

By the Committee on Health Policy; and Senator Book

588-03846A-20

20201470c1

1 A bill to be entitled
2 An act relating to informed consent; creating s.
3 456.51, F.S.; requiring health care practitioners to
4 obtain written informed consent from the patient or
5 the patient's legal representative in order to perform
6 examinations on or provide medical care or treatment
7 to the patient, with exceptions; specifying
8 circumstances under which an attending health care
9 practitioner may allow certain individuals to observe
10 or participate in the provision of medical care or
11 treatment to a patient under anesthesia; requiring the
12 attending health care practitioner to obtain from the
13 patient or the patient's legal representative separate
14 written informed consent to do so; specifying
15 requirements for the written informed consent form;
16 providing that a patient may revoke or amend consent
17 verbally or in writing within a specified timeframe;
18 requiring the attending health care practitioner to
19 inform the patient of specified information and to
20 document specified information in the patient's
21 medical record under certain circumstances; providing
22 for disciplinary action against attending health care
23 practitioners or supervising medical educators who
24 fail to comply with certain provisions; providing an
25 effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

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29 Section 1. Section 456.51, Florida Statutes, is created to

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30 read:

31 456.51 Informed consent.-

32 (1) A health care practitioner may not perform an
33 examination of or provide medical care or treatment to a
34 patient, with or without anesthesia, unless:

35 (a) The health care practitioner first obtains written
36 informed consent from the patient or the patient's legal
37 representative for all medically necessary examinations or
38 medical care or treatment to be performed on or provided to the
39 patient, with or without anesthesia;

40 (b) A court orders the performance of an examination of or
41 the provision of medical care or treatment to the patient, with
42 or without anesthesia; or

43 (c) The performance of an examination or the provision of
44 medical care or treatment is medically necessary to diagnose or
45 treat the patient in a medical emergency.

46 (2) A patient's attending health care practitioner may not
47 allow a medical or nursing student, a resident physician, an
48 intern, or a fellow in fellowship training to observe or
49 participate in the provision of medical care or treatment to his
50 or her patient while the patient is under anesthesia for any
51 purpose, unless:

52 (a) A court orders the performance of an examination of or
53 the provision of medical care or treatment to the patient, with
54 or without anesthesia;

55 (b) The performance of an examination or the provision of
56 medical care or treatment is medically necessary to diagnose or
57 treat the patient in a medical emergency; or

58 (c) The attending health care practitioner obtains a

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59 separate written informed consent form from the patient or the
60 patient's legal representative in accordance with subsection (3)
61 authorizing medical or nursing students, resident physicians,
62 interns, or fellows in fellowship training to:

63 1. Be present only for the purpose of observing the
64 provision of medical care or treatment by the attending health
65 care practitioner to the patient while the patient is under
66 anesthesia; or

67 2. For the purpose of conducting research or clinical
68 training, participate, under the direct supervision of the
69 attending health care practitioner or the supervising medical
70 educator, in the provision of medical care or treatment by the
71 attending health care practitioner to the patient while the
72 patient is under anesthesia.

73 (3) The separate written informed consent form required
74 under paragraph (2) (c) must include all of the following:

75 (a) The name and title of the patient's attending health
76 care practitioner who is responsible for the medical care and
77 treatment of the patient while the patient is under anesthesia,
78 as indicated by the patient's medical care and treatment plan.

79 (b) The name and title of any supervising medical educator
80 who will be present or will be providing direct supervision to
81 any medical or nursing student, resident physician, intern, or
82 fellow in fellowship training during the provision of medical
83 care or treatment to the patient while the patient is under
84 anesthesia.

85 (c) A statement that any observation or participation by a
86 medical or nursing student, a resident physician, an intern, or
87 a fellow in fellowship training in the provision of medical care

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88 or treatment to the patient while the patient is under
89 anesthesia will be:

90 1. Directly related to the patient's diagnosis and medical
91 care and treatment plan established by the patient's attending
92 health care practitioner;

93 2. Part of medical research being conducted by the medical
94 or nursing student, resident physician, intern, or fellow in
95 fellowship training; or

96 3. Part of the clinical training being provided to the
97 medical or nursing student, resident physician, intern, or
98 fellow in fellowship training.

99 (d) A series of check boxes that allow the patient or the
100 patient's legal representative to indicate whether he or she
101 consents or withholds consent to:

102 1. The presence of medical or nursing students, resident
103 physicians, interns, or fellows in fellowship training to
104 observe the provision of medical care and treatment to the
105 patient while the patient is under anesthesia only for the
106 purpose of conducting medical research or receiving clinical
107 training; or

108 2. The participation of medical or nursing students,
109 resident physicians, interns, or fellows in fellowship training
110 in the provision of medical care and treatment to the patient
111 while the patient is under anesthesia for the purpose of
112 conducting medical research or receiving clinical training.

113 (e) A signature line designated for the patient or the
114 patient's legal representative.

115 (f) A signature line designated for the patient's attending
116 health care practitioner and the supervising medical educator,

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117 if different from the patient's attending health care
118 practitioner.

119 (4) A patient may amend or revoke his or her consent,
120 verbally or in writing, at any time before the procedure begins
121 or before the anesthesia is administered, whichever occurs
122 earlier.

123 (5) If a patient consents to have medical or nursing
124 students, resident physicians, interns, or fellows in fellowship
125 training observe or participate in the provision of medical care
126 or treatment to the patient while under anesthesia, the
127 patient's attending health care practitioner must do all of the
128 following:

129 (a) Inform the patient of his or her right to amend or
130 revoke his or her consent at any time before the procedure
131 begins or before anesthesia is administered, whichever occurs
132 earlier.

133 (b) Document in the patient's medical record the name of
134 each medical or nursing student, resident physician, intern, or
135 fellow in fellowship training who observed or participated in
136 the provision of medical care or treatment to the patient while
137 the patient was under anesthesia.

138 (6) A patient's attending health care practitioner and a
139 supervising medical educator, if different from the attending
140 health care practitioner, who fails to comply with this section
141 is subject to discipline by the applicable board, or the
142 department if there is no board.

143 Section 2. This act shall take effect July 1, 2020.