

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Health & Human Services
2 Committee

3 Representative Busatta Cabrera offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsections (3), (4) and (5) of section
8 458.320, Florida Statutes, is amended to read:

9 458.320 Financial responsibility.—

10 (3) A physician performing a gluteal fat grafting
11 procedure in an office surgery setting registered under s.
12 458.328 must also establish financial responsibility by one of
13 the following methods:

14 (a) Obtaining and maintaining professional liability
15 coverage in an amount not less than \$250,000 per claim, with a
16 minimum annual aggregate of not less than \$750,000 from an

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17 authorized insurer as defined under s. 624.09, from a surplus
18 lines insurer as defined under s. 626.914(2), from a risk
19 retention group as defined under s. 627.942, from the Joint
20 Underwriting Association established under s. 627.351(4),
21 through a plan of self-insurance as provided in s. 627.357, or
22 through a plan of self-insurance which meets the conditions
23 specified for satisfying financial responsibility in s. 766.110.
24 The required coverage amount set forth in this subsection may
25 not be used for litigation costs or attorney's fees for the
26 defense of any medical malpractice claim.

27 (b) Obtaining and maintaining an unexpired irrevocable
28 letter of credit, established pursuant to chapter 675, in an
29 amount not less than \$250,000 per claim, with a minimum
30 aggregate availability of credit of not less than \$750,000. The
31 letter of credit must be payable to the physician as beneficiary
32 upon presentment of a final judgment indicating liability and
33 awarding damages to be paid by the physician or upon presentment
34 of a settlement agreement signed by all parties to such
35 agreement when such final judgment or settlement is a result of
36 a claim arising out of the rendering of, or the failure to
37 render, medical care and services. The letter of credit may not
38 be used for litigation costs or attorney's fees for the defense
39 of any medical malpractice claim. The letter of credit must be
40 nonassignable and nontransferable. The letter of credit must be
41 issued by any bank or savings association organized and existing

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42 under the laws of this state or any bank or savings association
43 organized under the laws of the United States which has its
44 principal place of business in this state or has a branch office
45 that is authorized under the laws of this state or of the United
46 States to receive deposits in this state.

47
48 The exemption established in paragraph (6)(f) does not apply to
49 this subsection. This subsection shall be inclusive of the
50 coverage in subsection (1).

51 (4)-(3)(a) Meeting the financial responsibility requirements
52 of this section or the criteria for any exemption from such
53 requirements must be established at the time of issuance or
54 renewal of a license.

55 (b) Any person may, at any time, submit to the department a
56 request for an advisory opinion regarding such person's
57 qualifications for exemption.

58 (5)-(4)(a) Each insurer, self-insurer, risk retention
59 group, or Joint Underwriting Association must promptly notify
60 the department of cancellation or nonrenewal of insurance
61 required by this section. Unless the physician demonstrates that
62 he or she is otherwise in compliance with the requirements of
63 this section, the department shall suspend the license of the
64 physician pursuant to ss. 120.569 and 120.57 and notify all
65 health care facilities licensed under chapter 395 of such
66 action. Any suspension under this subsection remains in effect

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67 until the physician demonstrates compliance with the
68 requirements of this section. If any judgments or settlements
69 are pending at the time of suspension, those judgments or
70 settlements must be paid in accordance with this section unless
71 otherwise mutually agreed to in writing by the parties. This
72 paragraph does not abrogate a judgment debtor's obligation to
73 satisfy the entire amount of any judgment.

74 (b) If financial responsibility requirements are met by
75 maintaining an escrow account or letter of credit as provided in
76 this section, upon the entry of an adverse final judgment
77 arising from a medical malpractice arbitration award, from a
78 claim of medical malpractice either in contract or tort, or from
79 noncompliance with the terms of a settlement agreement arising
80 from a claim of medical malpractice either in contract or tort,
81 the licensee shall pay the entire amount of the judgment
82 together with all accrued interest, or the amount maintained in
83 the escrow account or provided in the letter of credit as
84 required by this section, whichever is less, within 60 days
85 after the date such judgment became final and subject to
86 execution, unless otherwise mutually agreed to in writing by the
87 parties. If timely payment is not made by the physician, the
88 department shall suspend the license of the physician pursuant
89 to procedures set forth in subparagraphs (5)(g)3., 4., and 5.
90 Nothing in this paragraph shall abrogate a judgment debtor's
91 obligation to satisfy the entire amount of any judgment.

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92 (5) The requirements of subsections (1), (2), ~~and~~ (3), and
93 (4) do not apply to:

94 (a) Any person licensed under this chapter who practices
95 medicine exclusively as an officer, employee, or agent of the
96 Federal Government or of the state or its agencies or its
97 subdivisions. For the purposes of this subsection, an agent of
98 the state, its agencies, or its subdivisions is a person who is
99 eligible for coverage under any self-insurance or insurance
100 program authorized by the provisions of s. 768.28(16).

101 (b) Any person whose license has become inactive under
102 this chapter and who is not practicing medicine in this state.
103 Any person applying for reactivation of a license must show
104 either that such licensee maintained tail insurance coverage
105 which provided liability coverage for incidents that occurred on
106 or after January 1, 1987, or the initial date of licensure in
107 this state, whichever is later, and incidents that occurred
108 before the date on which the license became inactive; or such
109 licensee must submit an affidavit stating that such licensee has
110 no unsatisfied medical malpractice judgments or settlements at
111 the time of application for reactivation.

112 (c) Any person holding a limited license pursuant to s.
113 458.317 and practicing under the scope of such limited license.

114 (d) Any person licensed or certified under this chapter
115 who practices only in conjunction with his or her teaching
116 duties at an accredited medical school or in its main teaching

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117 hospitals. Such person may engage in the practice of medicine to
118 the extent that such practice is incidental to and a necessary
119 part of duties in connection with the teaching position in the
120 medical school.

121 (e) Any person holding an active license under this
122 chapter who is not practicing medicine in this state. If such
123 person initiates or resumes any practice of medicine in this
124 state, he or she must notify the department of such activity and
125 fulfill the financial responsibility requirements of this
126 section before resuming the practice of medicine in this state.

127 (f) Any person holding an active license under this
128 chapter who meets all of the following criteria:

129 1. The licensee has held an active license to practice in
130 this state or another state or some combination thereof for more
131 than 15 years.

132 2. The licensee has either retired from the practice of
133 medicine or maintains a part-time practice of no more than 1,000
134 patient contact hours per year.

135 3. The licensee has had no more than two claims for
136 medical malpractice resulting in an indemnity exceeding \$25,000
137 within the previous 5-year period.

138 4. The licensee has not been convicted of, or pled guilty
139 or nolo contendere to, any criminal violation specified in this
140 chapter or the medical practice act of any other state.

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141 5. The licensee has not been subject within the last 10
142 years of practice to license revocation or suspension for any
143 period of time; probation for a period of 3 years or longer; or
144 a fine of \$500 or more for a violation of this chapter or the
145 medical practice act of another jurisdiction. The regulatory
146 agency's acceptance of a physician's relinquishment of a
147 license, stipulation, consent order, or other settlement,
148 offered in response to or in anticipation of the filing of
149 administrative charges against the physician's license,
150 constitutes action against the physician's license for the
151 purposes of this paragraph.

152 6. The licensee has submitted a form supplying necessary
153 information as required by the department and an affidavit
154 affirming compliance with this paragraph.

155 7. The licensee must submit biennially to the department
156 certification stating compliance with the provisions of this
157 paragraph. The licensee must, upon request, demonstrate to the
158 department information verifying compliance with this paragraph.

159
160 A licensee who meets the requirements of this paragraph must
161 post notice in the form of a sign prominently displayed in the
162 reception area and clearly noticeable by all patients or provide
163 a written statement to any person to whom medical services are
164 being provided. The sign or statement must read as follows:

165 "Under Florida law, physicians are generally required to carry

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166 medical malpractice insurance or otherwise demonstrate financial
167 responsibility to cover potential claims for medical
168 malpractice. However, certain part-time physicians who meet
169 state requirements are exempt from the financial responsibility
170 law. YOUR DOCTOR MEETS THESE REQUIREMENTS AND HAS DECIDED NOT TO
171 CARRY MEDICAL MALPRACTICE INSURANCE. This notice is provided
172 pursuant to Florida law."

173 (g) Any person holding an active license under this
174 chapter who agrees to meet all of the following criteria:

175 1. Upon the entry of an adverse final judgment arising
176 from a medical malpractice arbitration award, from a claim of
177 medical malpractice either in contract or tort, or from
178 noncompliance with the terms of a settlement agreement arising
179 from a claim of medical malpractice either in contract or tort,
180 the licensee shall pay the judgment creditor the lesser of the
181 entire amount of the judgment with all accrued interest or
182 either \$100,000, if the physician is licensed pursuant to this
183 chapter but does not maintain hospital staff privileges, or
184 \$250,000, if the physician is licensed pursuant to this chapter
185 and maintains hospital staff privileges, within 60 days after
186 the date such judgment became final and subject to execution,
187 unless otherwise mutually agreed to in writing by the parties.
188 Such adverse final judgment shall include any cross-claim,
189 counterclaim, or claim for indemnity or contribution arising
190 from the claim of medical malpractice. Upon notification of the

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191 existence of an unsatisfied judgment or payment pursuant to this
192 subparagraph, the department shall notify the licensee by
193 certified mail that he or she shall be subject to disciplinary
194 action unless, within 30 days from the date of mailing, he or
195 she either:

196 a. Shows proof that the unsatisfied judgment has been paid
197 in the amount specified in this subparagraph; or

198 b. Furnishes the department with a copy of a timely filed
199 notice of appeal and either:

200 (I) A copy of a supersedeas bond properly posted in the
201 amount required by law; or

202 (II) An order from a court of competent jurisdiction
203 staying execution on the final judgment pending disposition of
204 the appeal.

205 2. The Department of Health shall issue an emergency order
206 suspending the license of any licensee who, after 30 days
207 following receipt of a notice from the Department of Health, has
208 failed to: satisfy a medical malpractice claim against him or
209 her; furnish the Department of Health a copy of a timely filed
210 notice of appeal; furnish the Department of Health a copy of a
211 supersedeas bond properly posted in the amount required by law;
212 or furnish the Department of Health an order from a court of
213 competent jurisdiction staying execution on the final judgment
214 pending disposition of the appeal.

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215 3. Upon the next meeting of the probable cause panel of
216 the board following 30 days after the date of mailing the notice
217 of disciplinary action to the licensee, the panel shall make a
218 determination of whether probable cause exists to take
219 disciplinary action against the licensee pursuant to
220 subparagraph 1.

221 4. If the board determines that the factual requirements
222 of subparagraph 1. are met, it shall take disciplinary action as
223 it deems appropriate against the licensee. Such disciplinary
224 action shall include, at a minimum, probation of the license
225 with the restriction that the licensee must make payments to the
226 judgment creditor on a schedule determined by the board to be
227 reasonable and within the financial capability of the physician.
228 Notwithstanding any other disciplinary penalty imposed, the
229 disciplinary penalty may include suspension of the license for a
230 period not to exceed 5 years. In the event that an agreement to
231 satisfy a judgment has been met, the board shall remove any
232 restriction on the license.

233 5. The licensee has completed a form supplying necessary
234 information as required by the department.

235

236 A licensee who meets the requirements of this paragraph shall be
237 required either to post notice in the form of a sign prominently
238 displayed in the reception area and clearly noticeable by all
239 patients or to provide a written statement to any person to whom

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240 medical services are being provided. Such sign or statement
241 shall state: "Under Florida law, physicians are generally
242 required to carry medical malpractice insurance or otherwise
243 demonstrate financial responsibility to cover potential claims
244 for medical malpractice. YOUR DOCTOR HAS DECIDED NOT TO CARRY
245 MEDICAL MALPRACTICE INSURANCE. This is permitted under Florida
246 law subject to certain conditions. Florida law imposes penalties
247 against noninsured physicians who fail to satisfy adverse
248 judgments arising from claims of medical malpractice. This
249 notice is provided pursuant to Florida law."

250 Section 2. Paragraphs (a), (b), and (h) of subsection (1)
251 and subsection (2) of section 458.328, Florida Statutes, are
252 amended, and subsection (4) is added to that section, to read:

253 458.328 Office surgeries.—

254 (1) REGISTRATION.—

255 (a)1. An office in which a physician performs a
256 liposuction procedure in which more than 1,000 cubic centimeters
257 of supernatant fat is temporarily or permanently removed, a
258 Level II office surgery, or a Level III office surgery must
259 register with the department. ~~unless the office is licensed as A~~
260 facility licensed under chapter 390 or chapter 395 may not be
261 registered under this section.

262 2. The department must complete an inspection of any
263 office seeking registration under this section before the office
264 may be registered.

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265 (b) ~~By January 1, 2020,~~ Each office registered under this
266 section or s. 459.0138 must designate a physician who is
267 responsible for the office's compliance with the office health
268 and safety requirements of this section and rules adopted
269 hereunder. A designated physician must have a full, active, and
270 unencumbered license under this chapter or chapter 459 and shall
271 practice at the office for which he or she has assumed
272 responsibility. Within 10 calendar days after the termination of
273 a designated physician relationship, the office must notify the
274 department of the designation of another physician to serve as
275 the designated physician. The department may suspend the
276 registration of an office if the office fails to comply with the
277 requirements of this paragraph.

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

283 (2) STANDARDS OF PRACTICE.—

284 (a) A physician may not perform any surgery or procedure
285 identified in paragraph (1) (a) in a setting other than an office
286 registered under this section or a facility licensed under
287 chapter 390 or chapter 395, as applicable. The board shall
288 impose a fine of \$5,000 per incident on a physician who violates
289 this paragraph performing a gluteal fat grafting procedure in an

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290 ~~office surgery setting shall adhere to standards of practice~~
291 ~~pursuant to this subsection and rules adopted by the board.~~

292 (b) Office surgeries may not:

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

296 2. Require major or prolonged intracranial, intrathoracic,
297 abdominal, or joint replacement procedures, except for
298 laparoscopic procedures;

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

302 4. Be emergent or life threatening.

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

308 1. A physician performing a gluteal fat grafting procedure
309 must conduct an in-person examination of the patient while
310 physically present in the same room as the patient no later than
311 the day before the procedure.

312 2. Before a physician may delegate any duties during a
313 gluteal fat grafting procedure, the patient must provide
314 written, informed consent for such delegation. Any duty

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315 delegated by a physician during a gluteal fat grafting procedure
316 must be performed under the direct supervision of the physician
317 performing such procedure. Fat extraction and gluteal fat
318 injections must be performed by the physician and may not be
319 delegated.

320 3. Fat may only be injected into the subcutaneous space of
321 the patient and may not cross the fascia overlying the gluteal
322 muscle. Intramuscular or submuscular fat injections are
323 prohibited.

324 4. When the physician performing a gluteal fat grafting
325 procedure injects fat into the subcutaneous space of the
326 patient, the physician must use ultrasound guidance, or guidance
327 with other technology authorized under board rule which equals
328 or exceeds the quality of ultrasound, during the placement and
329 navigation of the cannula to ensure that the fat is injected
330 into the subcutaneous space of the patient above the fascia
331 overlying the gluteal muscle. Such guidance with the use of
332 ultrasound or other technology is not required for other
333 portions of such procedure.

334 5. An office in which a physician performs gluteal fat
335 grafting procedures must at all times maintain a ratio of one
336 physician to one patient during all phases of the procedure,
337 beginning with the administration of anesthesia to the patient
338 and concluding with the extubation of the patient. After a
339 physician has commenced, and while he or she is engaged in, a

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340 gluteal fat grafting procedure, the physician may not commence
341 or engage in another gluteal fat grafting procedure or any other
342 procedure with another patient at the same time.

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

346 ~~(e) An office in which a physician performs gluteal fat~~
347 ~~grafting procedures must at all times maintain a ratio of one~~
348 ~~physician to one patient during all phases of the procedure,~~
349 ~~beginning with the administration of anesthesia to the patient~~
350 ~~and concluding with the extubation of the patient. After a~~
351 ~~physician has commenced, and while he or she is engaged in, a~~
352 ~~gluteal fat grafting procedure, the physician may not commence~~
353 ~~or engage in another gluteal fat grafting procedure or any other~~
354 ~~procedure with another patient at the same time.~~

355 Section 3. Subsections (3), (4), and (5) of section
356 459.0085, Florida Statutes, are amended to read:

357 459.0085 Financial responsibility.-

358 (3) A physician performing a gluteal fat grafting
359 procedure in an office surgery setting registered under s.
360 459.0138 must also establish financial responsibility by one of
361 the following methods:

362 (a) Obtaining and maintaining professional liability
363 coverage in an amount not less than \$250,000 per claim, with a
364 minimum annual aggregate of not less than \$750,000 from an

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365 authorized insurer as defined under s. 624.09, from a surplus
366 lines insurer as defined under s. 626.914(2), from a risk
367 retention group as defined under s. 627.942, from the Joint
368 Underwriting Association established under s. 627.351(4),
369 through a plan of self-insurance as provided in s. 627.357, or
370 through a plan of self-insurance which meets the conditions
371 specified for satisfying financial responsibility in s. 766.110.
372 The required coverage amount set forth in this subsection may
373 not be used for litigation costs or attorney's fees for the
374 defense of any medical malpractice claim.

375 (b) Obtaining and maintaining an unexpired irrevocable
376 letter of credit, established pursuant to chapter 675, in an
377 amount not less than \$250,000 per claim, with a minimum
378 aggregate availability of credit of not less than \$750,000. The
379 letter of credit must be payable to the physician as beneficiary
380 upon presentment of a final judgment indicating liability and
381 awarding damages to be paid by the physician or upon presentment
382 of a settlement agreement signed by all parties to such
383 agreement when such final judgment or settlement is a result of
384 a claim arising out of the rendering of, or the failure to
385 render, medical care and services. The letter of credit may not
386 be used for litigation costs or attorney's fees for the defense
387 of any medical malpractice claim. The letter of credit must be
388 nonassignable and nontransferable. The letter of credit must be
389 issued by any bank or savings association organized and existing

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390 under the laws of this state or any bank or savings association
391 organized under the laws of the United States which has its
392 principal place of business in this state or has a branch office
393 that is authorized under the laws of this state or of the United
394 States to receive deposits in this state.

395
396 The exemption established in paragraph (6)(f) does not apply to
397 this subsection. This subsection shall be inclusive of the
398 coverage in subsection (1).

399 (4)-(3)(a) Meeting the financial responsibility
400 requirements of this section or the criteria for any exemption
401 from such requirements must be established at the time of
402 issuance or renewal of a license.

403 (b) Any person may, at any time, submit to the department
404 a request for an advisory opinion regarding such person's
405 qualifications for exemption.

406 (5)-(4)(a) Each insurer, self-insurer, risk retention
407 group, or joint underwriting association must promptly notify
408 the department of cancellation or nonrenewal of insurance
409 required by this section. Unless the osteopathic physician
410 demonstrates that he or she is otherwise in compliance with the
411 requirements of this section, the department shall suspend the
412 license of the osteopathic physician pursuant to ss. 120.569 and
413 120.57 and notify all health care facilities licensed under
414 chapter 395, part IV of chapter 394, or part I of chapter 641 of

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415 such action. Any suspension under this subsection remains in
416 effect until the osteopathic physician demonstrates compliance
417 with the requirements of this section. If any judgments or
418 settlements are pending at the time of suspension, those
419 judgments or settlements must be paid in accordance with this
420 section unless otherwise mutually agreed to in writing by the
421 parties. This paragraph does not abrogate a judgment debtor's
422 obligation to satisfy the entire amount of any judgment.

423 (b) If financial responsibility requirements are met by
424 maintaining an escrow account or letter of credit as provided in
425 this section, upon the entry of an adverse final judgment
426 arising from a medical malpractice arbitration award, from a
427 claim of medical malpractice either in contract or tort, or from
428 noncompliance with the terms of a settlement agreement arising
429 from a claim of medical malpractice either in contract or tort,
430 the licensee shall pay the entire amount of the judgment
431 together with all accrued interest or the amount maintained in
432 the escrow account or provided in the letter of credit as
433 required by this section, whichever is less, within 60 days
434 after the date such judgment became final and subject to
435 execution, unless otherwise mutually agreed to in writing by the
436 parties. If timely payment is not made by the osteopathic
437 physician, the department shall suspend the license of the
438 osteopathic physician pursuant to procedures set forth in
439 subparagraphs (5)(g)3., 4., and 5. Nothing in this paragraph

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440 shall abrogate a judgment debtor's obligation to satisfy the
441 entire amount of any judgment.

442 ~~(6)-(5)~~ The requirements of subsections (1), (2), and (3)
443 do not apply to:

444 (a) Any person licensed under this chapter who practices
445 medicine exclusively as an officer, employee, or agent of the
446 Federal Government or of the state or its agencies or its
447 subdivisions. For the purposes of this subsection, an agent of
448 the state, its agencies, or its subdivisions is a person who is
449 eligible for coverage under any self-insurance or insurance
450 program authorized by the provisions of s. 768.28(16).

451 (b) Any person whose license has become inactive under
452 this chapter and who is not practicing medicine in this state.
453 Any person applying for reactivation of a license must show
454 either that such licensee maintained tail insurance coverage
455 that provided liability coverage for incidents that occurred on
456 or after January 1, 1987, or the initial date of licensure in
457 this state, whichever is later, and incidents that occurred
458 before the date on which the license became inactive; or such
459 licensee must submit an affidavit stating that such licensee has
460 no unsatisfied medical malpractice judgments or settlements at
461 the time of application for reactivation.

462 (c) Any person holding a limited license pursuant to s.
463 459.0075 and practicing under the scope of such limited license.

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464 (d) Any person licensed or certified under this chapter
465 who practices only in conjunction with his or her teaching
466 duties at a college of osteopathic medicine. Such person may
467 engage in the practice of osteopathic medicine to the extent
468 that such practice is incidental to and a necessary part of
469 duties in connection with the teaching position in the college
470 of osteopathic medicine.

471 (e) Any person holding an active license under this
472 chapter who is not practicing osteopathic medicine in this
473 state. If such person initiates or resumes any practice of
474 osteopathic medicine in this state, he or she must notify the
475 department of such activity and fulfill the financial
476 responsibility requirements of this section before resuming the
477 practice of osteopathic medicine in this state.

478 (f) Any person holding an active license under this
479 chapter who meets all of the following criteria:

480 1. The licensee has held an active license to practice in
481 this state or another state or some combination thereof for more
482 than 15 years.

483 2. The licensee has either retired from the practice of
484 osteopathic medicine or maintains a part-time practice of
485 osteopathic medicine of no more than 1,000 patient contact hours
486 per year.

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487 3. The licensee has had no more than two claims for
488 medical malpractice resulting in an indemnity exceeding \$25,000
489 within the previous 5-year period.

490 4. The licensee has not been convicted of, or pled guilty
491 or nolo contendere to, any criminal violation specified in this
492 chapter or the practice act of any other state.

493 5. The licensee has not been subject within the last 10
494 years of practice to license revocation or suspension for any
495 period of time, probation for a period of 3 years or longer, or
496 a fine of \$500 or more for a violation of this chapter or the
497 medical practice act of another jurisdiction. The regulatory
498 agency's acceptance of an osteopathic physician's relinquishment
499 of a license, stipulation, consent order, or other settlement,
500 offered in response to or in anticipation of the filing of
501 administrative charges against the osteopathic physician's
502 license, constitutes action against the physician's license for
503 the purposes of this paragraph.

504 6. The licensee has submitted a form supplying necessary
505 information as required by the department and an affidavit
506 affirming compliance with this paragraph.

507 7. The licensee must submit biennially to the department a
508 certification stating compliance with this paragraph. The
509 licensee must, upon request, demonstrate to the department
510 information verifying compliance with this paragraph.

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512 A licensee who meets the requirements of this paragraph must
513 post notice in the form of a sign prominently displayed in the
514 reception area and clearly noticeable by all patients or provide
515 a written statement to any person to whom medical services are
516 being provided. The sign or statement must read as follows:
517 "Under Florida law, osteopathic physicians are generally
518 required to carry medical malpractice insurance or otherwise
519 demonstrate financial responsibility to cover potential claims
520 for medical malpractice. However, certain part-time osteopathic
521 physicians who meet state requirements are exempt from the
522 financial responsibility law. YOUR OSTEOPATHIC PHYSICIAN MEETS
523 THESE REQUIREMENTS AND HAS DECIDED NOT TO CARRY MEDICAL
524 MALPRACTICE INSURANCE. This notice is provided pursuant to
525 Florida law."

526 (g) Any person holding an active license under this
527 chapter who agrees to meet all of the following criteria.

528 1. Upon the entry of an adverse final judgment arising
529 from a medical malpractice arbitration award, from a claim of
530 medical malpractice either in contract or tort, or from
531 noncompliance with the terms of a settlement agreement arising
532 from a claim of medical malpractice either in contract or tort,
533 the licensee shall pay the judgment creditor the lesser of the
534 entire amount of the judgment with all accrued interest or
535 either \$100,000, if the osteopathic physician is licensed
536 pursuant to this chapter but does not maintain hospital staff

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537 | privileges, or \$250,000, if the osteopathic physician is
538 | licensed pursuant to this chapter and maintains hospital staff
539 | privileges, within 60 days after the date such judgment became
540 | final and subject to execution, unless otherwise mutually agreed
541 | to in writing by the parties. Such adverse final judgment shall
542 | include any cross-claim, counterclaim, or claim for indemnity or
543 | contribution arising from the claim of medical malpractice. Upon
544 | notification of the existence of an unsatisfied judgment or
545 | payment pursuant to this subparagraph, the department shall
546 | notify the licensee by certified mail that he or she shall be
547 | subject to disciplinary action unless, within 30 days from the
548 | date of mailing, the licensee either:

549 | a. Shows proof that the unsatisfied judgment has been paid
550 | in the amount specified in this subparagraph; or

551 | b. Furnishes the department with a copy of a timely filed
552 | notice of appeal and either:

553 | (I) A copy of a supersedeas bond properly posted in the
554 | amount required by law; or

555 | (II) An order from a court of competent jurisdiction
556 | staying execution on the final judgment, pending disposition of
557 | the appeal.

558 | 2. The Department of Health shall issue an emergency order
559 | suspending the license of any licensee who, after 30 days
560 | following receipt of a notice from the Department of Health, has
561 | failed to: satisfy a medical malpractice claim against him or

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562 her; furnish the Department of Health a copy of a timely filed
563 notice of appeal; furnish the Department of Health a copy of a
564 supersedeas bond properly posted in the amount required by law;
565 or furnish the Department of Health an order from a court of
566 competent jurisdiction staying execution on the final judgment
567 pending disposition of the appeal.

568 3. Upon the next meeting of the probable cause panel of
569 the board following 30 days after the date of mailing the notice
570 of disciplinary action to the licensee, the panel shall make a
571 determination of whether probable cause exists to take
572 disciplinary action against the licensee pursuant to
573 subparagraph 1.

574 4. If the board determines that the factual requirements
575 of subparagraph 1. are met, it shall take disciplinary action as
576 it deems appropriate against the licensee. Such disciplinary
577 action shall include, at a minimum, probation of the license
578 with the restriction that the licensee must make payments to the
579 judgment creditor on a schedule determined by the board to be
580 reasonable and within the financial capability of the
581 osteopathic physician. Notwithstanding any other disciplinary
582 penalty imposed, the disciplinary penalty may include suspension
583 of the license for a period not to exceed 5 years. In the event
584 that an agreement to satisfy a judgment has been met, the board
585 shall remove any restriction on the license.

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586 5. The licensee has completed a form supplying necessary
587 information as required by the department.

588
589 A licensee who meets the requirements of this paragraph shall be
590 required either to post notice in the form of a sign prominently
591 displayed in the reception area and clearly noticeable by all
592 patients or to provide a written statement to any person to whom
593 medical services are being provided. Such sign or statement
594 shall state: "Under Florida law, osteopathic physicians are
595 generally required to carry medical malpractice insurance or
596 otherwise demonstrate financial responsibility to cover
597 potential claims for medical malpractice. YOUR OSTEOPATHIC
598 PHYSICIAN HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE
599 INSURANCE. This is permitted under Florida law subject to
600 certain conditions. Florida law imposes strict penalties against
601 noninsured osteopathic physicians who fail to satisfy adverse
602 judgments arising from claims of medical malpractice. This
603 notice is provided pursuant to Florida law."

604 Section 4. Paragraphs (a), (b), and (h) of subsection (1)
605 and subsection (2) of section 459.0138, Florida Statutes, are
606 amended, and subsection (4) is added to that section, to read:

607 459.0138 Office surgeries.—

608 (1) REGISTRATION.—

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

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611 of supernatant fat is temporarily or permanently removed, a
612 Level II office surgery, or a Level III office surgery must
613 register with the department. ~~unless the office is licensed as A~~
614 facility licensed under chapter 390 or chapter 395 may not be
615 registered under this section.

616 2. The department must complete an inspection of any
617 office seeking registration under this section before the office
618 may be registered.

619 (b) ~~By January 1, 2020,~~ Each office registered under this
620 section or s. 458.328 must designate a physician who is
621 responsible for the office's compliance with the office health
622 and safety requirements of this section and rules adopted
623 hereunder. A designated physician must have a full, active, and
624 unencumbered license under this chapter or chapter 458 and shall
625 practice at the office for which he or she has assumed
626 responsibility. Within 10 calendar days after the termination of
627 a designated physician relationship, the office must notify the
628 department of the designation of another physician to serve as
629 the designated physician. The department may suspend a
630 registration for an office if the office fails to comply with
631 the requirements of this paragraph.

632 ~~(h) A physician may only perform a procedure or surgery~~
633 ~~identified in paragraph (a) in an office that is registered with~~
634 ~~the department. The board shall impose a fine of \$5,000 per day~~
635 ~~on a physician who performs a procedure or surgery in an office~~

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636 ~~that is not registered with the department.~~

637 (2) STANDARDS OF PRACTICE.—

638 (a) A physician may not perform any surgery or procedure
639 identified in paragraph (1) (a) in a setting other than an office
640 registered under this section or a facility licensed under
641 chapter 390 or chapter 395, as applicable. The board shall
642 impose a fine of \$5,000 per incident on a physician who violates
643 this paragraph performing a gluteal fat grafting procedure in an
644 office surgery setting shall adhere to standards of practice
645 pursuant to this subsection and rules adopted by the board.

646 (b) Office surgeries may not:

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

650 2. Require major or prolonged intracranial, intrathoracic,
651 abdominal, or joint replacement procedures, except for
652 laparoscopic procedures;

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

656 4. Be emergent or life threatening.

657 (c) A physician performing a gluteal fat grafting
658 procedure in an office surgery setting shall adhere to standards
659 of practice under this subsection and rules adopted by the
660 board, which include, but are not limited to, all of the

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661 following:

662 1. A physician performing a gluteal fat grafting procedure
663 must conduct an in-person examination of the patient while
664 physically present in the same room as the patient no later than
665 the day before the procedure.

666 2. Before a physician may delegate any duties during a
667 gluteal fat grafting procedure, the patient must provide
668 written, informed consent for such delegation. Any duty
669 delegated by a physician during a gluteal fat grafting procedure
670 must be performed under the direct supervision of the physician
671 performing such procedure. Fat extraction and gluteal fat
672 injections must be performed by the physician and may not be
673 delegated.

674 3. Fat may only be injected into the subcutaneous space of
675 the patient and may not cross the fascia overlying the gluteal
676 muscle. Intramuscular or submuscular fat injections are
677 prohibited.

678 4. When the physician performing a gluteal fat grafting
679 procedure injects fat into the subcutaneous space of the
680 patient, the physician must use ultrasound guidance, or guidance
681 with other technology authorized under board rule which equals
682 or exceeds the quality of ultrasound, during the placement and
683 navigation of the cannula to ensure that the fat is injected
684 into the subcutaneous space of the patient above the fascia
685 overlying the gluteal muscle. Such guidance with the use of

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686 ultrasound or other technology is not required for other
687 portions of such procedure.

688 5. An office in which a physician performs gluteal fat
689 grafting procedures must at all times maintain a ratio of one
690 physician to one patient during all phases of the procedure,
691 beginning with the administration of anesthesia to the patient
692 and concluding with the extubation of the patient. After a
693 physician has commenced, and while he or she is engaged in, a
694 gluteal fat grafting procedure, the physician may not commence
695 or engage in another gluteal fat grafting procedure or any other
696 procedure with another patient at the same time.

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

700 ~~(e) An office in which a physician performs gluteal fat~~
701 ~~grafting procedures must at all times maintain a ratio of one~~
702 ~~physician to one patient during all phases of the procedure,~~
703 ~~beginning with the administration of anesthesia to the patient~~
704 ~~and concluding with the extubation of the patient. After a~~
705 ~~physician has commenced, and while he or she is engaged in, a~~
706 ~~gluteal fat grafting procedure, the physician may not commence~~
707 ~~or engage in another gluteal fat grafting procedure or any other~~
708 ~~procedure with another patient at the same time.~~

709 Section 5. This act shall take effect upon becoming a law.
710

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711 -----
712 **T I T L E A M E N D M E N T**
713 Remove everything before the enacting clause and insert:
714 An act relating to office surgeries; amending ss. 458.328 and
715 459.0138, F.S.; revising the types of procedures for which a
716 medical office must register with the Department of Health to
717 perform office surgeries; deleting obsolete language; making
718 technical and clarifying changes; revising standards of practice
719 for office surgeries; amending ss. 458.320 and 459.0085, F.S.;
720 establishing financial responsibility requirements for
721 physicians performing gluteal fat grafting procedures in office
722 settings; providing an effective date.