

1 A bill to be entitled
 2 An act relating to office surgeries; amending ss.
 3 458.320 and 459.0085, F.S.; establishing financial
 4 responsibility requirements for physicians performing
 5 gluteal fat grafting procedures in office surgery
 6 settings; amending ss. 458.328 and 459.0138, F.S.;
 7 revising standards of practice for office surgeries
 8 and procedures; deleting obsolete language; making
 9 technical and clarifying revisions; amending s.
 10 458.3145, F.S.; conforming a cross-reference to
 11 changes made by the act; providing an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:
 14

15 Section 1. Subsections (3) through (9) of section 458.320,
 16 Florida Statutes, are renumbered as subsections (4) through
 17 (10), respectively, paragraph (b) of present subsection (4) and
 18 present subsection (5) are amended, and a new subsection (3) is
 19 added to that section, to read:

20 458.320 Financial responsibility.—

21 (3) A physician performing a gluteal fat grafting
 22 procedure in an office surgery setting registered under s.
 23 458.328 must also establish financial responsibility by either
 24 of the following methods:

25 (a) Obtaining and maintaining professional liability

26 coverage in an amount not less than \$250,000 per claim, with a
27 minimum annual aggregate of not less than \$750,000, from an
28 authorized insurer as defined in s. 624.09, from an eligible
29 surplus lines insurer as defined in s. 626.914(2), from a risk
30 retention group as defined in s. 627.942, from the Joint
31 Underwriting Association established under s. 627.351(4),
32 through a plan of self-insurance as provided in s. 627.357, or
33 through a plan of self-insurance which meets the conditions
34 specified for satisfying financial responsibility in s. 766.110.
35 The required coverage amount set forth in this subsection may
36 not be used for litigation costs or attorney fees for the
37 defense of any medical malpractice claim; or
38 (b) Obtaining and maintaining an unexpired irrevocable
39 letter of credit, established pursuant to chapter 675, in an
40 amount not less than \$250,000 per claim, with a minimum
41 aggregate availability of credit of not less than \$750,000. The
42 letter of credit must be payable to the physician as beneficiary
43 upon presentment of a final judgment indicating liability and
44 awarding damages to be paid by the physician or upon presentment
45 of a settlement agreement signed by all parties to such
46 agreement when such final judgment or settlement is a result of
47 a claim arising out of the rendering of, or the failure to
48 render, medical care and services. The letter of credit may not
49 be used for litigation costs or attorney fees for the defense of
50 any medical malpractice claim. The letter of credit must be

51 nonassignable and nontransferable. The letter of credit must be
52 issued by any bank or savings association organized and existing
53 under the laws of this state or any bank or savings association
54 organized under the laws of the United States which has its
55 principal place of business in this state or has a branch office
56 that is authorized under the laws of this state or of the United
57 States to receive deposits in this state.

58
59 The exemption under paragraph (6) (f) does not apply to this
60 subsection. This subsection shall be inclusive of the coverage
61 in subsection (1).

62 (5)-(4)

63 (b) If financial responsibility requirements are met by
64 maintaining an escrow account or letter of credit as provided in
65 this section, upon the entry of an adverse final judgment
66 arising from a medical malpractice arbitration award, from a
67 claim of medical malpractice either in contract or tort, or from
68 noncompliance with the terms of a settlement agreement arising
69 from a claim of medical malpractice either in contract or tort,
70 the licensee shall pay the entire amount of the judgment
71 together with all accrued interest, or the amount maintained in
72 the escrow account or provided in the letter of credit as
73 required by this section, whichever is less, within 60 days
74 after the date such judgment became final and subject to
75 execution, unless otherwise mutually agreed to in writing by the

76 parties. If timely payment is not made by the physician, the
 77 department shall suspend the license of the physician pursuant
 78 to procedures set forth in subparagraphs (6)(g)3., 4., and 5.
 79 ~~subparagraphs (5)(g)3., 4., and 5.~~ Nothing in This paragraph
 80 does not shall abrogate a judgment debtor's obligation to
 81 satisfy the entire amount of any judgment.

82 (6)(5) The requirements of subsections (1), (2), ~~and (3)~~,
 83 and (4) do not apply to:

84 (a) Any person licensed under this chapter who practices
 85 medicine exclusively as an officer, employee, or agent of the
 86 Federal Government or of the state or its agencies or its
 87 subdivisions. For the purposes of this subsection, an agent of
 88 the state, its agencies, or its subdivisions is a person who is
 89 eligible for coverage under any self-insurance or insurance
 90 program authorized by the provisions of s. 768.28(16).

91 (b) Any person whose license has become inactive under
 92 this chapter and who is not practicing medicine in this state.
 93 Any person applying for reactivation of a license must show
 94 either that such licensee maintained tail insurance coverage
 95 which provided liability coverage for incidents that occurred on
 96 or after January 1, 1987, or the initial date of licensure in
 97 this state, whichever is later, and incidents that occurred
 98 before the date on which the license became inactive; or such
 99 licensee must submit an affidavit stating that such licensee has
 100 no unsatisfied medical malpractice judgments or settlements at

101 the time of application for reactivation.

102 (c) Any person holding a limited license pursuant to s.
103 458.317 and practicing under the scope of such limited license.

104 (d) Any person licensed or certified under this chapter
105 who practices only in conjunction with his or her teaching
106 duties at an accredited medical school or in its main teaching
107 hospitals. Such person may engage in the practice of medicine to
108 the extent that such practice is incidental to and a necessary
109 part of duties in connection with the teaching position in the
110 medical school.

111 (e) Any person holding an active license under this
112 chapter who is not practicing medicine in this state. If such
113 person initiates or resumes any practice of medicine in this
114 state, he or she must notify the department of such activity and
115 fulfill the financial responsibility requirements of this
116 section before resuming the practice of medicine in this state.

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

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

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

125 3. The licensee has had no more than two claims for

126 | medical malpractice resulting in an indemnity exceeding \$25,000
 127 | within the previous 5-year period.

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

131 | 5. The licensee has not been subject within the last 10
 132 | years of practice to license revocation or suspension for any
 133 | period of time; probation for a period of 3 years or longer; or
 134 | a fine of \$500 or more for a violation of this chapter or the
 135 | medical practice act of another jurisdiction. The regulatory
 136 | agency's acceptance of a physician's relinquishment of a
 137 | license, stipulation, consent order, or other settlement,
 138 | offered in response to or in anticipation of the filing of
 139 | administrative charges against the physician's license,
 140 | constitutes action against the physician's license for the
 141 | purposes of this paragraph.

142 | 6. The licensee has submitted a form supplying necessary
 143 | information as required by the department and an affidavit
 144 | affirming compliance with this paragraph.

145 | 7. The licensee must submit biennially to the department
 146 | certification stating compliance with the provisions of this
 147 | paragraph. The licensee must, upon request, demonstrate to the
 148 | department information verifying compliance with this paragraph.

149 |
 150 | A licensee who meets the requirements of this paragraph must

151 post notice in the form of a sign prominently displayed in the
 152 reception area and clearly noticeable by all patients or provide
 153 a written statement to any person to whom medical services are
 154 being provided. The sign or statement must read as follows:
 155 "Under Florida law, physicians are generally required to carry
 156 medical malpractice insurance or otherwise demonstrate financial
 157 responsibility to cover potential claims for medical
 158 malpractice. However, certain part-time physicians who meet
 159 state requirements are exempt from the financial responsibility
 160 law. YOUR DOCTOR MEETS THESE REQUIREMENTS AND HAS DECIDED NOT TO
 161 CARRY MEDICAL MALPRACTICE INSURANCE. This notice is provided
 162 pursuant to Florida law."

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

165 1. Upon the entry of an adverse final judgment arising
 166 from a medical malpractice arbitration award, from a claim of
 167 medical malpractice either in contract or tort, or from
 168 noncompliance with the terms of a settlement agreement arising
 169 from a claim of medical malpractice either in contract or tort,
 170 the licensee shall pay the judgment creditor the lesser of the
 171 entire amount of the judgment with all accrued interest or
 172 either \$100,000, if the physician is licensed pursuant to this
 173 chapter but does not maintain hospital staff privileges, or
 174 \$250,000, if the physician is licensed pursuant to this chapter
 175 and maintains hospital staff privileges, within 60 days after

176 the date such judgment became final and subject to execution,
177 unless otherwise mutually agreed to in writing by the parties.
178 Such adverse final judgment shall include any cross-claim,
179 counterclaim, or claim for indemnity or contribution arising
180 from the claim of medical malpractice. Upon notification of the
181 existence of an unsatisfied judgment or payment pursuant to this
182 subparagraph, the department shall notify the licensee by
183 certified mail that he or she shall be subject to disciplinary
184 action unless, within 30 days from the date of mailing, he or
185 she either:

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

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

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

192 (II) An order from a court of competent jurisdiction
193 staying execution on the final judgment pending disposition of
194 the appeal.

195 2. The Department of Health shall issue an emergency order
196 suspending the license of any licensee who, after 30 days
197 following receipt of a notice from the Department of Health, has
198 failed to: satisfy a medical malpractice claim against him or
199 her; furnish the Department of Health a copy of a timely filed
200 notice of appeal; furnish the Department of Health a copy of a

201 | supersedeas bond properly posted in the amount required by law;
202 | or furnish the Department of Health an order from a court of
203 | competent jurisdiction staying execution on the final judgment
204 | pending disposition of the appeal.

205 | 3. Upon the next meeting of the probable cause panel of
206 | the board following 30 days after the date of mailing the notice
207 | of disciplinary action to the licensee, the panel shall make a
208 | determination of whether probable cause exists to take
209 | disciplinary action against the licensee pursuant to
210 | subparagraph 1.

211 | 4. If the board determines that the factual requirements
212 | of subparagraph 1. are met, it shall take disciplinary action as
213 | it deems appropriate against the licensee. Such disciplinary
214 | action shall include, at a minimum, probation of the license
215 | with the restriction that the licensee must make payments to the
216 | judgment creditor on a schedule determined by the board to be
217 | reasonable and within the financial capability of the physician.
218 | Notwithstanding any other disciplinary penalty imposed, the
219 | disciplinary penalty may include suspension of the license for a
220 | period not to exceed 5 years. In the event that an agreement to
221 | satisfy a judgment has been met, the board shall remove any
222 | restriction on the license.

223 | 5. The licensee has completed a form supplying necessary
224 | information as required by the department.
225 |

226 A licensee who meets the requirements of this paragraph shall be
 227 required either to post notice in the form of a sign prominently
 228 displayed in the reception area and clearly noticeable by all
 229 patients or to provide a written statement to any person to whom
 230 medical services are being provided. Such sign or statement
 231 shall state: "Under Florida law, physicians are generally
 232 required to carry medical malpractice insurance or otherwise
 233 demonstrate financial responsibility to cover potential claims
 234 for medical malpractice. YOUR DOCTOR HAS DECIDED NOT TO CARRY
 235 MEDICAL MALPRACTICE INSURANCE. This is permitted under Florida
 236 law subject to certain conditions. Florida law imposes penalties
 237 against noninsured physicians who fail to satisfy adverse
 238 judgments arising from claims of medical malpractice. This
 239 notice is provided pursuant to Florida law."

240 Section 2. Paragraph (i) of subsection (1) of section
 241 458.328, Florida Statutes, is redesignated as paragraph (h), and
 242 present paragraphs (a), (b), and (h) of subsection (1) and
 243 subsection (2) of that section are amended to read:

244 458.328 Office surgeries.—

245 (1) REGISTRATION.—

246 (a)1. An office in which a physician performs a
 247 liposuction procedure in which more than 1,000 cubic centimeters
 248 of supernatant fat is temporarily or permanently removed, a
 249 Level II office surgery, or a Level III office surgery must
 250 register with the department. ~~unless the office is licensed as A~~

251 facility licensed under chapter 390 or chapter 395 may not be
 252 registered under this section.

253 2. The department must complete an inspection of any
 254 office seeking registration under this section before the office
 255 may be registered.

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

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

274 (2) STANDARDS OF PRACTICE.—

275 (a) A physician may not perform any surgery or procedure

276 identified in paragraph (1) (a) in a setting other than an office
 277 surgery setting registered under this section or a facility
 278 licensed under chapter 390 or chapter 395, as applicable. The
 279 board shall impose a fine of \$5,000 per incident on a physician
 280 who violates this paragraph performing a gluteal fat grafting
 281 ~~procedure in an office surgery setting shall adhere to standards~~
 282 ~~of practice pursuant to this subsection and rules adopted by the~~
 283 ~~board.~~

284 (b) Office surgeries may not:

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

288 2. Require major or prolonged intracranial, intrathoracic,
 289 abdominal, or joint replacement procedures, except for
 290 laparoscopic procedures;

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

294 4. Be emergent or life threatening.

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

299 1. A physician performing a gluteal fat grafting procedure
 300 must conduct an in-person examination of the patient while

301 physically present in the same room as the patient no later than
302 the day before the procedure.

303 2. Before a physician may delegate any duties during a
304 gluteal fat grafting procedure, the patient must provide
305 written, informed consent for such delegation. Any duty
306 delegated by a physician during a gluteal fat grafting procedure
307 must be performed under the direct supervision of the physician
308 performing such procedure. Fat extraction and gluteal fat
309 injections must be performed by the physician and may not be
310 delegated.

311 3. Fat may only be injected into the subcutaneous space of
312 the patient and may not cross the fascia overlying the gluteal
313 muscle. Intramuscular or submuscular fat injections are
314 prohibited.

315 4. When the physician performing a gluteal fat grafting
316 procedure injects fat into the subcutaneous space of the
317 patient, the physician must use ultrasound guidance, or guidance
318 with other technology authorized under board rule which equals
319 or exceeds the quality of ultrasound, during the placement and
320 navigation of the cannula to ensure that the fat is injected
321 into the subcutaneous space of the patient above the fascia
322 overlying the gluteal muscle. Such guidance with the use of
323 ultrasound or other technology is not required for other
324 portions of such procedure.

325 5. An office in which a physician performs gluteal fat

326 grafting procedures must at all times maintain a ratio of one
 327 physician to one patient during all phases of the procedure,
 328 beginning with the administration of anesthesia to the patient
 329 and concluding with the extubation of the patient. After a
 330 physician has commenced, and while he or she is engaged in, a
 331 gluteal fat grafting procedure, the physician may not commence
 332 or engage in another gluteal fat grafting procedure or any other
 333 procedure with another patient at the same time.

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

337 ~~(e) An office in which a physician performs gluteal fat~~
 338 ~~grafting procedures must at all times maintain a ratio of one~~
 339 ~~physician to one patient during all phases of the procedure,~~
 340 ~~beginning with the administration of anesthesia to the patient~~
 341 ~~and concluding with the extubation of the patient. After a~~
 342 ~~physician has commenced, and while he or she is engaged in, a~~
 343 ~~gluteal fat grafting procedure, the physician may not commence~~
 344 ~~or engage in another gluteal fat grafting procedure or any other~~
 345 ~~procedure with another patient at the same time.~~

346 Section 3. Subsections (3) through (10) of section
 347 459.0085, Florida Statutes, are renumbered as subsections (4)
 348 through (11), respectively, paragraph (b) of present subsection
 349 (4) and present subsection (5) are amended, and a new subsection
 350 (3) is added to that section, to read:

351 459.0085 Financial responsibility.—

352 (3) A physician performing a gluteal fat grafting
353 procedure in an office surgery setting registered under s.
354 459.0138 must also establish financial responsibility by either
355 of the following methods:

356 (a) Obtaining and maintaining professional liability
357 coverage in an amount not less than \$250,000 per claim, with a
358 minimum annual aggregate of not less than \$750,000, from an
359 authorized insurer as defined in s. 624.09, from an eligible
360 surplus lines insurer as defined in s. 626.914(2), from a risk
361 retention group as defined in s. 627.942, from the Joint
362 Underwriting Association established under s. 627.351(4),
363 through a plan of self-insurance as provided in s. 627.357, or
364 through a plan of self-insurance which meets the conditions
365 specified for satisfying financial responsibility in s. 766.110.
366 The required coverage amount set forth in this subsection may
367 not be used for litigation costs or attorney fees for the
368 defense of any medical malpractice claim; or

369 (b) Obtaining and maintaining an unexpired irrevocable
370 letter of credit, established pursuant to chapter 675, in an
371 amount not less than \$250,000 per claim, with a minimum
372 aggregate availability of credit of not less than \$750,000. The
373 letter of credit must be payable to the physician as beneficiary
374 upon presentment of a final judgment indicating liability and
375 awarding damages to be paid by the physician or upon presentment

376 of a settlement agreement signed by all parties to such
377 agreement when such final judgment or settlement is a result of
378 a claim arising out of the rendering of, or the failure to
379 render, medical care and services. The letter of credit may not
380 be used for litigation costs or attorney fees for the defense of
381 any medical malpractice claim. The letter of credit must be
382 nonassignable and nontransferable. The letter of credit must be
383 issued by any bank or savings association organized and existing
384 under the laws of this state or any bank or savings association
385 organized under the laws of the United States which has its
386 principal place of business in this state or has a branch office
387 that is authorized under the laws of this state or of the United
388 States to receive deposits in this state.

389
390 The exemption under paragraph (6) (f) does not apply to this
391 subsection. This subsection shall be inclusive of the coverage
392 in subsection (1).

393 (5)-(4)

394 (b) If financial responsibility requirements are met by
395 maintaining an escrow account or letter of credit as provided in
396 this section, upon the entry of an adverse final judgment
397 arising from a medical malpractice arbitration award, from a
398 claim of medical malpractice either in contract or tort, or from
399 noncompliance with the terms of a settlement agreement arising
400 from a claim of medical malpractice either in contract or tort,

401 the licensee shall pay the entire amount of the judgment
 402 together with all accrued interest or the amount maintained in
 403 the escrow account or provided in the letter of credit as
 404 required by this section, whichever is less, within 60 days
 405 after the date such judgment became final and subject to
 406 execution, unless otherwise mutually agreed to in writing by the
 407 parties. If timely payment is not made by the osteopathic
 408 physician, the department shall suspend the license of the
 409 osteopathic physician pursuant to procedures set forth in
 410 subparagraphs (6) (g) 3., 4., and 5. ~~subparagraphs (5) (g) 3., 4.,~~
 411 ~~and 5.~~ Nothing in This paragraph does not ~~shall~~ abrogate a
 412 judgment debtor's obligation to satisfy the entire amount of any
 413 judgment.

414 (6)(5) The requirements of subsections (1), (2), ~~and (3)~~,
 415 and (4) do not apply to:

416 (a) Any person licensed under this chapter who practices
 417 medicine exclusively as an officer, employee, or agent of the
 418 Federal Government or of the state or its agencies or its
 419 subdivisions. For the purposes of this subsection, an agent of
 420 the state, its agencies, or its subdivisions is a person who is
 421 eligible for coverage under any self-insurance or insurance
 422 program authorized by the provisions of s. 768.28(16).

423 (b) Any person whose license has become inactive under
 424 this chapter and who is not practicing medicine in this state.
 425 Any person applying for reactivation of a license must show

426 either that such licensee maintained tail insurance coverage
427 that provided liability coverage for incidents that occurred on
428 or after January 1, 1987, or the initial date of licensure in
429 this state, whichever is later, and incidents that occurred
430 before the date on which the license became inactive; or such
431 licensee must submit an affidavit stating that such licensee has
432 no unsatisfied medical malpractice judgments or settlements at
433 the time of application for reactivation.

434 (c) Any person holding a limited license pursuant to s.
435 459.0075 and practicing under the scope of such limited license.

436 (d) Any person licensed or certified under this chapter
437 who practices only in conjunction with his or her teaching
438 duties at a college of osteopathic medicine. Such person may
439 engage in the practice of osteopathic medicine to the extent
440 that such practice is incidental to and a necessary part of
441 duties in connection with the teaching position in the college
442 of osteopathic medicine.

443 (e) Any person holding an active license under this
444 chapter who is not practicing osteopathic medicine in this
445 state. If such person initiates or resumes any practice of
446 osteopathic medicine in this state, he or she must notify the
447 department of such activity and fulfill the financial
448 responsibility requirements of this section before resuming the
449 practice of osteopathic medicine in this state.

450 (f) Any person holding an active license under this

451 chapter who meets all of the following criteria:

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

455 2. The licensee has either retired from the practice of
456 osteopathic medicine or maintains a part-time practice of
457 osteopathic medicine of no more than 1,000 patient contact hours
458 per year.

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

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

465 5. The licensee has not been subject within the last 10
466 years of practice to license revocation or suspension for any
467 period of time, probation for a period of 3 years or longer, or
468 a fine of \$500 or more for a violation of this chapter or the
469 medical practice act of another jurisdiction. The regulatory
470 agency's acceptance of an osteopathic physician's relinquishment
471 of a license, stipulation, consent order, or other settlement,
472 offered in response to or in anticipation of the filing of
473 administrative charges against the osteopathic physician's
474 license, constitutes action against the physician's license for
475 the purposes of this paragraph.

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

479 7. The licensee must submit biennially to the department a
 480 certification stating compliance with this paragraph. The
 481 licensee must, upon request, demonstrate to the department
 482 information verifying compliance with this paragraph.

483

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

489 "Under Florida law, osteopathic physicians are generally
 490 required to carry medical malpractice insurance or otherwise
 491 demonstrate financial responsibility to cover potential claims
 492 for medical malpractice. However, certain part-time osteopathic
 493 physicians who meet state requirements are exempt from the
 494 financial responsibility law. YOUR OSTEOPATHIC PHYSICIAN MEETS
 495 THESE REQUIREMENTS AND HAS DECIDED NOT TO CARRY MEDICAL
 496 MALPRACTICE INSURANCE. This notice is provided pursuant to
 497 Florida law."

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

500 1. Upon the entry of an adverse final judgment arising

501 from a medical malpractice arbitration award, from a claim of
502 medical malpractice either in contract or tort, or from
503 noncompliance with the terms of a settlement agreement arising
504 from a claim of medical malpractice either in contract or tort,
505 the licensee shall pay the judgment creditor the lesser of the
506 entire amount of the judgment with all accrued interest or
507 either \$100,000, if the osteopathic physician is licensed
508 pursuant to this chapter but does not maintain hospital staff
509 privileges, or \$250,000, if the osteopathic physician is
510 licensed pursuant to this chapter and maintains hospital staff
511 privileges, within 60 days after the date such judgment became
512 final and subject to execution, unless otherwise mutually agreed
513 to in writing by the parties. Such adverse final judgment shall
514 include any cross-claim, counterclaim, or claim for indemnity or
515 contribution arising from the claim of medical malpractice. Upon
516 notification of the existence of an unsatisfied judgment or
517 payment pursuant to this subparagraph, the department shall
518 notify the licensee by certified mail that he or she shall be
519 subject to disciplinary action unless, within 30 days from the
520 date of mailing, the licensee either:

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

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

525 (I) A copy of a supersedeas bond properly posted in the

526 amount required by law; or

527 (II) An order from a court of competent jurisdiction
 528 staying execution on the final judgment, pending disposition of
 529 the appeal.

530 2. The Department of Health shall issue an emergency order
 531 suspending the license of any licensee who, after 30 days
 532 following receipt of a notice from the Department of Health, has
 533 failed to: satisfy a medical malpractice claim against him or
 534 her; furnish the Department of Health a copy of a timely filed
 535 notice of appeal; furnish the Department of Health a copy of a
 536 supersedeas bond properly posted in the amount required by law;
 537 or furnish the Department of Health an order from a court of
 538 competent jurisdiction staying execution on the final judgment
 539 pending disposition of the appeal.

540 3. Upon the next meeting of the probable cause panel of
 541 the board following 30 days after the date of mailing the notice
 542 of disciplinary action to the licensee, the panel shall make a
 543 determination of whether probable cause exists to take
 544 disciplinary action against the licensee pursuant to
 545 subparagraph 1.

546 4. If the board determines that the factual requirements
 547 of subparagraph 1. are met, it shall take disciplinary action as
 548 it deems appropriate against the licensee. Such disciplinary
 549 action shall include, at a minimum, probation of the license
 550 with the restriction that the licensee must make payments to the

551 judgment creditor on a schedule determined by the board to be
552 reasonable and within the financial capability of the
553 osteopathic physician. Notwithstanding any other disciplinary
554 penalty imposed, the disciplinary penalty may include suspension
555 of the license for a period not to exceed 5 years. In the event
556 that an agreement to satisfy a judgment has been met, the board
557 shall remove any restriction on the license.

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

560

561 A licensee who meets the requirements of this paragraph shall be
562 required either to post notice in the form of a sign prominently
563 displayed in the reception area and clearly noticeable by all
564 patients or to provide a written statement to any person to whom
565 medical services are being provided. Such sign or statement
566 shall state: "Under Florida law, osteopathic physicians are
567 generally required to carry medical malpractice insurance or
568 otherwise demonstrate financial responsibility to cover
569 potential claims for medical malpractice. YOUR OSTEOPATHIC
570 PHYSICIAN HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE
571 INSURANCE. This is permitted under Florida law subject to
572 certain conditions. Florida law imposes strict penalties against
573 noninsured osteopathic physicians who fail to satisfy adverse
574 judgments arising from claims of medical malpractice. This
575 notice is provided pursuant to Florida law."

576 Section 4. Paragraph (i) of subsection (1) of section
577 459.0138, Florida Statutes, is redesignated as paragraph (h),
578 and present paragraphs (a), (b), and (h) of subsection (1) and
579 subsection (2) of that section are amended to read:

580 459.0138 Office surgeries.—

581 (1) REGISTRATION.—

582 (a)1. An office in which a physician performs a
583 liposuction procedure in which more than 1,000 cubic centimeters
584 of supernatant fat is temporarily or permanently removed, a
585 Level II office surgery, or a Level III office surgery must
586 register with the department. ~~unless the office is licensed as A~~
587 facility licensed under chapter 390 or chapter 395 may not be
588 registered under this section.

589 2. The department must complete an inspection of any
590 office seeking registration under this section before the office
591 may be registered.

592 (b) ~~By January 1, 2020,~~ Each office registered under this
593 section or s. 458.328 must designate a physician who is
594 responsible for the office's compliance with the office health
595 and safety requirements of this section and rules adopted
596 hereunder. A designated physician must have a full, active, and
597 unencumbered license under this chapter or chapter 458 and shall
598 practice at the office for which he or she has assumed
599 responsibility. Within 10 calendar days after the termination of
600 a designated physician relationship, the office must notify the

601 department of the designation of another physician to serve as
 602 the designated physician. The department may suspend a
 603 registration for an office if the office fails to comply with
 604 the requirements of this paragraph.

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

610 (2) STANDARDS OF PRACTICE.—

611 (a) A physician may not perform any surgery or procedure
 612 identified in paragraph (1) (a) in a setting other than an office
 613 surgery setting registered under this section or a facility
 614 licensed under chapter 390 or chapter 395, as applicable. The
 615 board shall impose a fine of \$5,000 per incident on a physician
 616 who violates this paragraph performing a gluteal fat grafting
 617 ~~procedure in an office surgery setting shall adhere to standards~~
 618 ~~of practice pursuant to this subsection and rules adopted by the~~
 619 ~~board.~~

620 (b) Office surgeries may not:

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

624 2. Require major or prolonged intracranial, intrathoracic,
 625 abdominal, or joint replacement procedures, except for

626 laparoscopic procedures;

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

630 4. Be emergent or life threatening.

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

635 1. A physician performing a gluteal fat grafting procedure
636 must conduct an in-person examination of the patient while
637 physically present in the same room as the patient no later than
638 the day before the procedure.

639 2. Before a physician may delegate any duties during a
640 gluteal fat grafting procedure, the patient must provide
641 written, informed consent for such delegation. Any duty
642 delegated by a physician during a gluteal fat grafting procedure
643 must be performed under the direct supervision of the physician
644 performing such procedure. Fat extraction and gluteal fat
645 injections must be performed by the physician and may not be
646 delegated.

647 3. Fat may only be injected into the subcutaneous space of
648 the patient and may not cross the fascia overlying the gluteal
649 muscle. Intramuscular or submuscular fat injections are
650 prohibited.

651 4. When the physician performing a gluteal fat grafting
652 procedure injects fat into the subcutaneous space of the
653 patient, the physician must use ultrasound guidance, or guidance
654 with other technology authorized under board rule which equals
655 or exceeds the quality of ultrasound, during the placement and
656 navigation of the cannula to ensure that the fat is injected
657 into the subcutaneous space of the patient above the fascia
658 overlying the gluteal muscle. Such guidance with the use of
659 ultrasound or other technology is not required for other
660 portions of such procedure.

661 5. An office in which a physician performs gluteal fat
662 grafting procedures must at all times maintain a ratio of one
663 physician to one patient during all phases of the procedure,
664 beginning with the administration of anesthesia to the patient
665 and concluding with the extubation of the patient. After a
666 physician has commenced, and while he or she is engaged in, a
667 gluteal fat grafting procedure, the physician may not commence
668 or engage in another gluteal fat grafting procedure or any other
669 procedure with another patient at the same time.

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

673 ~~(e) An office in which a physician performs gluteal fat~~
674 ~~grafting procedures must at all times maintain a ratio of one~~
675 ~~physician to one patient during all phases of the procedure,~~

676 ~~beginning with the administration of anesthesia to the patient~~
677 ~~and concluding with the extubation of the patient. After a~~
678 ~~physician has commenced, and while he or she is engaged in, a~~
679 ~~gluteal fat grafting procedure, the physician may not commence~~
680 ~~or engage in another gluteal fat grafting procedure or any other~~
681 ~~procedure with another patient at the same time.~~

682 Section 5. Subsection (6) of section 458.3145, Florida
683 Statutes, is amended to read:

684 458.3145 Medical faculty certificate.—

685 (6) Notwithstanding subsection (1), any physician, when
686 providing medical care or treatment in connection with the
687 education of students, residents, or faculty at the request of
688 the dean of an accredited medical school within this state or at
689 the request of the medical director of a statutory teaching
690 hospital as defined in s. 408.07 or a specialty-licensed
691 children's hospital licensed under chapter 395 that is
692 affiliated with an accredited medical school and its affiliated
693 clinics, may do so upon registration with the board and
694 demonstration of financial responsibility pursuant to s.
695 458.320(1) or (2) unless such physician is exempt under s.
696 458.320(6)(a) ~~s. 458.320(5)(a)~~. The performance of such medical
697 care or treatment must be limited to a single period of time,
698 which may not exceed 180 consecutive days, and must be rendered
699 within a facility registered under subsection (2) or within a
700 statutory teaching hospital as defined in s. 408.07. A

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701 registration fee not to exceed \$300, as set by the board, is
702 required of each physician registered under this subsection.
703 However, no more than three physicians per year per institution
704 may be registered under this subsection, and an exemption under
705 this subsection may not be granted to a physician more than once
706 in any given 5-year period.

707 Section 6. This act shall take effect upon becoming a law.