

By the Committee on Health Care Licensing & Regulation and Representatives Fasano, Ogles, Heyman, Ritter, Villalobos, Minton, Harrington and Healey

1 A bill to be entitled
2 An act relating to regulation of health care
3 practitioners; creating ss. 458.351 and
4 459.026, F.S.; requiring reports to the
5 Department of Health of adverse incidents in
6 specified settings; providing for review of
7 such incidents and initiation of disciplinary
8 proceedings, where appropriate; authorizing
9 department access to certain records and
10 preserving exemption from public access
11 thereto; providing rulemaking authority;
12 providing an effective date.

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

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16 Section 1. Section 458.351, Florida Statutes, is
17 created to read:

18 458.351 Reports of adverse incidents in office
19 practice settings.--

20 (1) Any adverse incident that occurs on or after
21 January 1, 2000, in any office maintained by a physician for
22 the practice of medicine which is not licensed under chapter
23 395 must be reported to the department in accordance with the
24 provisions of this section.

25 (2) Any physician or other licensee under this chapter
26 practicing in this state must notify the department if the
27 physician or licensee was involved in an adverse incident that
28 occurred on or after January 1, 2000, in any office maintained
29 by a physician for the practice of medicine which is not
30 licensed under chapter 395.

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1 (3) The required notification to the department must
2 be submitted in writing by certified mail and postmarked
3 within 15 days after the occurrence of the adverse incident.

4 (4) For purposes of notification to the department
5 pursuant to this section, the term "adverse incident" means an
6 event over which the physician or licensee could exercise
7 control and which is associated in whole or in part with
8 medical intervention, rather than the condition for which such
9 intervention occurred, and which results in any of the
10 following patient injuries:

11 (a) The death of a patient;

12 (b) Brain or spinal damage to a patient;

13 (c) The performance of a surgical procedure on the
14 wrong patient;

15 (d) The performance of a wrong-site surgical
16 procedure, wrong surgical procedure, or surgical repair of
17 damage to a patient resulting from a planned surgical
18 procedure where the damage is not a recognized specific risk
19 as disclosed to the patient and documented through the
20 informed-consent process, which results in death, brain or
21 spinal damage, permanent disfigurement not to include the
22 incision scar, fracture or dislocation of bones or joints, a
23 limitation of neurological, physical, or sensory function, or
24 any condition which required the transfer of the patient; or

25 (e) The performance of procedures to remove foreign
26 objects left unintentionally during a previous surgical
27 procedure.

28 (5) The department shall review each incident and
29 determine whether it potentially involved conduct by a health
30 care professional who is subject to disciplinary action, in
31 which case the provisions of s. 455.621 shall apply; and

1 disciplinary action, if any, shall be taken by the board under
2 which the health care professional is licensed.

3 (6) The department shall have access to all medical
4 records necessary to carry out the provisions of this section.
5 The records obtained by the department are not available to
6 the public under s. 119.07(1), as provided in s. 455.621, nor
7 shall they be discoverable or admissible in any civil or
8 administrative action, except in disciplinary proceedings by
9 the board, or the department or other appropriate regulatory
10 board for other licensed practitioners; nor shall records
11 obtained pursuant to s. 455.611 be available to the public as
12 part of the record of investigation for and prosecution in
13 disciplinary proceedings made available to the public by the
14 department or the appropriate regulatory board. However, the
15 department or the appropriate regulatory board shall make
16 available, upon written request by a health care practitioner
17 against whom probable cause has been found, any such records
18 which form the basis of the determination of probable cause,
19 except that, with respect to medical review committee records,
20 s. 766.101 controls.

21 (7) The board has authority to adopt rules to
22 implement this section.

23 Section 2. Section 459.026, Florida Statutes, is
24 created to read:

25 459.026 Reports of adverse incidents in office
26 practice settings.--

27 (1) Any adverse incident that occurs on or after
28 January 1, 2000, in any office maintained by an osteopathic
29 physician for the practice of osteopathic medicine which is
30 not licensed under chapter 395 must be reported to the
31 department in accordance with the provisions of this section.

1 (2) Any osteopathic physician or other licensee under
2 this chapter practicing in this state must notify the
3 department if the osteopathic physician or licensee was
4 involved in an adverse incident that occurred on or after
5 January 1, 2000, in any office maintained by an osteopathic
6 physician for the practice of osteopathic medicine which is
7 not licensed under chapter 395.

8 (3) The required notification to the department must
9 be submitted in writing by certified mail and postmarked
10 within 15 days after the occurrence of the adverse incident.

11 (4) For purposes of reporting to the department
12 pursuant to this section, the term "adverse incident" means an
13 event over which the osteopathic physician or licensee could
14 exercise control and which is associated in whole or in part
15 with medical intervention, rather than the condition for which
16 such intervention occurred, and which results in the following
17 patient injuries:

18 (a) The death of a patient;

19 (b) Brain or spinal damage to a patient;

20 (c) The performance of a surgical procedure on the
21 wrong patient;

22 (d) The performance of a wrong-site surgical
23 procedure, wrong surgical procedure, or surgical repair of
24 damage to a patient resulting from a planned surgical
25 procedure where the damage is not a recognized specific risk
26 as disclosed to the patient and documented through the
27 informed-consent process, which results in death, brain or
28 spinal damage, permanent disfigurement not to include the
29 incision scar, fracture or dislocation of bones or joints, a
30 limitation of neurological, physical, or sensory function, or
31 any condition which required the transfer of the patient; or

1 (e) The performance of procedures to remove foreign
2 objects left unintentionally during a previous surgical
3 procedure.

4 (5) The department shall review each incident and
5 determine whether it potentially involved conduct by a health
6 care professional who is subject to disciplinary action, in
7 which case the provisions of s. 455.621 shall apply; and
8 disciplinary action, if any, shall be taken by the board under
9 which the health care professional is licensed.

10 (6) The department shall have access to all medical
11 records necessary to carry out the provisions of this section.
12 The records obtained by the department are not available to
13 the public under s. 119.07(1), as provided in s. 455.621, nor
14 shall they be discoverable or admissible in any civil or
15 administrative action, except in disciplinary proceedings by
16 the board, or the department or other appropriate regulatory
17 board for other licensed practitioners; nor shall records
18 obtained pursuant to s. 455.611 be available to the public as
19 part of the record of investigation for and prosecution in
20 disciplinary proceedings made available to the public by the
21 department or the appropriate regulatory board. However, the
22 department or the appropriate regulatory board shall make
23 available, upon written request by a health care practitioner
24 against whom probable cause has been found, any such records
25 which form the basis of the determination of probable cause,
26 except that, with respect to medical review committee records,
27 s. 766.101 controls.

28 (7) The board has authority to adopt rules to
29 implement this section.

30 Section 3. This act shall take effect upon becoming a
31 law.

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HOUSE SUMMARY

Requires the reporting of adverse incidents that occur on or after a specified date in medical office practice settings not licensed under ch. 395, F.S. Provides for review of such incidents by the Department of Health and initiation of disciplinary proceedings, where appropriate. Authorizes department access to medical and other records necessary for such review and disciplinary proceedings, and preserves exemption from public access thereto. Provides rulemaking authority to the Board of Medicine and the Board of Osteopathic Medicine to implement such reporting procedures.