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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 health care
9 practitioners and certain students from performing a
10 pelvic examination on a patient without first
11 obtaining the written consent of the patient or the
12 patient's legal representative; providing exceptions;
13 amending ss. 458.331 and 459.015, F.S.; providing
14 grounds for disciplinary action; creating s. 784.086,
15 F.S.; defining terms; establishing the criminal
16 offense of reproductive battery; providing criminal
17 penalties; providing an exception; tolling the period
18 of limitations; providing that a recipient's consent
19 to an anonymous donor is not a defense to the crime of
20 reproductive battery; providing effective dates.

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

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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 implanting a patient or causing a
31 patient to be implanted with a human embryo without the
32 recipient's consent to the use of that human embryo, or
33 inseminating a patient or causing a patient to be inseminated
34 with the human reproductive material, as defined in s. 784.086,
35 of a donor without the recipient's consent to the use of human
36 reproductive material from that donor.

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

39 456.074 Certain health care practitioners; immediate
40 suspension of license.—

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

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

50 (b) A misdemeanor or felony under 18 U.S.C. s. 669, ss.
51 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s.
52 1349, or s. 1518 or 42 U.S.C. ss. 1320a-7b, relating to the
53 Medicaid program; or

54 (c) A felony under s. 784.086, relating to a reproductive
55 battery.

56 Section 3. Section 456.51, Florida Statutes, is created to
57 read:

58 456.51 Consent for pelvic examinations.—

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59 (1) As used in this section, the term "pelvic examination"
60 means the series of tasks that comprise an examination of the
61 vagina, cervix, uterus, fallopian tubes, ovaries, rectum, or
62 external pelvic tissue or organs using any combination of
63 modalities, which may include, but need not be limited to, the
64 health care provider's gloved hand or instrumentation.

65 (2) A health care practitioner, a medical student, or any
66 other student receiving training as 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) Implanting a patient or causing a patient to be
83 implanted with a human embryo created with the human
84 reproductive material, as defined in s. 784.086, of the
85 licensee, or inseminating a patient or causing a patient to be
86 inseminated with the human reproductive material of the
87 licensee.

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88 Section 5. Paragraph (yy) is added to subsection (1) of
89 section 459.015, Florida Statutes, to read:

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

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

94 (yy) Implanting a patient or causing a patient to be
95 implanted with a human embryo created with the human
96 reproductive material, as defined in s. 784.086, of the
97 licensee, or inseminating a patient or causing a patient to be
98 inseminated with the human reproductive material of the
99 licensee.

100 Section 6. Effective October 1, 2020, section 784.086,
101 Florida Statutes, is created to read:

102 784.086 Reproductive battery.—

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

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

107 (b) "Health care practitioner" has the same meaning as
108 provided in s. 456.001.

109 (c) "Recipient" means a person who receives reproductive
110 material from a donor.

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

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

115 (2) A health care practitioner may not intentionally
116 transfer into the body of a recipient human reproductive

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117 material or implant a human embryo of a donor, knowing the
118 recipient has not consented to the use of the human reproductive
119 material or human embryo from that donor.

120 (a) A health care practitioner who violates this section
121 commits reproductive battery, a felony of the third degree,
122 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

123 (b) A health care practitioner who violates this section
124 and who is the donor of the reproductive material commits a
125 felony of the second degree, punishable as provided in s.
126 775.082, s. 775.083, or s. 775.084.

127 (3) Notwithstanding any other provision of law, the period
128 of limitation for a violation under this section does not begin
129 to run until the date on which the violation is discovered and
130 reported to 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. Except as otherwise expressly provided in this
134 act, this act shall take effect July 1, 2020.