

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Busatta Cabrera offered the following:

2
3 **Amendment (with title amendment)**

4 Remove lines 47-264 and insert:
5 protection or safety. For purposes of this paragraph, the terms
6 "sexual abuse," "neglect," and "exploitation" have the same
7 meanings as provided in 42 C.F.R. s. 483.5.

8 Section 2. Subsection (6) of section 408.812, Florida
9 Statutes, is amended to read:

10 408.812 Unlicensed activity.—

11 (6) In addition to granting injunctive relief pursuant to
12 subsection (2), if the agency determines that a person or entity
13 is operating or maintaining a provider without obtaining a

910361

Approved For Filing: 4/21/2023 3:51:58 PM

Amendment No.

14 license and determines that a condition exists that poses a
15 threat to the health, safety, or welfare of a client of the
16 provider, the person or entity is subject to the same actions
17 and fines imposed against a licensee as specified in this part,
18 authorizing statutes, and agency rules.

19 (a) There is created a cause of action for an ex parte
20 temporary injunction against continued unlicensed activity by a
21 person or entity violating subsection (1), not to exceed 30
22 days.

23 (b) A sworn petition seeking the issuance of an ex parte
24 temporary injunction against continued unlicensed activity shall
25 allege all of the following:

26 1. The location of the unlicensed activity.

27 2. The names of the owners and operators of the unlicensed
28 provider.

29 3. The type of services that require licensure.

30 4. The specific facts supporting the conclusion that the
31 unlicensed provider is engaged in unlicensed activity, including
32 the date, time, and location at which the unlicensed provider
33 was notified by the agency to discontinue such activity.

34 5. That agency personnel have verified, through an onsite
35 inspection, that the unlicensed provider is advertising,
36 offering, or providing services that require licensure.

910361

Approved For Filing: 4/21/2023 3:51:58 PM

Amendment No.

37 6. Whether the unlicensed provider prohibited the agency
38 from conducting a subsequent investigation to determine current
39 compliance with applicable laws and rules.

40 7. Any previous injunctive relief granted against the
41 unlicensed provider.

42 8. Any previous agency determination that the unlicensed
43 provider has been identified as engaging in unlicensed activity.

44 (c) A bond may not be required by the court for entry of
45 an ex parte temporary injunction.

46 (d) Except as provided in s. 90.204, in a hearing to
47 obtain an ex parte temporary injunction, evidence other than
48 verified pleadings or affidavits by agency personnel or others
49 with firsthand knowledge of the alleged unlicensed activity may
50 not be used as evidence, unless the unlicensed provider appears
51 at the hearing. A denial of a petition for an ex parte temporary
52 injunction shall specify the grounds for denial in writing.

53 (e) If the court determines that the unlicensed provider
54 is engaged in continued unlicensed activity after agency
55 notification to cease such unlicensed activity, the court may
56 grant the ex parte temporary injunction restraining the
57 unlicensed provider from advertising, offering, or providing
58 services for which licensure is required. The court may also
59 order the unlicensed provider to provide to agency personnel
60 access to facility personnel, records, and clients for future
61 inspection of the unlicensed provider's premises.

910361

Approved For Filing: 4/21/2023 3:51:58 PM

Amendment No.

62 (f) The agency must inspect the unlicensed provider's
63 premises within 20 days after entry of the ex parte temporary
64 injunction to verify compliance with such injunction. If the
65 unlicensed provider is in compliance, the agency shall dismiss
66 the injunction. If unlicensed activity has continued, the agency
67 may file a petition for permanent injunction within 10 days
68 after identifying noncompliance. The agency may also petition to
69 extend the ex parte temporary injunction until the permanent
70 injunction is decided.

71 (g) The agency may provide any inspection records to local
72 law enforcement or a state attorney's office upon request and
73 without redaction.

74 Section 3. Subsection (2) of section 458.328, Florida
75 Statutes, is renumbered as subsection (3), paragraphs (a) and
76 (e) of subsection (1) are amended, and a new subsection (2) is
77 added to that section, to read:

78 458.328 Office surgeries.—

79 (1) REGISTRATION.—

80 (a) An office in which a physician performs a liposuction
81 procedure in which more than 1,000 cubic centimeters of
82 supernatant fat is removed, a Level II office surgery, or a
83 Level III office surgery must register with the department
84 ~~unless the office is licensed as a facility under chapter 390 or~~
85 ~~chapter 395.~~ The department must inspect any such office before

910361

Approved For Filing: 4/21/2023 3:51:58 PM

Amendment No.

86 registration. The department may not register a facility that
87 must be licensed under chapter 390 or chapter 395.

88 (e) The department shall inspect a registered office at
89 least annually, including a review of patient records, to ensure
90 that the office is in compliance with this section and rules
91 adopted hereunder unless the office is accredited by a
92 nationally recognized accrediting agency approved by the board.
93 The inspection may be unannounced, except for the inspection of
94 an office that meets the description of a clinic specified in s.
95 458.3265(1)(a)3.h., and those wholly owned and operated
96 physician offices described in s. 458.3265(1)(a)3.g. which
97 perform procedures referenced in s. 458.3265(1)(a)3.h., which
98 must be announced. The department must refuse to register a new
99 office or must immediately suspend the registration of a
100 registered office that refuses an inspection for 14 days. Such
101 office must be closed during the period of suspension. The
102 suspension must remain in effect until the department has
103 completed its inspection.

104 (2) STANDARD OF PRACTICE.-

105 (a) For purposes of this section, the term:

106 1. "Office surgery" means a surgery performed at an office
107 that primarily serves as a physician's office at which a
108 physician regularly performs consultations with surgical
109 patients, presurgical examinations, and postoperative monitoring

910361

Approved For Filing: 4/21/2023 3:51:58 PM

Amendment No.

110 and care related to office surgeries and at which patient
111 records are readily maintained and available.

112 2. "Physician" means a physician or surgeon licensed to
113 practice under this chapter.

114 (b) A physician performing a gluteal fat grafting
115 procedure in an office surgery setting shall adhere to standards
116 of practice pursuant to this subsection and rules adopted by the
117 board.

118 (c) Office surgeries may not:

119 1. Result in blood loss of more than 10 percent of
120 estimated blood volume in a patient with a normal hemoglobin
121 level;

122 2. Require major or prolonged intracranial, intrathoracic,
123 abdominal, or joint replacement procedures, except for
124 laparoscopic procedures;

125 3. Involve major blood vessels performed with direct
126 visualization by open exposure of the major blood vessel, except
127 for percutaneous endovascular intervention; or

128 4. Be emergent or life threatening.

129 (d)1. A physician performing a gluteal fat grafting
130 procedure must be:

131 a. A board-eligible or board-certified plastic surgeon; or

132 b. Board-eligible or board-certified in a surgical
133 specialty that, as determined by the board, provides sufficient

910361

Approved For Filing: 4/21/2023 3:51:58 PM

Amendment No.

134 training to perform gluteal fat grafting procedures safely and
135 effectively.

136 2. A physician performing a gluteal fat grafting procedure
137 must conduct an in-person examination of the patient no later
138 than 24 hours before the procedure.

139 3. Any duty delegated by a physician, with a patient's
140 informed consent, to be performed during a gluteal fat grafting
141 procedure must be performed under the direct supervision of the
142 physician performing such procedure. Fat extraction and gluteal
143 fat injections must be performed by the physician and may not be
144 delegated.

145 4. Gluteal fat may only be injected into the subcutaneous
146 space of the patient and may not cross the fascia overlying the
147 gluteal muscle. Intramuscular or submuscular fat injections are
148 prohibited.

149 5. When the physician performing a gluteal fat grafting
150 procedure injects fat into the subcutaneous space of the
151 patient, the physician must use ultrasound guidance during the
152 placement and navigation of the canula to ensure that the fat is
153 injected into the subcutaneous space of the patient above the
154 fascia overlying the gluteal muscle. The board may establish
155 minimum technical standards for such ultrasound guidance.
156 Ultrasound guidance is not required for other portions of such
157 procedure.

910361

Approved For Filing: 4/21/2023 3:51:58 PM

Amendment No.

158 (e) If a procedure in an office surgery setting results in
159 hospitalization, the type of procedure performed and the
160 location at which the procedure was performed, if known, must be
161 included in the hospital intake information for the purpose of
162 adverse incident reporting.

163 Section 4. Subsection (2) of section 459.0138, Florida
164 Statutes, is renumbered as subsection (3), paragraphs (a) and
165 (e) of subsection (1) are amended, and a new subsection (2) is
166 added to that section, to read:

167 459.0138 Office surgeries.—

168 (1) REGISTRATION.—

169 (a) An office in which a physician performs a liposuction
170 procedure in which more than 1,000 cubic centimeters of
171 supernatant fat is removed, a Level II office surgery, or a
172 Level III office surgery must register with the department
173 ~~unless the office is licensed as a facility under chapter 390 or~~
174 ~~chapter 395.~~ The department must inspect any such office before
175 registration. The department may not register a facility that
176 must be licensed under chapter 390 or chapter 395.

177 (e) The department shall inspect a registered office at
178 least annually, including a review of patient records, to ensure
179 that the office is in compliance with this section and rules
180 adopted hereunder unless the office is accredited by a
181 nationally recognized accrediting agency approved by the board.
182 The inspection may be unannounced, except for the inspection of

910361

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Amendment No.

183 an office that meets the description of clinic specified in s.
184 459.0137(1)(a)3.h., and those wholly owned and operated
185 physician offices described in s. 459.0137(1)(a)3.g. which
186 perform procedures referenced in s. 459.0137(1)(a)3.h., which
187 must be announced. The department must refuse to register a new
188 office or immediately suspend the registration of a registered
189 office that refuses an inspection for 14 days. Such office must
190 be closed during the period of suspension. The suspension must
191 remain in effect until the department has completed its
192 inspection.

193 (2) STANDARD OF PRACTICE.-

194 (a) For purposes of this section, the term:

195 1. "Office surgery" means a surgery performed at an office
196 that primarily serves as a physician's office at which a
197 physician performs surgeries as permitted under this section.
198 The physician's office must be an office at which such physician
199 regularly performs consultations with surgical patients,
200 presurgical examinations, and postoperative monitoring and care
201 related to office surgeries and at which patient records are
202 readily maintained and available.

203 2. "Physician" means a physician or surgeon licensed to
204 practice under this chapter.

205 (b) A physician performing a gluteal fat grafting
206 procedure in an office surgery setting shall adhere to standards

910361

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Amendment No.

207 of practice pursuant to this subsection and rules adopted by the
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209 (c) Office surgeries may not:

210 1. Result in blood loss of more than 10 percent of
211 estimated blood volume in a patient with a normal hemoglobin
212 level;

213 2. Require major or prolonged intracranial, intrathoracic,
214 abdominal, or joint replacement procedures, except for
215 laparoscopic procedures;

216 3. Involve major blood vessels performed with direct
217 visualization by open exposure of the major blood vessel, except
218 for percutaneous endovascular intervention; or

219 4. Be emergent or life threatening.

220 (d)1. A physician performing a gluteal fat grafting
221 procedure must be:

222 a. A board-eligible or board-certified plastic surgeon; or

223 b. Board-eligible or board-certified in a surgical
224 specialty that, as determined by the board, provides sufficient
225 training to perform gluteal fat grafting procedures safely and
226 effectively.

227 2. Any duty delegated by a physician, with a patient's
228 informed consent, to be performed during a gluteal fat grafting
229 procedure must be performed under the direct supervision of the
230 physician performing such procedure. Fat extraction and gluteal
231 fat injections must

910361

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Amendment No.

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

Remove line 5 and insert:
residents; providing definitions; amending s. 408.812, F.S.;
creating a cause