalties; providing an
17 exception; tolling the period of limitations;
18 providing that a recipient's consent to an anonymous
19 donor is not a defense to the crime of reproductive
20 battery; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Paragraph (pp) is added to subsection (1) of
25 section 456.072, Florida Statutes, to read:

26 456.072 Grounds for discipline; penalties; enforcement.—

27 (1) The following acts shall constitute grounds for which
28 the disciplinary actions specified in subsection (2) may be
29 taken:

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30 (pp) Intentionally transferring into a recipient or
31 inseminating a recipient with, or causing a recipient to have
32 transferred into her body or be inseminated with, the
33 reproductive material, as defined in s. 784.086, of a donor
34 without the recipient's consent.

35 Section 2. Subsection (1) of section 456.074, Florida
36 Statutes, is amended to read:

37 456.074 Certain health care practitioners; immediate
38 suspension of license.—

39 (1) The department shall issue an emergency order
40 suspending the license of any person licensed under chapter 458,
41 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
42 chapter 464, chapter 465, chapter 466, or chapter 484 who pleads
43 guilty to, is convicted or found guilty of, or who enters a plea
44 of nolo contendere to, regardless of adjudication, to:

45 (a) A felony under chapter 409, chapter 817, or chapter 893
46 or under 21 U.S.C. ss. 801-970 or under 42 U.S.C. ss. 1395-1396;
47 ~~or~~

48 (b) A misdemeanor or felony under 18 U.S.C. s. 669, ss.
49 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s.
50 1349, or s. 1518 or 42 U.S.C. ss. 1320a-7b, relating to the
51 Medicaid program; or

52 (c) A felony under s. 784.086, relating to a reproductive
53 battery.

54 Section 3. Section 456.51, Florida Statutes, is created to
55 read:

56 456.51 Consent for pelvic examinations.—

57 (1) As used in this section, the term "pelvic examination"
58 means the series of tasks that comprise an examination of the

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59 vagina, cervix, uterus, fallopian tubes, ovaries, rectum, or
60 external pelvic tissue or organs using any combination of
61 modalities, which may include, but need not be limited to, the
62 health care provider's gloved hand or instrumentation, in
63 accordance with the prevailing professional standard of care for
64 the health care practitioner as specified in s. 766.102.

65 (2) A medical student, a nursing student, or any other
66 student receiving training to become a health care practitioner
67 may not perform a pelvic examination on a patient without the
68 written consent of the patient or the patient's legal
69 representative executed specific to, and expressly identifying,
70 the pelvic examination, unless:

71 (a) A court orders performance of the pelvic examination
72 for the collection of evidence; or

73 (b) The pelvic examination is immediately necessary to
74 avert a serious risk of imminent, substantial, and irreversible
75 physical impairment of a major bodily function of the patient.

76 Section 4. Paragraph (ww) is added to subsection (1) of
77 section 458.331, Florida Statutes, to read:

78 458.331 Grounds for disciplinary action; action by the
79 board and department.—

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

82 (ww) Intentionally transferring into a recipient or
83 inseminating a recipient with, or causing a recipient to have
84 transferred into her body or be inseminated with, the
85 reproductive material, as defined in s. 784.086, of a donor
86 without the recipient's consent.

87 Section 5. Paragraph (yy) is added to subsection (1) of

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88 section 459.015, Florida Statutes, to read:

89 459.015 Grounds for disciplinary action; action by the
90 board and department.—

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

93 (yy) Intentionally transferring into a recipient or
94 inseminating a recipient with, or causing a recipient to have
95 transferred into her body or be inseminated with, the
96 reproductive material, as defined in s. 784.086, of a donor
97 without the recipient's consent.

98 Section 6. Section 784.086, Florida Statutes, is created to
99 read:

100 784.086 Reproductive battery.—

101 (1) As used in this section, the term:

102 (a) "Donor" means a person who donates reproductive
103 material, regardless of whether for personal use or
104 compensation.

105 (b) "Health care practitioner" has the same meaning as in
106 s. 456.001.

107 (c) "Recipient" means a person who has a donor's
108 reproductive material transferred into her body.

109 (d) "Reproductive material" means any human "egg" or
110 "sperm" as those terms are defined in s. 742.13, or a human
111 zygote.

112 (e) "Zygote" means a fertilized ovum.

113 (2) A health care practitioner may not intentionally
114 transfer into the body of a recipient the reproductive material
115 of a donor or any object containing the reproductive material of
116 a donor, knowing that the recipient has not consented to the use

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117 of the reproductive material from that donor.

118 (a) A health care practitioner who violates this subsection
119 commits a felony of the third degree, punishable as provided in
120 s. 775.082, s. 775.083, or s. 775.084.

121 (b) A health care practitioner who violates this section
122 and is the donor of the reproductive material commits a felony
123 of the second degree, punishable as provided in s. 775.082, s.
124 775.083, or s. 775.084, unless the recipient has provided
125 written consent to the use of the health care practitioner's
126 reproductive material.

127 (3) Notwithstanding any other law, the period of limitation
128 for a violation under this section does not begin to run until
129 the date on which the violation is discovered and reported to
130 law enforcement or any other governmental agency.

131 (4) It is not a defense to the crime of reproductive
132 battery that the recipient consented to an anonymous donor.

133 Section 7. This act shall take effect July 1, 2020.