

By the Committee on Health Policy; and Senator Garcia

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1 A bill to be entitled
2 An act relating to provider accountability; amending
3 s. 400.022, F.S.; revising the rights of residents of
4 nursing home facilities; amending s. 408.809, F.S.;
5 providing additional disqualifying offenses for
6 purposes of background screening of employees of
7 certain health care providers; amending s. 408.812,
8 F.S.; creating a cause of action for ex parte
9 injunctive relief against continued unlicensed
10 activity relating to health care provider facilities;
11 authorizing the Agency for Health Care Administration
12 to petition the court for such injunctive relief;
13 providing requirements for the petition; prohibiting
14 courts from requiring bond in such proceedings;
15 limiting the types of evidence that may be presented
16 in such proceedings; providing that a denial of such
17 injunctive relief must be by written order of the
18 court noting the legal grounds for the denial;
19 providing construction; providing for ex parte
20 temporary injunctive relief under certain
21 circumstances; requiring that temporary injunctions be
22 effective for a fixed period not exceeding 30 days;
23 requiring the agency to conduct an inspection of the
24 identified premises of unlicensed activity within a
25 specified timeframe after such temporary injunction is
26 issued; requiring the agency to dismiss its petition
27 if the respondent complies with the injunction;
28 providing for a permanent injunction within a
29 specified timeframe if the unlicensed activity

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30 continues; requiring that a full hearing be set as
31 soon as practicable thereafter; authorizing the agency
32 to move for an extension of the injunction until
33 disposition of the proceedings; providing for service
34 of an ex parte injunction; providing construction;
35 authorizing the agency to provide any inspection
36 records to local law enforcement agencies and state
37 attorney offices upon request and without redaction;
38 amending s. 435.04, F.S.; providing additional
39 disqualifying offenses for employment background
40 screening requirements; amending ss. 458.328 and
41 459.0138, F.S.; requiring that a physician's office
42 seeking registration to perform office surgeries must
43 be inspected by the Department of Health before it may
44 be registered; providing for immediate suspension of a
45 registration under specified circumstances; providing
46 construction; requiring physicians performing gluteal
47 fat grafting procedures in an office surgery setting
48 to adhere to specified standards of practice;
49 authorizing the Board of Medicine and the Board of
50 Osteopathic Medicine, respectively, to adopt certain
51 rules; providing an effective date.

52
53 Be It Enacted by the Legislature of the State of Florida:

54
55 Section 1. Paragraph (o) of subsection (1) of section
56 400.022, Florida Statutes, is amended to read:

57 400.022 Residents' rights.—

58 (1) All licensees of nursing home facilities shall adopt

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59 and make public a statement of the rights and responsibilities
60 of the residents of such facilities and shall treat such
61 residents in accordance with the provisions of that statement.
62 The statement shall assure each resident the following:

63 (o) The right to be free from mental and physical abuse,
64 sexual abuse, neglect, exploitation, corporal punishment,
65 extended involuntary seclusion, and from physical and chemical
66 restraints, except those restraints authorized in writing by a
67 physician for a specified and limited period of time or as are
68 necessitated by an emergency. In case of an emergency, restraint
69 may be applied only by a qualified licensed nurse who shall set
70 forth in writing the circumstances requiring the use of
71 restraint, and, in the case of use of a chemical restraint, a
72 physician shall be consulted immediately thereafter. Restraints
73 may not be used in lieu of staff supervision or merely for staff
74 convenience, for punishment, or for reasons other than resident
75 protection or safety.

76 Section 2. Subsection (4) of section 408.809, Florida
77 Statutes, is amended to read:

78 408.809 Background screening; prohibited offenses.—

79 (4) In addition to the offenses listed in s. 435.04, all
80 persons required to undergo background screening pursuant to
81 this part or authorizing statutes must not have an arrest
82 awaiting final disposition for, must not have been found guilty
83 of, regardless of adjudication, or entered a plea of nolo
84 contendere or guilty to, and must not have been adjudicated
85 delinquent and the record not have been sealed or expunged for
86 any of the following offenses or any similar offense of another
87 jurisdiction:

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- 88 (a) Any authorizing statutes, if the offense was a felony.
- 89 (b) This chapter, if the offense was a felony.
- 90 (c) Section 409.920, relating to Medicaid provider fraud.
- 91 (d) Section 409.9201, relating to Medicaid fraud.
- 92 (e) Section 414.39, relating to fraud, if the offense was a
- 93 felony.
- 94 (f) Section 741.28, relating to domestic violence.
- 95 (g)~~(f)~~ Section 777.04, relating to attempts, solicitation,
- 96 and conspiracy to commit an offense listed in this subsection.
- 97 (h)~~(g)~~ Section 784.03, relating to battery, if the victim
- 98 is a vulnerable adult as defined in s. 415.102 or a patient or
- 99 resident of a facility licensed under chapter 395, chapter 400,
- 100 or chapter 429.
- 101 (i) Section 815.04, relating to offenses against
- 102 intellectual property.
- 103 (j) Section 815.06, relating to offenses against users of
- 104 computers, computer systems, computer networks, and electronic
- 105 devices.
- 106 (k)~~(h)~~ Section 817.034, relating to fraudulent acts through
- 107 mail, wire, radio, electromagnetic, photoelectronic, or
- 108 photooptical systems.
- 109 (l)~~(i)~~ Section 817.234, relating to false and fraudulent
- 110 insurance claims.
- 111 (m)~~(j)~~ Section 817.481, relating to obtaining goods by
- 112 using a false or expired credit card or other credit device, if
- 113 the offense was a felony.
- 114 (n)~~(k)~~ Section 817.50, relating to fraudulently obtaining
- 115 goods or services from a health care provider.
- 116 (o)~~(l)~~ Section 817.505, relating to patient brokering.

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117 (p)~~(m)~~ Section 817.568, relating to criminal use of
118 personal identification information.

119 (q)~~(n)~~ Section 817.60, relating to obtaining a credit card
120 through fraudulent means.

121 (r)~~(o)~~ Section 817.61, relating to fraudulent use of credit
122 cards, if the offense was a felony.

123 (s)~~(p)~~ Section 831.01, relating to forgery.

124 (t)~~(q)~~ Section 831.02, relating to uttering forged
125 instruments.

126 (u)~~(r)~~ Section 831.07, relating to forging bank bills,
127 checks, drafts, or promissory notes.

128 (v)~~(s)~~ Section 831.09, relating to uttering forged bank
129 bills, checks, drafts, or promissory notes.

130 (w) Section 831.29, relating to making or having
131 instruments and material for counterfeiting driver licenses or
132 identification cards.

133 (x)~~(t)~~ Section 831.30, relating to fraud in obtaining
134 medicinal drugs.

135 (y)~~(u)~~ Section 831.31, relating to the sale, manufacture,
136 delivery, or possession with the intent to sell, manufacture, or
137 deliver any counterfeit controlled substance, if the offense was
138 a felony.

139 (z) Section 831.311, relating to unlawful sale,
140 manufacture, alteration, delivery, uttering, or possession of
141 counterfeit-resistant prescription blanks for controlled
142 substances.

143 (aa) Section 836.05, relating to threats and extortion.

144 (bb) Section 836.10, relating to written or electronic
145 threats to kill or do bodily injury or conduct a mass shooting

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146 or an act of terrorism.

147 (cc) Section 873.01, relating to the prohibited purchase or
148 sale of human organs and tissue.

149 (dd)~~(v)~~ Section 895.03, relating to racketeering and
150 collection of unlawful debts.

151 (ee)~~(w)~~ Section 896.101, relating to the Florida Money
152 Laundering Act.

153

154 If, upon rescreening, a person who is currently employed or
155 contracted with a licensee and was screened and qualified under
156 s. 435.04 has a disqualifying offense that was not a
157 disqualifying offense at the time of the last screening, but is
158 a current disqualifying offense and was committed before the
159 last screening, he or she may apply for an exemption from the
160 appropriate licensing agency and, if agreed to by the employer,
161 may continue to perform his or her duties until the licensing
162 agency renders a decision on the application for exemption if
163 the person is eligible to apply for an exemption and the
164 exemption request is received by the agency no later than 30
165 days after receipt of the rescreening results by the person.

166 Section 3. Subsection (6) of section 408.812, Florida
167 Statutes, is amended to read:

168 408.812 Unlicensed activity.—

169 (6) In addition to granting injunctive relief pursuant to
170 subsection (2), if the agency determines that a person or entity
171 is operating or maintaining a provider without obtaining a
172 license and determines that a condition exists that poses a
173 threat to the health, safety, or welfare of a client of the
174 provider, the person or entity is subject to the same actions

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175 and fines imposed against a licensee as specified in this part,
176 authorizing statutes, and agency rules.

177 (a) There is created a cause of action for an ex parte
178 injunction against continued unlicensed activity.

179 (b) The agency may petition the circuit court for an ex
180 parte injunction against continued unlicensed activity when
181 agency personnel have verified, through an onsite inspection,
182 that a person or entity is advertising, offering, or providing
183 services for which licensure is required under this part and
184 applicable statutes and such person or entity has previously
185 received notification from the agency to discontinue such
186 activity.

187 (c) A sworn petition seeking the issuance of an ex parte
188 injunction against continued unlicensed activity must include
189 the location of the unlicensed activity; the ownership and
190 operators of the unlicensed provider; identification of the
191 service provider type for which licensure is required under the
192 applicable statutes; specific facts supporting the conclusion
193 that the respondent engaged in unlicensed activity, specifying
194 the date, time, and location at which the unlicensed provider
195 was notified to discontinue such activity; whether the
196 respondent prohibited the agency from conducting a subsequent
197 investigation to determine compliance; any previous injunctive
198 relief granted against the respondent; and any previous agency
199 determinations that the respondent was previously identified as
200 engaging in unlicensed activity.

201 (d) Bond may not be required by the court for the entry of
202 an injunction under this subsection.

203 (e) Except as provided in s. 90.204, in an ex parte hearing

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204 for the purpose of obtaining such ex parte temporary injunction,
205 no evidence other than verified pleadings or affidavits by
206 agency personnel or others with first-hand knowledge of the
207 alleged unlicensed activity may be used as evidence, unless the
208 respondent appears at the hearing. A denial of a petition for an
209 ex parte injunction must be by written order noting the legal
210 grounds for denial. Nothing herein affects the agency's right to
211 promptly amend any petition or otherwise be heard in person on
212 any petition consistent with the Florida Rules of Civil
213 Procedure.

214 (f) If it appears to the court that the respondent is
215 engaged in unlicensed activity and has not discontinued that
216 activity after notification by the agency, the court may grant
217 an ex parte temporary injunction, pending a full hearing, and
218 may grant any relief the court deems appropriate, including an
219 injunction restraining the respondent from advertising,
220 offering, or providing services for which licensure is required
221 under this part and applicable statutes, and requiring the
222 respondent to provide agency personnel full access to facility
223 personnel, records, and clients for a future inspection of the
224 premises within 20 days after the injunction is issued to verify
225 respondent's compliance with the temporary injunction.

226 (g) An ex parte temporary injunction issued under this
227 subsection must be effective for a fixed period not to exceed 30
228 days.

229 (h) The agency must conduct an inspection of the identified
230 premises within 20 days after the injunction is issued to verify
231 the respondent's compliance with the temporary injunction. If
232 the respondent is found to have complied with the temporary

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233 injunction, the agency must voluntarily dismiss its injunction
234 action. If the agency finds that unlicensed activity has
235 continued in apparent violation of the temporary injunction, the
236 agency may file a petition for permanent injunction within 10
237 days after such discovery, at which time a full hearing must be
238 set as soon as practicable. Contemporaneous with the filing of a
239 petition for permanent injunction, the agency may move for an
240 extension of the ex parte injunction until disposition of the
241 permanent injunction proceedings.

242 (i) Any ex parte injunction against continued unlicensed
243 activity must be served by the sheriff of the county in which
244 the respondent's activities are conducted.

245 (j) Remedies in this subsection are not exclusive but a
246 supplement to any other administrative or criminal remedies for
247 unlicensed activity.

248 (k) The agency is not required to exhaust its
249 administrative remedies before seeking the injunctive relief
250 provided by this subsection.

251 (l) The agency may provide any records of its inspections
252 to local law enforcement agencies or state attorney offices upon
253 request and without redaction.

254 Section 4. Subsection (2) of section 435.04, Florida
255 Statutes, is amended to read:

256 435.04 Level 2 screening standards.—

257 (2) The security background investigations under this
258 section must ensure that no persons subject to the provisions of
259 this section have been arrested for and are awaiting final
260 disposition of, have been found guilty of, regardless of
261 adjudication, or entered a plea of nolo contendere or guilty to,

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262 or have been adjudicated delinquent and the record has not been
263 sealed or expunged for, any offense prohibited under any of the
264 following provisions of state law or similar law of another
265 jurisdiction:

266 (a) Section 39.205, relating to failure to report child
267 abuse, abandonment, or neglect.

268 (b) Section 316.193(3)(c)3., relating to DUI manslaughter.

269 (c) Section 393.135, relating to sexual misconduct with
270 certain developmentally disabled clients and reporting of such
271 sexual misconduct.

272 (d)~~(b)~~ Section 394.4593, relating to sexual misconduct with
273 certain mental health patients and reporting of such sexual
274 misconduct.

275 (e)~~(e)~~ Section 415.111, relating to adult abuse, neglect,
276 or exploitation of aged persons or disabled adults.

277 (f)~~(d)~~ Section 777.04, relating to attempts, solicitation,
278 and conspiracy to commit an offense listed in this subsection.

279 (g)~~(e)~~ Section 782.04, relating to murder.

280 (h)~~(f)~~ Section 782.07, relating to manslaughter, aggravated
281 manslaughter of an elderly person or disabled adult, or
282 aggravated manslaughter of a child.

283 (i)~~(g)~~ Section 782.071, relating to vehicular homicide.

284 (j)~~(h)~~ Section 782.09, relating to killing of an unborn
285 child by injury to the mother.

286 (k)~~(i)~~ Chapter 784, relating to assault, battery, and
287 culpable negligence, if the offense was a felony.

288 (l)~~(j)~~ Section 784.011, relating to assault, if the victim
289 of the offense was a minor.

290 (m)~~(k)~~ Section 784.03, relating to battery, if the victim

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291 of the offense was a minor.

292 (n)~~(l)~~ Section 787.01, relating to kidnapping.

293 (o)~~(m)~~ Section 787.02, relating to false imprisonment.

294 (p)~~(n)~~ Section 787.025, relating to luring or enticing a
295 child.

296 (q)~~(o)~~ Section 787.04(2), relating to taking, enticing, or
297 removing a child beyond the state limits with criminal intent
298 pending custody proceedings.

299 (r)~~(p)~~ Section 787.04(3), relating to carrying a child
300 beyond the state lines with criminal intent to avoid producing a
301 child at a custody hearing or delivering the child to the
302 designated person.

303 (s) Section 787.06, relating to human trafficking.

304 (t) Section 787.07, relating to human smuggling.

305 (u)~~(q)~~ Section 790.115(1), relating to exhibiting firearms
306 or weapons within 1,000 feet of a school.

307 (v)~~(r)~~ Section 790.115(2)(b), relating to possessing an
308 electric weapon or device, destructive device, or other weapon
309 on school property.

310 (w) Section 790.166, relating to the manufacture,
311 possession, sale, delivery, display, use, or attempted or
312 threatened use of weapons of mass destruction or hoax weapons of
313 mass destruction.

314 (x)~~(s)~~ Section 794.011, relating to sexual battery.

315 (y)~~(t)~~ Former s. 794.041, relating to prohibited acts of
316 persons in familial or custodial authority.

317 (z)~~(u)~~ Section 794.05, relating to unlawful sexual activity
318 with certain minors.

319 (aa)~~(v)~~ Chapter 796, relating to prostitution.

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320 ~~(bb)~~(w) Section 798.02, relating to lewd and lascivious
321 behavior.

322 ~~(cc)~~(x) Chapter 800, relating to lewdness and indecent
323 exposure.

324 ~~(dd)~~(y) Section 806.01, relating to arson.

325 ~~(ee)~~(z) Section 810.02, relating to burglary.

326 ~~(ff)~~(aa) Section 810.14, relating to voyeurism, if the
327 offense is a felony.

328 ~~(gg)~~(bb) Section 810.145, relating to video voyeurism, if
329 the offense is a felony.

330 ~~(hh)~~(cc) Chapter 812, relating to theft, robbery, and
331 related crimes, if the offense is a felony.

332 ~~(ii)~~(dd) Section 817.563, relating to fraudulent sale of
333 controlled substances, only if the offense was a felony.

334 ~~(jj)~~(ee) Section 825.102, relating to abuse, aggravated
335 abuse, or neglect of an elderly person or disabled adult.

336 ~~(kk)~~(ff) Section 825.1025, relating to lewd or lascivious
337 offenses committed upon or in the presence of an elderly person
338 or disabled adult.

339 ~~(ll)~~(gg) Section 825.103, relating to exploitation of an
340 elderly person or disabled adult, if the offense was a felony.

341 ~~(mm)~~(hh) Section 826.04, relating to incest.

342 ~~(nn)~~(ii) Section 827.03, relating to child abuse,
343 aggravated child abuse, or neglect of a child.

344 ~~(oo)~~(jj) Section 827.04, relating to contributing to the
345 delinquency or dependency of a child.

346 ~~(pp)~~(kk) Former s. 827.05, relating to negligent treatment
347 of children.

348 ~~(qq)~~(ll) Section 827.071, relating to sexual performance by

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349 a child.

350 (rr) Section 838.015, relating to bribery.

351 (ss)~~(mm)~~ Section 843.01, relating to resisting arrest with
352 violence.

353 (tt)~~(nn)~~ Section 843.025, relating to depriving a law
354 enforcement, correctional, or correctional probation officer
355 means of protection or communication.

356 (uu)~~(oo)~~ Section 843.12, relating to aiding in an escape.

357 (vv)~~(pp)~~ Section 843.13, relating to aiding in the escape
358 of juvenile inmates in correctional institutions.

359 (ww)~~(qq)~~ Chapter 847, relating to obscene literature.

360 (xx) Section 859.01, relating to poisoning food or water.

361 (yy) Section 873.01, relating to the prohibited purchase or
362 sale of human organs and tissue.

363 (zz)~~(rr)~~ Section 874.05, relating to encouraging or
364 recruiting another to join a criminal gang.

365 (aaa) Section 876.32, relating to treason.

366 (bbb)~~(ss)~~ Chapter 893, relating to drug abuse prevention
367 and control, only if the offense was a felony or if any other
368 person involved in the offense was a minor.

369 (ccc)~~(tt)~~ Section 916.1075, relating to sexual misconduct
370 with certain forensic clients and reporting of such sexual
371 misconduct.

372 (ddd)~~(uu)~~ Section 944.35(3), relating to inflicting cruel
373 or inhuman treatment on an inmate resulting in great bodily
374 harm.

375 (eee)~~(vv)~~ Section 944.40, relating to escape.

376 (fff)~~(ww)~~ Section 944.46, relating to harboring,
377 concealing, or aiding an escaped prisoner.

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378 ~~(ggg)(xx)~~ Section 944.47, relating to introduction of
379 contraband into a correctional facility.

380 (hhh) Section 951.22, relating to county detention
381 facilities and contraband articles.

382 ~~(iii)(yy)~~ Section 985.701, relating to sexual misconduct in
383 juvenile justice programs.

384 ~~(jjj)(zz)~~ Section 985.711, relating to contraband
385 introduced into detention facilities.

386 Section 5. Present subsection (2) of section 458.328,
387 Florida Statutes, is redesignated as subsection (4), a new
388 subsection (2) and subsection (3) are added to that section, and
389 paragraph (e) of subsection (1) of that section is amended, to
390 read:

391 458.328 Office surgeries.—

392 (1) REGISTRATION.—

393 (e) 1. An office seeking registration under this section
394 must be inspected by the department before the office may be
395 registered. If a registered office refuses any subsequent
396 inspection under subparagraph 2., the office's registration must
397 be immediately suspended and may not be reinstated before
398 completion of an inspection by the department. Completion of an
399 inspection under this subparagraph does not guarantee a
400 registration or reinstatement of a registration.

401 2. The department shall inspect a registered office at
402 least annually, including a review of patient records, to ensure
403 that the office is in compliance with this section and rules
404 adopted hereunder unless the office is accredited by a
405 nationally recognized accrediting agency approved by the board.
406 The inspection may be unannounced, except for the inspection of

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407 an office that meets the description of a clinic specified in s.
408 458.3265(1)(a)3.h., and those wholly owned and operated
409 physician offices described in s. 458.3265(1)(a)3.g. which
410 perform procedures referenced in s. 458.3265(1)(a)3.h., which
411 must be announced.

412 (2) GLUTEAL FAT GRAFTING PROCEDURES.—

413 (a) Physicians performing gluteal fat grafting procedures
414 in an office surgery setting must adhere to standards of
415 practice prescribed under this subsection. The board may adopt
416 rules to prescribe additional requirements for the safe
417 performance of gluteal fat grafting procedures, provided such
418 rules do not conflict with this subsection.

419 (b) An office in which a physician performs gluteal fat
420 grafting procedures must at all times maintain a ratio of one
421 physician to one patient during all phases of the procedure,
422 beginning with the administration of anesthesia to the patient
423 and concluding with the extubation of the patient. A physician
424 is not limited in the number of gluteal fat grafting procedures
425 that he or she may safely perform in accordance with the
426 applicable standard of care and as prescribed in this
427 subsection. However, after a physician has commenced, and while
428 he or she is engaged in, a gluteal fat grafting procedure, the
429 physician may not commence or engage in another gluteal fat
430 grafting procedure or any other procedure with another patient
431 at the same time.

432 (c) Before a physician may delegate any duties during a
433 gluteal fat grafting procedure, the patient must provide
434 written, informed consent to such delegation. Any duties
435 delegated during a gluteal fat grafting procedure must be

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436 performed under the direct supervision of the physician
437 performing the procedure. Gluteal fat extractions and injections
438 must be performed by the physician performing the procedure and
439 may not be delegated.

440 (d) Only the physician performing the gluteal fat grafting
441 procedure may extract gluteal fat from, or inject gluteal fat
442 into, the patient. The gluteal fat may be injected only into the
443 subcutaneous space of the patient and may not cross the fascia
444 overlying the gluteal muscle. Intramuscular and submuscular fat
445 injections are prohibited.

446 (e) When the physician performing a gluteal fat grafting
447 procedure injects gluteal fat into the subcutaneous space of the
448 patient, the physician must use ultrasound guidance during the
449 placement and navigation of a cannula to ensure that the fat is
450 placed into the subcutaneous space of the patient above the
451 fascia overlying the gluteal muscle. Ultrasound guidance is not
452 required for other portions of the procedure.

453 (3) STANDARDS OF PRACTICE.—Surgeries performed in an office
454 registered under this section may not:

455 (a) Result in blood loss of more than 10 percent of
456 estimated blood volume in a patient with a normal hemoglobin
457 level;

458 (b) Require major or prolonged intracranial, intrathoracic,
459 abdominal, or joint replacement procedures, except for
460 laparoscopic procedures;

461 (c) Involve major blood vessels performed with direct
462 visualization by open exposure of the major blood vessel, except
463 for percutaneous endovascular intervention; or

464 (d) Be emergent or life threatening.

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465 Section 6. Present subsection (2) of section 459.0138,
466 Florida Statutes, is redesignated as subsection (4), a new
467 subsection (2) and subsection (3) are added to that section, and
468 paragraph (e) of subsection (1) of that section is amended, to
469 read:

470 459.0138 Office surgeries.—

471 (1) REGISTRATION.—

472 (e)1. An office seeking registration under this section
473 must be inspected by the department before the office may be
474 registered. If a registered office refuses any subsequent
475 inspection under subparagraph 2., the office's registration must
476 be immediately suspended and may not be reinstated before
477 completion of an inspection by the department. Completion of an
478 inspection under this subparagraph does not guarantee a
479 registration or reinstatement of a registration.

480 2. The department shall inspect a registered office at
481 least annually, including a review of patient records, to ensure
482 that the office is in compliance with this section and rules
483 adopted hereunder unless the office is accredited by a
484 nationally recognized accrediting agency approved by the board.
485 The inspection may be unannounced, except for the inspection of
486 an office that meets the description of clinic specified in s.
487 459.0137(1)(a)3.h., and those wholly owned and operated
488 physician offices described in s. 459.0137(1)(a)3.g. which
489 perform procedures referenced in s. 459.0137(1)(a)3.h., which
490 must be announced.

491 (2) GLUTEAL FAT GRAFTING PROCEDURES.—

492 (a) Physicians performing gluteal fat grafting procedures
493 in an office surgery setting must adhere to standards of

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494 practice prescribed under this subsection. The board may adopt
495 rules to prescribe additional requirements for the safe
496 performance of gluteal fat grafting procedures, provided such
497 rules do not conflict with this subsection.

498 (b) An office in which a physician performs gluteal fat
499 grafting procedures must at all times maintain a ratio of one
500 physician to one patient during all phases of the procedure,
501 beginning with the administration of anesthesia to the patient
502 and concluding with the extubation of the patient. A physician
503 is not limited in the number of gluteal fat grafting procedures
504 that he or she may safely perform in accordance with the
505 applicable standard of care and as prescribed in this
506 subsection. However, after a physician has commenced, and while
507 he or she is engaged in, a gluteal fat grafting procedure, the
508 physician may not commence or engage in another gluteal fat
509 grafting procedure or any other procedure with another patient
510 at the same time.

511 (c) Before a physician may delegate any duties during a
512 gluteal fat grafting procedure, the patient must provide
513 written, informed consent to such delegation. Any duties
514 delegated during a gluteal fat grafting procedure must be
515 performed under the direct supervision of the physician
516 performing the procedure. Gluteal fat extractions and injections
517 must be performed by the physician performing the procedure and
518 may not be delegated.

519 (d) Only the physician performing the gluteal fat grafting
520 procedure may extract gluteal fat from, or inject gluteal fat
521 into, the patient. The gluteal fat may be injected only into the
522 subcutaneous space of the patient and may not cross the fascia

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523 overlying the gluteal muscle. Intramuscular and submuscular fat
524 injections are prohibited.

525 (e) When the physician performing a gluteal fat grafting
526 procedure injects gluteal fat into the subcutaneous space of the
527 patient, the physician must use ultrasound guidance during the
528 placement and navigation of a cannula to ensure that the fat is
529 placed into the subcutaneous space of the patient above the
530 fascia overlying the gluteal muscle. Ultrasound guidance is not
531 required for other portions of the procedure.

532 (3) STANDARDS OF PRACTICE.—Surgeries performed in an office
533 registered under this section may not:

534 (a) Result in blood loss of more than 10 percent of
535 estimated blood volume in a patient with a normal hemoglobin
536 level;

537 (b) Require major or prolonged intracranial, intrathoracic,
538 abdominal, or joint replacement procedures, except for
539 laparoscopic procedures;

540 (c) Involve major blood vessels performed with direct
541 visualization by open exposure of the major blood vessel, except
542 for percutaneous endovascular intervention; or

543 (d) Be emergent or life threatening.

544 Section 7. This act shall take effect July 1, 2023.