



359744

LEGISLATIVE ACTION

Senate

.  
. .  
. .  
. .  
. .

House

---

Appropriations Subcommittee on Health and Human Services  
(Flores) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 414 - 624

and insert:

must register the office with the department ~~unless that office~~  
~~is licensed as a facility under chapter 395~~. The department  
shall inspect the physician's office annually unless the office  
is accredited by a nationally recognized accrediting agency or  
an accrediting organization ~~subsequently~~ approved by the Board  
of Medicine. The actual costs for registration and inspection or



359744

11 accreditation shall be paid by the person seeking to register  
12 and operate the office setting in which office surgery is  
13 performed. As a condition of registration, a physician who  
14 performs such surgical procedures in an office setting, and the  
15 office itself if it is a separate legal entity from the  
16 physician, must maintain the same levels of financial  
17 responsibility required in s. 458.320.

18 (4) (a) The board may adopt rules to administer the  
19 registration, inspection, and safety of offices in which a  
20 physician performs office surgery.

21 (b) As a part of registration, such an office must  
22 designate a physician who is responsible for the office's  
23 compliance with this section and the rules adopted hereunder.  
24 Within 10 days after termination of the designated physician,  
25 the office must notify the department of the identity of another  
26 designated physician for that office. The designated physician  
27 must have a full, active, and unencumbered license under this  
28 chapter or chapter 459 and shall practice at the office for  
29 which he or she has assumed responsibility. The department may  
30 suspend a registration certificate for an office without a  
31 designated physician who practices at the office.

32 (c) The department shall inspect the office at least  
33 annually, including a review of patient records, to ensure that  
34 it complies with this section and rules adopted hereunder unless  
35 the office is accredited by a nationally recognized accrediting  
36 agency approved by the board. The inspection must be  
37 unannounced.

38 (d) The board shall adopt by rule standards of practice for  
39 physicians who perform office surgery. The board shall impose a



359744

40 fine of \$5,000 per day on a physician who performs a surgical  
41 procedure identified in subsection (3) in an office that is not  
42 registered with the department.

43 Section 9. Paragraph (vv) is added to subsection (1) of  
44 section 458.331, Florida Statutes, to read:

45 458.331 Grounds for disciplinary action; action by the  
46 board and department.-

47 (1) The following acts constitute grounds for denial of a  
48 license or disciplinary action, as specified in s. 456.072(2):

49 (vv) Performing a liposuction procedure in which more than  
50 1,000 cubic centimeters of supernatant fat is removed, a Level  
51 II office surgery, or a Level III office surgery in an office  
52 that is not registered with the department pursuant to s.  
53 458.309(3).

54 Section 10. Section 459.003, Florida Statutes, is amended  
55 to read:

56 459.003 Definitions.-As used in this chapter, the term:

57 (1) "Board" means the Board of Osteopathic Medicine.

58 (2) "Deep sedation and analgesia" means a drug-induced  
59 depression of consciousness during which all of the following  
60 apply:

61 (a) The patient cannot be easily aroused but responds by  
62 purposefully following repeated or painful stimulation.

63 (b) The patient's ability to independently maintain  
64 ventilatory function may be impaired.

65 (c) The patient may require assistance in maintaining a  
66 patent airway, and spontaneous ventilation may be inadequate.

67 (d) The patient's cardiovascular function is usually  
68 maintained.



359744

69           (e) The patient's reflex withdrawal from painful stimulus  
70 is not considered a purposeful response.

71           (3)~~(2)~~ "Department" means the Department of Health.

72           (5) "Epidural anesthesia" means anesthesia produced by the  
73 injection of an anesthetic agent into the space on or around the  
74 dura mater of the spinal cord.

75           (6) "General anesthesia" means a drug-induced loss of  
76 consciousness administered by a qualified general anesthesia  
77 provider during which all of the following apply:

78           (a) The patient is not able to be aroused, even by painful  
79 stimulation.

80           (b) The patient's ability to independently maintain  
81 ventilatory function is often impaired.

82           (c) The patient has a level of depressed neuromuscular  
83 function.

84           (d) The patient may require assistance in maintaining a  
85 patent airway, and positive pressure ventilation may be  
86 required.

87           (e) The patient's cardiovascular function may be impaired.

88           (7) "Minimal sedation" means a drug-induced state during  
89 which patients respond normally to verbal commands. Although  
90 cognitive function and physical coordination may be impaired,  
91 airway reflexes, and respiratory and cardiovascular functions  
92 are unaffected.

93           (8) "Moderate sedation and analgesia" or "conscious  
94 sedation" means drug-induced depression of consciousness and a  
95 state of consciousness during which all of the following apply:

96           (a) The patient responds purposefully to verbal commands,  
97 either alone or accompanied by light tactile stimulation.



359744

98           (b) Interventions are not required to maintain a patent  
99 airway, and spontaneous ventilation is adequate.

100           (c) Cardiovascular function is maintained.

101           (d) Reflex withdrawal from a painful stimulus is not  
102 considered a purposeful response.

103           (9) "Office surgery" means a surgery that is performed in a  
104 physician's office or any facility that is not licensed under  
105 chapter 390 or chapter 395.

106           (a) "Level I office surgery" includes any surgery that  
107 consists of only minor procedures and in which anesthesia is  
108 limited to minimal sedation.

109           (b) "Level II office surgery" includes any surgery in which  
110 the patient's level of sedation is that of moderate sedation and  
111 analgesia or conscious sedation.

112           (c) "Level III office surgery" includes any surgery in  
113 which the patient's level of sedation is that of deep sedation  
114 and analgesia or general anesthesia. The term includes any  
115 surgery that includes the use of spinal anesthesia or epidural  
116 anesthesia.

117           (11)~~(3)~~ "Practice of osteopathic medicine" means the  
118 diagnosis, treatment, operation, or prescription for any human  
119 disease, pain, injury, deformity, or other physical or mental  
120 condition, which practice is based in part upon educational  
121 standards and requirements which emphasize the importance of the  
122 musculoskeletal structure and manipulative therapy in the  
123 maintenance and restoration of health.

124           (12) "Spinal anesthesia" means anesthesia produced by the  
125 injection of an anesthetic agent into the subarachnoid space of  
126 the spinal cord.



359744

127           (13) "Surgeon" means a physician who performs surgery.

128           (14) "Surgery" means any manual or operative procedure,  
129 including the use of lasers, performed upon the body of a living  
130 human being for the purposes of preserving health, diagnosing or  
131 curing disease, repairing injury, correcting deformity or  
132 defects, prolonging life, or relieving suffering or any elective  
133 procedure for aesthetic, reconstructive, or cosmetic purposes,  
134 including, but not limited to: incision or curettage of tissue  
135 or an organ; suture or other repair of tissue or organ,  
136 including a closed as well as an open reduction of a fracture;  
137 extraction of tissue including premature extraction of the  
138 products of conception from the uterus; insertion of natural or  
139 artificial implants; or an endoscopic procedure with use of  
140 local or general anesthetic.

141           (10)(4) "Osteopathic physician" means a person who is  
142 licensed to practice osteopathic medicine in this state.

143           (4)(5) "Doctor of Osteopathy" and "Doctor of Osteopathic  
144 Medicine," when referring to degrees, shall be construed to be  
145 equivalent and equal degrees.

146           Section 11. Subsection (2) of section 459.005, Florida  
147 Statutes, is amended and subsection (3) is added to that  
148 section, to read:

149           459.005 Rulemaking authority.—

150           (2) A physician who performs any liposuction procedure  
151 ~~procedures~~ in which more than 1,000 cubic centimeters of  
152 supernatant fat is removed, any Level II office surgery ~~level 2~~  
153 ~~procedures lasting more than 5 minutes,~~ or any Level III office  
154 surgery and all ~~level 3 surgical procedures~~ in an office setting  
155 must register the office with the department ~~unless that office~~



359744

156 ~~is licensed as a facility under chapter 395.~~ The department  
157 shall inspect the physician's office annually unless the office  
158 is accredited by a nationally recognized accrediting agency or  
159 an accrediting organization ~~subsequently~~ approved by the Board  
160 of Osteopathic Medicine. The actual costs for registration and  
161 inspection or accreditation shall be paid by the person seeking  
162 to register and operate the office setting in which office  
163 surgery is performed. As a condition of registration, a  
164 physician who performs such surgical procedures in an office  
165 setting, and the office itself if it is a separate legal entity  
166 from the physician, must maintain the same levels of financial  
167 responsibility required in s. 459.0085.

168 (3) (a) The board may adopt rules to administer the  
169 registration, inspection, and safety of offices in which a  
170 physician performs office surgery.

171 (b) As a part of registration, such an office must  
172 designate a physician who is responsible for the office's  
173 compliance with this section and the rules adopted hereunder.  
174 Within 10 days after termination of the designated physician,  
175 the office must notify the department of the identity of another  
176 designated physician for that office. The designated physician  
177 must have a full, active, and unencumbered license under this  
178 chapter or chapter 458 and shall practice at the office for  
179 which he or she has assumed responsibility. The department may  
180 suspend a registration certificate for an office without a  
181 designated physician who practices at the office.

182 (c) The department shall inspect the office at least  
183 annually, including a review of patient records, to ensure that  
184 it complies with this section and rules adopted hereunder unless



359744

185 the office is accredited by a nationally recognized accrediting  
186 agency approved by the board. The inspection must be  
187 unannounced.

188 (d) The board shall adopt by rule standards of practice for  
189 physicians who perform office surgery. The board shall impose a  
190 fine of \$5,000 per day on a physician who performs a surgical  
191 procedure identified in subsection (2) in an office that is not  
192 registered with the department.

193 Section 12. Paragraph (xx) is added to subsection (1) of  
194 section 459.015, Florida Statutes, to read:

195 459.015 Grounds for disciplinary action; action by the  
196 board and department.-

197 (1) The following acts constitute grounds for denial of a  
198 license or disciplinary action, as specified in s. 456.072(2):

199 (xx) Performing a liposuction procedure in which more than  
200 1,000 cubic centimeters of supernatant fat is removed, a Level  
201 II office surgery, or a Level III office surgery in an office  
202 that is not registered with the department pursuant to s.  
203 459.005(2).

204  
205 ===== T I T L E A M E N D M E N T =====

206 And the title is amended as follows:

207 Delete lines 32 - 63

208 and insert:

209 Board of Medicine to adopt rules to administer the  
210 registration, inspection, and safety of offices that  
211 perform certain office surgery; requiring such an  
212 office to designate a certain physician responsible  
213 for the office's compliance with specified provisions;





359744

214 authorizing the department to suspend an office's  
215 registration certificate under certain circumstances;  
216 requiring the department to conduct certain  
217 inspections; providing an exception; requiring the  
218 board to adopt rules governing the standard of care  
219 for physicians practicing in such offices; requiring  
220 the board to impose a specified fine on physicians who  
221 perform certain office surgeries in an unregistered  
222 office; amending s. 458.331, F.S.; providing that a  
223 physician performing certain office surgeries in an  
224 unregistered office constitutes grounds for denial of  
225 a license or disciplinary action; amending s. 459.003,  
226 F.S.; defining terms; amending s. 459.005, F.S.;  
227 requiring a physician who performs certain office  
228 surgery and the office in which the surgery is  
229 performed to maintain specified levels of financial  
230 responsibility; authorizing the Board of Osteopathic  
231 Medicine to adopt rules to administer the  
232 registration, inspection, and safety of offices that  
233 perform certain office surgery; requiring such an  
234 office to designate a certain physician responsible  
235 for the office's compliance with specified provisions;  
236 authorizing the department to suspend an office's  
237 registration certificate under certain circumstances;  
238 requiring the department to conduct certain  
239 inspections; providing an exception; requiring the  
240 board to adopt rules governing the standard of care  
241 for physicians practicing in such offices; requiring  
242 the board to impose a specified fine on physicians who



359744

243 perform certain office surgeries in an unregistered  
244 office; amending s. 459.015, F.S.; providing that a  
245 physician performing certain office surgeries in an  
246 unregistered office constitutes grounds for denial of  
247 a license or disciplinary action; amending s. 766.101,  
248 F.S.;