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1 A bill to be entitled
2 An act relating to office surgery; amending s.
3 456.074, F.S.; authorizing the Department of Health to
4 issue an emergency order suspending or restricting the
5 registration of certain facilities upon specified
6 findings; requiring the department to revoke the
7 registration of an office when its noncompliance
8 constitutes an immediate or imminent danger to the
9 health or safety of the public; amending s. 458.309,
10 F.S.; deleting a provision relating to registration
11 and inspection of an office in which a physician
12 performs certain procedures or office surgeries;
13 creating s. 458.328, F.S.; requiring an office in
14 which a physician performs certain procedures or
15 office surgeries to register with the department;
16 requiring an office to designate a physician to be
17 responsible for certain compliance requirements as
18 part of registration by a specified date; requiring an
19 office and physicians practicing at the office to meet
20 certain financial responsibility requirements;
21 authorizing the department to deny or revoke the
22 registration of or impose certain penalties against a
23 facility in which certain procedures or office
24 surgeries are performed under certain circumstances;
25 requiring the department to conduct certain
26 inspections; providing exceptions; requiring the
27 department to revoke the registration of an office in
28 which certain procedures or office surgeries are
29 performed under certain circumstances; requiring the

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30 Board of Medicine to adopt rules governing the
31 standards of practice for physicians practicing in
32 such offices and to impose a specified fine on
33 physicians who perform certain procedures or office
34 surgeries in an unregistered office; authorizing the
35 board to adopt rules to administer the registration,
36 inspection, and safety of offices in which certain
37 procedures or office surgeries are performed; amending
38 s. 458.331, F.S.; providing that a physician
39 performing certain procedures or office surgeries in
40 an unregistered office constitutes grounds for denial
41 of a license or disciplinary action; amending s.
42 459.005, F.S.; deleting a provision relating to
43 registration and inspection of an office in which a
44 physician performs certain procedures or office
45 surgeries; creating s. 459.0138, F.S.; requiring an
46 office in which a physician performs certain
47 procedures or office surgeries to register with the
48 department; requiring an office to designate a
49 physician to be responsible for certain compliance
50 requirements as part of registration by a specified
51 date; requiring an office and physicians practicing at
52 the office to meet certain financial responsibility
53 requirements; authorizing the department to deny or
54 revoke the registration of or impose certain penalties
55 against a facility in which certain procedures or
56 office surgeries are performed under certain
57 circumstances; requiring the department to conduct
58 certain inspections; providing exceptions; requiring

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59 the department to revoke the registration of an office
60 in which certain procedures or office surgeries are
61 performed under certain circumstances; requiring the
62 Board of Osteopathic Medicine to adopt rules governing
63 the standards of practice for physicians practicing in
64 such offices and to impose a specified fine on
65 physicians who perform certain procedures or office
66 surgeries in an unregistered office; authorizing the
67 board to adopt rules to administer the registration,
68 inspection, and safety of offices in which certain
69 procedures or office surgeries are performed; amending
70 s. 459.015, F.S.; providing that the performance of
71 certain procedures or office surgeries by a physician
72 in an unregistered office constitutes grounds for
73 denial of a license or disciplinary action; providing
74 an effective date.

75
76 Be It Enacted by the Legislature of the State of Florida:

77
78 Section 1. Subsection (6) is added to section 456.074,
79 Florida Statutes, to read:

80 456.074 Certain health care practitioners; immediate
81 suspension of license.—

82 (6) The department may issue an emergency order suspending
83 or restricting the registration of an office registered under s.
84 458.328 or s. 459.0139 upon a finding of probable cause that the
85 office or a physician practicing in the office is not in
86 compliance with the standards of practice for office surgery
87 adopted by the boards pursuant to s. 458.328 or s. 459.0138, as

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88 applicable, or is in violation of s. 458.331(1)(v) or s.
89 459.015(1)(z), and that such noncompliance or violation
90 constitutes an immediate danger to the public. The department
91 shall revoke the registration of an office if the noncompliance
92 constitutes an immediate or imminent danger to the health or
93 safety of the public.

94 Section 2. Subsection (3) of section 458.309, Florida
95 Statutes, is amended to read:

96 458.309 Rulemaking authority.—

97 ~~(3) A physician who performs liposuction procedures in~~
98 ~~which more than 1,000 cubic centimeters of supernatant fat is~~
99 ~~removed, level 2 procedures lasting more than 5 minutes, and all~~
100 ~~level 3 surgical procedures in an office setting must register~~
101 ~~the office with the department unless that office is licensed as~~
102 ~~a facility under chapter 395. The department shall inspect the~~
103 ~~physician's office annually unless the office is accredited by a~~
104 ~~nationally recognized accrediting agency or an accrediting~~
105 ~~organization subsequently approved by the Board of Medicine. The~~
106 ~~actual costs for registration and inspection or accreditation~~
107 ~~shall be paid by the person seeking to register and operate the~~
108 ~~office setting in which office surgery is performed.~~

109 Section 3. Section 458.328, Florida Statutes, is created to
110 read:

111 458.328 Office surgeries.—

112 (1) REGISTRATION.—

113 (a) An office in which a physician performs a liposuction
114 procedure in which more than 1,000 cubic centimeters of
115 supernatant fat is removed, a Level II office surgery, or a
116 Level III office surgery must register with the department

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117 unless the office is licensed as a facility under chapter 390 or
118 chapter 395.

119 (b) By January 1, 2020, each office registered under this
120 section or s. 459.0138 must designate a physician who is
121 responsible for the office's compliance with the office health
122 and safety requirements of this section and rules adopted
123 hereunder. A designated physician must have a full, active, and
124 unencumbered license under this chapter or chapter 459 and shall
125 practice at the office for which he or she has assumed
126 responsibility. Within 10 calendar days after the termination of
127 a designated physician relationship, the office must notify the
128 department of the designation of another physician to serve as
129 the designated physician. The department may suspend the
130 registration of an office if the office fails to comply with the
131 requirements of this paragraph.

132 (c) As a condition of registration, each office must
133 establish financial responsibility by demonstrating that it has
134 met and continues to maintain, at a minimum, the same
135 requirements applicable to physicians in ss. 458.320 and
136 459.0085. Each physician practicing at an office registered
137 under this section or s. 459.0138 must meet the financial
138 responsibility requirements under s. 458.320 or s. 459.0085, as
139 applicable.

140 (d) Each physician practicing at an office registered under
141 this section or s. 459.0138 shall advise the board, in writing,
142 within 10 calendar days after beginning or ending his or her
143 practice at a registered office.

144 (e) The department shall inspect a registered office at
145 least annually, including a review of patient records, to ensure

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146 that the office is in compliance with this section and rules
147 adopted hereunder unless the office is accredited by a
148 nationally recognized accrediting agency approved by the board.
149 The inspection may be unannounced, except for the inspection of
150 an office that meets the description of a clinic specified in s.
151 458.3265(1)(a)3.h., and those wholly owned and operated
152 physician offices described in s. 458.3265(1)(a)3.g. which
153 perform procedures referenced in s. 458.3265(1)(a)3.h., which
154 must be announced.

155 (f) The department may suspend or revoke the registration
156 of an office in which a procedure or surgery identified in
157 paragraph (a) is performed for failure of any of its physicians,
158 owners, or operators to comply with this section and rules
159 adopted hereunder or s. 459.0138 and rules adopted thereunder.
160 The department must revoke the registration if the noncompliance
161 constitutes an immediate or imminent danger to the health or
162 safety of the public. If an office's registration is revoked for
163 any reason, the department may deny any person named in the
164 registration documents of the office, including the persons who
165 own or operate the office, individually or as part of a group,
166 from registering an office to perform procedures or office
167 surgeries pursuant to this section or s. 459.0138 for 5 years
168 after the revocation date.

169 (g) The department may impose any penalty set forth in s.
170 456.072(2) against the designated physician for failure of the
171 office to operate in compliance with the office health and
172 safety requirements of this section and rules adopted hereunder
173 or s. 459.0138 and rules adopted thereunder.

174 (h) A physician may only perform a procedure or surgery

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175 identified in paragraph (a) in an office that is registered with
176 the department. The board shall impose a fine of \$5,000 per day
177 on a physician who performs a procedure or surgery in an office
178 that is not registered with the department.

179 (i) The actual costs of registration and inspection or
180 accreditation shall be paid by the person seeking to register
181 and operate the office in which a procedure or surgery
182 identified in paragraph (a) will be performed.

183 (2) RULEMAKING.—

184 (a) The board shall adopt by rule standards of practice for
185 physicians who perform procedures or office surgeries pursuant
186 to this section.

187 (b) The board may adopt rules to administer the
188 registration, inspection, and safety of offices in which a
189 physician performs procedures or office surgeries pursuant to
190 this section.

191 Section 4. Paragraph (vv) is added to subsection (1) of
192 section 458.331, Florida Statutes, to read:

193 458.331 Grounds for disciplinary action; action by the
194 board and department.—

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

197 (vv) Performing a liposuction procedure in which more than
198 1,000 cubic centimeters of supernatant fat is removed, a Level
199 II office surgery, or a Level III office surgery in an office
200 that is not registered with the department pursuant to s.
201 458.328 or s. 459.0138.

202 Section 5. Subsection (2) of section 459.005, Florida
203 Statutes, is amended to read:

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204 459.005 Rulemaking authority.—

205 ~~(2) A physician who performs liposuction procedures in~~
206 ~~which more than 1,000 cubic centimeters of supernatant fat is~~
207 ~~removed, level 2 procedures lasting more than 5 minutes, and all~~
208 ~~level 3 surgical procedures in an office setting must register~~
209 ~~the office with the department unless that office is licensed as~~
210 ~~a facility under chapter 395. The department shall inspect the~~
211 ~~physician's office annually unless the office is accredited by a~~
212 ~~nationally recognized accrediting agency or an accrediting~~
213 ~~organization subsequently approved by the Board of Osteopathic~~
214 ~~Medicine. The actual costs for registration and inspection or~~
215 ~~accreditation shall be paid by the person seeking to register~~
216 ~~and operate the office setting in which office surgery is~~
217 ~~performed.~~

218 Section 6. Section 459.0138, Florida Statutes, is created
219 to read:

220 459.0138 Office surgeries.—

221 (1) REGISTRATION.—

222 (a) An office in which a physician performs a liposuction
223 procedure in which more than 1,000 cubic centimeters of
224 supernatant fat is removed, a Level II office surgery, or a
225 Level III office surgery must register with the department
226 unless the office is licensed as a facility under chapter 390 or
227 chapter 395.

228 (b) By January 1, 2020, each office registered under this
229 section or s. 458.328 must designate a physician who is
230 responsible for the office's compliance with the office health
231 and safety requirements of this section and rules adopted
232 hereunder. A designated physician must have a full, active, and

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233 unencumbered license under this chapter or chapter 458 and shall
234 practice at the office for which he or she has assumed
235 responsibility. Within 10 calendar days after the termination of
236 a designated physician relationship, the office must notify the
237 department of the designation of another physician to serve as
238 the designated physician. The department may suspend a
239 registration for an office if the office fails to comply with
240 the requirements of this paragraph.

241 (c) As a condition of registration, each office must
242 establish financial responsibility by demonstrating that it has
243 met and continues to maintain, at a minimum, the same
244 requirements applicable to physicians in ss. 458.320 and
245 459.0085. Each physician practicing at an office registered
246 under this section or s. 458.328 must meet the financial
247 responsibility requirements under s. 458.320 or s. 459.0085, as
248 applicable.

249 (d) Each physician practicing at an office registered under
250 this section or s. 458.328 shall advise the board, in writing,
251 within 10 calendar days after beginning or ending his or her
252 practice at the registered office.

253 (e) The department shall inspect a registered office at
254 least annually, including a review of patient records, to ensure
255 that the office is in compliance with this section and rules
256 adopted hereunder unless the office is accredited by a
257 nationally recognized accrediting agency approved by the board.
258 The inspection may be unannounced, except for the inspection of
259 an office that meets the description of clinic specified in s.
260 459.0137(1)(a)3.h., and those wholly owned and operated
261 physician offices described in s. 459.0137(1)(a)3.g. which

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262 perform procedures referenced in s. 459.0237(1)(a)3.h., which
263 must be announced.

264 (f) The department may suspend or revoke the registration
265 of an office in which a procedure or surgery identified in
266 paragraph (a) is performed for failure of any of its physicians,
267 owners, or operators to comply with this section and rules
268 adopted hereunder or s. 458.328 and rules adopted thereunder.
269 The department must revoke the registration if the noncompliance
270 constitutes an immediate or imminent danger to the health or
271 safety of the public. If an office's registration is revoked for
272 any reason, the department may deny any person named in the
273 registration documents of the office, including the persons who
274 own or operate the office, individually or as part of a group,
275 from registering an office to perform procedures or office
276 surgeries pursuant to this section or s. 458.328 for 5 years
277 after the revocation date.

278 (g) The department may impose any penalty set forth in s.
279 456.072(2) against the designated physician for failure of the
280 office to operate in compliance with the office health and
281 safety requirements of this section and rules adopted hereunder
282 or s. 458.328 and rules adopted thereunder.

283 (h) A physician may only perform a procedure or surgery
284 identified in paragraph (a) in an office that is registered with
285 the department. The board shall impose a fine of \$5,000 per day
286 on a physician who performs a procedure or surgery in an office
287 that is not registered with the department.

288 (i) The actual costs of registration and inspection or
289 accreditation shall be paid by the person seeking to register
290 and operate the office in which a procedure or surgery

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291 identified in paragraph (a) will be performed.

292 (2) RULEMAKING.—

293 (a) The board shall adopt by rule standards of practice for
294 physicians who perform procedures or office surgeries pursuant
295 to this section.

296 (b) The board may adopt rules to administer the
297 registration, inspection, and safety of offices in which a
298 physician performs procedures or office surgeries pursuant to
299 this section.

300 Section 7. Paragraph (xx) is added to subsection (1) of
301 section 459.015, Florida Statutes, to read:

302 459.015 Grounds for disciplinary action; action by the
303 board and department.—

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

306 (xx) Performing a liposuction procedure in which more than
307 1,000 cubic centimeters of supernatant fat is removed, a Level
308 II office surgery, or a Level III office surgery in an office
309 that is not registered with the department pursuant to s.
310 458.328 or s. 459.0138.

311 Section 8. This act shall take effect January 1, 2020.