



565294

LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/2R	.	Floor: C
03/04/2024 07:29 PM	.	03/05/2024 06:41 PM
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Senator Garcia moved the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraphs (a), (b), (c), and (h) of subsection  
(1) and subsection (2) of section 458.328, Florida Statutes, are  
amended to read:

458.328 Office surgeries.—

(1) REGISTRATION.—

(a)1. An office in which a physician performs a liposuction  
procedure in which more than 1,000 cubic centimeters of



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12 supernatant fat is temporarily or permanently removed, a Level  
13 II office surgery, or a Level III office surgery must register  
14 with the department. ~~unless the office is licensed as A facility~~  
15 licensed under chapter 390 or chapter 395 may not be registered  
16 under this section.

17 2. The department must complete an inspection of any office  
18 seeking registration under this section before the office may be  
19 registered.

20 (b) ~~By January 1, 2020,~~ Each office registered under this  
21 section or s. 459.0138 must designate a physician who is  
22 responsible for the office's compliance with the office health  
23 and safety requirements of this section and rules adopted  
24 hereunder. A designated physician must have a full, active, and  
25 unencumbered license under this chapter or chapter 459 and shall  
26 practice at the office for which he or she has assumed  
27 responsibility. Within 10 calendar days after the termination of  
28 a designated physician relationship, the office must notify the  
29 department of the designation of another physician to serve as  
30 the designated physician. The department may suspend the  
31 registration of an office if the office fails to comply with the  
32 requirements of this paragraph.

33 (c) As a condition of registration, each office must  
34 establish financial responsibility by demonstrating that it has  
35 met and continues to maintain, at a minimum, the same  
36 requirements applicable to physicians in ss. 458.320 and  
37 459.0085. An office in which a physician performs a gluteal fat  
38 grafting procedure must also establish financial responsibility  
39 by demonstrating that it has met and continues to maintain, at a  
40 minimum, the same requirements applicable to physicians in ss.



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41 458.320(2)(b) or (c) and 459.0085(2)(b) or (c), as applicable.

42 Each physician practicing at an office registered under this  
43 section or s. 459.0138 must meet the financial responsibility  
44 requirements under s. 458.320 or s. 459.0085, as applicable.

45 ~~(h) A physician may only perform a procedure or surgery~~  
46 ~~identified in paragraph (a) in an office that is registered with~~  
47 ~~the department. The board shall impose a fine of \$5,000 per day~~  
48 ~~on a physician who performs a procedure or surgery in an office~~  
49 ~~that is not registered with the department.~~

50 (2) STANDARDS OF PRACTICE.—

51 (a) A physician may not perform any surgery or procedure  
52 identified in paragraph (1)(a) in a setting other than an office  
53 surgery setting registered under this section or a facility  
54 licensed under chapter 390 or chapter 395, as applicable. The  
55 board shall impose a fine of \$5,000 per incident on a physician  
56 who violates this paragraph performing a gluteal fat grafting  
57 procedure in an office surgery setting shall adhere to standards  
58 of practice pursuant to this subsection and rules adopted by the  
59 board.

60 (b) Office surgeries may not:

61 1. Be a type of surgery that generally results in blood  
62 loss of more than 10 percent of estimated blood volume in a  
63 patient with a normal hemoglobin level;

64 2. Require major or prolonged intracranial, intrathoracic,  
65 abdominal, or joint replacement procedures, except for  
66 laparoscopic procedures;

67 3. Involve major blood vessels and be performed with direct  
68 visualization by open exposure of the major blood vessel, except  
69 for percutaneous endovascular intervention; or



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70 4. Be emergent or life threatening.

71 (c) A physician performing a gluteal fat grafting procedure  
72 in an office surgery setting shall adhere to standards of  
73 practice under this subsection and rules adopted by the board  
74 which include, but are not limited to, all of the following:

75 1. A physician performing a gluteal fat grafting procedure  
76 must conduct an in-person examination of the patient while  
77 physically present in the same room as the patient no later than  
78 the day before the procedure.

79 2. Before a physician may delegate any duties during a  
80 gluteal fat grafting procedure, the patient must provide  
81 written, informed consent for such delegation. Any duty  
82 delegated by a physician during a gluteal fat grafting procedure  
83 must be performed under the direct supervision of the physician  
84 performing such procedure. Fat extraction and gluteal fat  
85 injections must be performed by the physician and may not be  
86 delegated.

87 3. Fat may only be injected into the subcutaneous space of  
88 the patient and may not cross the fascia overlying the gluteal  
89 muscle. Intramuscular or submuscular fat injections are  
90 prohibited.

91 4. When the physician performing a gluteal fat grafting  
92 procedure injects fat into the subcutaneous space of the  
93 patient, the physician must use ultrasound guidance, or guidance  
94 with other technology authorized under board rule which equals  
95 or exceeds the quality of ultrasound, during the placement and  
96 navigation of the cannula to ensure that the fat is injected  
97 into the subcutaneous space of the patient above the fascia  
98 overlying the gluteal muscle. Such guidance with the use of



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99 ultrasound or other technology is not required for other  
100 portions of such procedure.

101 5. An office in which a physician performs gluteal fat  
102 grafting procedures must at all times maintain a ratio of one  
103 physician to one patient during all phases of the procedure,  
104 beginning with the administration of anesthesia to the patient  
105 and concluding with the extubation of the patient. After a  
106 physician has commenced, and while he or she is engaged in, a  
107 gluteal fat grafting procedure, the physician may not commence  
108 or engage in another gluteal fat grafting procedure or any other  
109 procedure with another patient at the same time.

110 (d) If a procedure in an office surgery setting results in  
111 hospitalization, the incident must be reported as an adverse  
112 incident pursuant to s. 458.351.

113 ~~(e) An office in which a physician performs gluteal fat~~  
114 ~~grafting procedures must at all times maintain a ratio of one~~  
115 ~~physician to one patient during all phases of the procedure,~~  
116 ~~beginning with the administration of anesthesia to the patient~~  
117 ~~and concluding with the extubation of the patient. After a~~  
118 ~~physician has commenced, and while he or she is engaged in, a~~  
119 ~~gluteal fat grafting procedure, the physician may not commence~~  
120 ~~or engage in another gluteal fat grafting procedure or any other~~  
121 ~~procedure with another patient at the same time.~~

122 Section 2. Paragraphs (a), (b), (c), and (h) of subsection  
123 (1) and subsection (2) of section 459.0138, Florida Statutes,  
124 are amended to read:

125 459.0138 Office surgeries.—

126 (1) REGISTRATION.—

127 (a)1. An office in which a physician performs a liposuction



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129 supernatant fat is temporarily or permanently removed, a Level  
130 II office surgery, or a Level III office surgery must register  
131 with the department. ~~unless the office is licensed as A facility~~  
132 licensed under chapter 390 or chapter 395 may not be registered  
133 under this section.

134 2. The department must complete an inspection of any office  
135 seeking registration under this section before the office may be  
136 registered.

137 (b) ~~By January 1, 2020,~~ Each office registered under this  
138 section or s. 458.328 must designate a physician who is  
139 responsible for the office's compliance with the office health  
140 and safety requirements of this section and rules adopted  
141 hereunder. A designated physician must have a full, active, and  
142 unencumbered license under this chapter or chapter 458 and shall  
143 practice at the office for which he or she has assumed  
144 responsibility. Within 10 calendar days after the termination of  
145 a designated physician relationship, the office must notify the  
146 department of the designation of another physician to serve as  
147 the designated physician. The department may suspend a  
148 registration for an office if the office fails to comply with  
149 the requirements of this paragraph.

150 (c) As a condition of registration, each office must  
151 establish financial responsibility by demonstrating that it has  
152 met and continues to maintain, at a minimum, the same  
153 requirements applicable to physicians in ss. 458.320 and  
154 459.0085. An office in which a physician performs a gluteal fat  
155 grafting procedure must also establish financial responsibility  
156 by demonstrating that it has met and continues to maintain, at a



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157 minimum, the same requirements applicable to physicians in ss.  
158 458.320(2)(b) or (c) and 459.0085(2)(b) or (c), as applicable.  
159 Each physician practicing at an office registered under this  
160 section or s. 458.328 must meet the financial responsibility  
161 requirements under s. 458.320 or s. 459.0085, as applicable.

162 ~~(h) A physician may only perform a procedure or surgery~~  
163 ~~identified in paragraph (a) in an office that is registered with~~  
164 ~~the department. The board shall impose a fine of \$5,000 per day~~  
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170 surgery setting registered under this section or a facility  
171 licensed under chapter 390 or chapter 395, as applicable. The  
172 board shall impose a fine of \$5,000 per incident on a physician  
173 who violates this paragraph performing a gluteal fat grafting  
174 ~~procedure in an office surgery setting shall adhere to standards~~  
175 ~~of practice pursuant to this subsection and rules adopted by the~~  
176 ~~board.~~

177 (b) Office surgeries may not:

178 1. Be a type of surgery that generally results in blood  
179 loss of more than 10 percent of estimated blood volume in a  
180 patient with a normal hemoglobin level;

181 2. Require major or prolonged intracranial, intrathoracic,  
182 abdominal, or joint replacement procedures, except for  
183 laparoscopic procedures;

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185 visualization by open exposure of the major blood vessel, except



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186 for percutaneous endovascular intervention; or

187 4. Be emergent or life threatening.

188 (c) A physician performing a gluteal fat grafting procedure  
189 in an office surgery setting shall adhere to standards of  
190 practice under this subsection and rules adopted by the board  
191 which include, but are not limited to, all of the following:

192 1. A physician performing a gluteal fat grafting procedure  
193 must conduct an in-person examination of the patient while  
194 physically present in the same room as the patient no later than  
195 the day before the procedure.

196 2. Before a physician may delegate any duties during a  
197 gluteal fat grafting procedure, the patient must provide  
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199 delegated by a physician during a gluteal fat grafting procedure  
200 must be performed under the direct supervision of the physician  
201 performing such procedure. Fat extraction and gluteal fat  
202 injections must be performed by the physician and may not be  
203 delegated.

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205 the patient and may not cross the fascia overlying the gluteal  
206 muscle. Intramuscular or submuscular fat injections are  
207 prohibited.

208 4. When the physician performing a gluteal fat grafting  
209 procedure injects fat into the subcutaneous space of the  
210 patient, the physician must use ultrasound guidance, or guidance  
211 with other technology authorized under board rule which equals  
212 or exceeds the quality of ultrasound, during the placement and  
213 navigation of the cannula to ensure that the fat is injected  
214 into the subcutaneous space of the patient above the fascia





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215 overlying the gluteal muscle. Such guidance with the use of  
216 ultrasound or other technology is not required for other  
217 portions of such procedure.

218 5. An office in which a physician performs gluteal fat  
219 grafting procedures must at all times maintain a ratio of one  
220 physician to one patient during all phases of the procedure,  
221 beginning with the administration of anesthesia to the patient  
222 and concluding with the extubation of the patient. After a  
223 physician has commenced, and while he or she is engaged in, a  
224 gluteal fat grafting procedure, the physician may not commence  
225 or engage in another gluteal fat grafting procedure or any other  
226 procedure with another patient at the same time.

227 (d) If a procedure in an office surgery setting results in  
228 hospitalization, the incident must be reported as an adverse  
229 incident pursuant to s. 458.351.

230 ~~(e) An office in which a physician performs gluteal fat~~  
231 ~~grafting procedures must at all times maintain a ratio of one~~  
232 ~~physician to one patient during all phases of the procedure,~~  
233 ~~beginning with the administration of anesthesia to the patient~~  
234 ~~and concluding with the extubation of the patient. After a~~  
235 ~~physician has commenced, and while he or she is engaged in, a~~  
236 ~~gluteal fat grafting procedure, the physician may not commence~~  
237 ~~or engage in another gluteal fat grafting procedure or any other~~  
238 ~~procedure with another patient at the same time.~~

239 Section 3. Subsection (6) of section 456.074, Florida  
240 Statutes, is amended to read

241 456.074 Certain health care practitioners; immediate  
242 suspension of license.-

243 (6) The department must issue an emergency order suspending



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244 or restricting the registration of an office registered under s.  
245 458.328 or s. 459.0138 ~~s. 459.0139~~ upon a finding of probable  
246 cause that the office or a physician practicing in the office is  
247 not in compliance with the standards of practice for office  
248 surgery adopted by the boards pursuant to s. 458.328 or s.  
249 459.0138, as applicable, or is in violation of s. 458.331(1)(v)  
250 or s. 459.015(1)(z), and that such noncompliance or violation  
251 constitutes an immediate danger to the public.

252 Section 4. This act shall take effect upon becoming a law.  
253

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

255 And the title is amended as follows:

256 Delete everything before the enacting clause  
257 and insert:

258 A bill to be entitled  
259 An act relating to office surgeries; amending ss.  
260 458.328 and 459.0138, F.S.; revising the types of  
261 procedures for which a medical office must register  
262 with the Department of Health to perform office  
263 surgeries; deleting obsolete language; making  
264 technical and clarifying changes; requiring medical  
265 offices performing specified office surgeries to  
266 demonstrate to the department that they have  
267 established financial responsibility in a specified  
268 manner; revising standards of practice for office  
269 surgeries; amending s. 456.074, F.S.; correcting a  
270 cross-reference; providing an effective date.