

2019732er

1
2 An act relating to office surgery; amending s.
3 456.074, F.S.; requiring the Department of Health to
4 issue an emergency order suspending or restricting the
5 registration of certain facilities upon specified
6 findings; amending s. 458.309, F.S.; deleting a
7 provision relating to registration and inspection of
8 an office in which a physician performs certain
9 procedures or office surgeries; creating s. 458.328,
10 F.S.; requiring an office in which a physician
11 performs certain procedures or office surgeries to
12 register with the department; requiring an office to
13 designate a physician to be responsible for certain
14 compliance requirements as part of registration by a
15 specified date; requiring an office and physicians
16 practicing at the office to meet certain financial
17 responsibility requirements; authorizing the
18 department to deny or revoke the registration of or
19 impose certain penalties against a facility in which
20 certain procedures or office surgeries are performed
21 under certain circumstances; requiring the department
22 to conduct certain inspections; providing exceptions;
23 requiring the Board of Medicine to adopt rules
24 governing the standards of practice for physicians
25 practicing in such offices and to impose a specified
26 fine on physicians who perform certain procedures or
27 office surgeries in an unregistered office;
28 authorizing the board to adopt rules to administer the
29 registration, inspection, and safety of offices in

2019732er

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

2019732er

59 offices in which certain procedures or office
60 surgeries are performed; amending s. 459.015, F.S.;
61 providing that the performance of certain procedures
62 or office surgeries by a physician in an unregistered
63 office constitutes grounds for denial of a license or
64 disciplinary action; providing an effective date.
65

66 Be It Enacted by the Legislature of the State of Florida:
67

68 Section 1. Subsection (6) is added to section 456.074,
69 Florida Statutes, to read:

70 456.074 Certain health care practitioners; immediate
71 suspension of license.—

72 (6) The department must issue an emergency order suspending
73 or restricting the registration of an office registered under s.
74 458.328 or s. 459.0139 upon a finding of probable cause that the
75 office or a physician practicing in the office is not in
76 compliance with the standards of practice for office surgery
77 adopted by the boards pursuant to s. 458.328 or s. 459.0138, as
78 applicable, or is in violation of s. 458.331(1)(v) or s.
79 459.015(1)(z), and that such noncompliance or violation
80 constitutes an immediate danger to the public.

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

83 458.309 Rulemaking authority.—

84 ~~(3) A physician who performs liposuction procedures in~~
85 ~~which more than 1,000 cubic centimeters of supernatant fat is~~
86 ~~removed, level 2 procedures lasting more than 5 minutes, and all~~
87 ~~level 3 surgical procedures in an office setting must register~~

2019732er

88 ~~the office with the department unless that office is licensed as~~
89 ~~a facility under chapter 395. The department shall inspect the~~
90 ~~physician's office annually unless the office is accredited by a~~
91 ~~nationally recognized accrediting agency or an accrediting~~
92 ~~organization subsequently approved by the Board of Medicine. The~~
93 ~~actual costs for registration and inspection or accreditation~~
94 ~~shall be paid by the person seeking to register and operate the~~
95 ~~office setting in which office surgery is performed.~~

96 Section 3. Section 458.328, Florida Statutes, is created to
97 read:

98 458.328 Office surgeries.-

99 (1) REGISTRATION.-

100 (a) An office in which a physician performs a liposuction
101 procedure in which more than 1,000 cubic centimeters of
102 supernatant fat is removed, a Level II office surgery, or a
103 Level III office surgery must register with the department
104 unless the office is licensed as a facility under chapter 390 or
105 chapter 395.

106 (b) By January 1, 2020, each office registered under this
107 section or s. 459.0138 must designate a physician who is
108 responsible for the office's compliance with the office health
109 and safety requirements of this section and rules adopted
110 hereunder. A designated physician must have a full, active, and
111 unencumbered license under this chapter or chapter 459 and shall
112 practice at the office for which he or she has assumed
113 responsibility. Within 10 calendar days after the termination of
114 a designated physician relationship, the office must notify the
115 department of the designation of another physician to serve as
116 the designated physician. The department may suspend the

2019732er

117 registration of an office if the office fails to comply with the
118 requirements of this paragraph.

119 (c) As a condition of registration, each office must
120 establish financial responsibility by demonstrating that it has
121 met and continues to maintain, at a minimum, the same
122 requirements applicable to physicians in ss. 458.320 and
123 459.0085. Each physician practicing at an office registered
124 under this section or s. 459.0138 must meet the financial
125 responsibility requirements under s. 458.320 or s. 459.0085, as
126 applicable.

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

131 (e) The department shall inspect a registered office at
132 least annually, including a review of patient records, to ensure
133 that the office is in compliance with this section and rules
134 adopted hereunder unless the office is accredited by a
135 nationally recognized accrediting agency approved by the board.
136 The inspection may be unannounced, except for the inspection of
137 an office that meets the description of a clinic specified in s.
138 458.3265(1)(a)3.h., and those wholly owned and operated
139 physician offices described in s. 458.3265(1)(a)3.g. which
140 perform procedures referenced in s. 458.3265(1)(a)3.h., which
141 must be announced.

142 (f) The department may suspend or revoke the registration
143 of an office in which a procedure or surgery identified in
144 paragraph (a) is performed for failure of any of its physicians,
145 owners, or operators to comply with this section and rules

2019732er

146 adopted hereunder or s. 459.0138 and rules adopted thereunder.
147 If an office's registration is revoked for any reason, the
148 department may deny any person named in the registration
149 documents of the office, including the persons who own or
150 operate the office, individually or as part of a group, from
151 registering an office to perform procedures or office surgeries
152 pursuant to this section or s. 459.0138 for 5 years after the
153 revocation date.

154 (g) The department may impose any penalty set forth in s.
155 456.072(2) against the designated physician for failure of the
156 office to operate in compliance with the office health and
157 safety requirements of this section and rules adopted hereunder
158 or s. 459.0138 and rules adopted thereunder.

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

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

168 (2) RULEMAKING.—

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

172 (b) The board may adopt rules to administer the
173 registration, inspection, and safety of offices in which a
174 physician performs procedures or office surgeries pursuant to

2019732er

175 this section.

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

178 458.331 Grounds for disciplinary action; action by the
179 board and department.—

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

182 (vv) Performing a liposuction procedure in which more than
183 1,000 cubic centimeters of supernatant fat is removed, a Level
184 II office surgery, or a Level III office surgery in an office
185 that is not registered with the department pursuant to s.
186 458.328 or s. 459.0138.

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

189 459.005 Rulemaking authority.—

190 ~~(2) A physician who performs liposuction procedures in~~
191 ~~which more than 1,000 cubic centimeters of supernatant fat is~~
192 ~~removed, level 2 procedures lasting more than 5 minutes, and all~~
193 ~~level 3 surgical procedures in an office setting must register~~
194 ~~the office with the department unless that office is licensed as~~
195 ~~a facility under chapter 395. The department shall inspect the~~
196 ~~physician's office annually unless the office is accredited by a~~
197 ~~nationally recognized accrediting agency or an accrediting~~
198 ~~organization subsequently approved by the Board of Osteopathic~~
199 ~~Medicine. The actual costs for registration and inspection or~~
200 ~~accreditation shall be paid by the person seeking to register~~
201 ~~and operate the office setting in which office surgery is~~
202 ~~performed.~~

203 Section 6. Section 459.0138, Florida Statutes, is created

2019732er

204 to read:

205 459.0138 Office surgeries.—

206 (1) REGISTRATION.—

207 (a) An office in which a physician performs a liposuction
208 procedure in which more than 1,000 cubic centimeters of
209 supernatant fat is removed, a Level II office surgery, or a
210 Level III office surgery must register with the department
211 unless the office is licensed as a facility under chapter 390 or
212 chapter 395.

213 (b) By January 1, 2020, each office registered under this
214 section or s. 458.328 must designate a physician who is
215 responsible for the office's compliance with the office health
216 and safety requirements of this section and rules adopted
217 hereunder. A designated physician must have a full, active, and
218 unencumbered license under this chapter or chapter 458 and shall
219 practice at the office for which he or she has assumed
220 responsibility. Within 10 calendar days after the termination of
221 a designated physician relationship, the office must notify the
222 department of the designation of another physician to serve as
223 the designated physician. The department may suspend a
224 registration for an office if the office fails to comply with
225 the requirements of this paragraph.

226 (c) As a condition of registration, each office must
227 establish financial responsibility by demonstrating that it has
228 met and continues to maintain, at a minimum, the same
229 requirements applicable to physicians in ss. 458.320 and
230 459.0085. Each physician practicing at an office registered
231 under this section or s. 458.328 must meet the financial
232 responsibility requirements under s. 458.320 or s. 459.0085, as

2019732er

233 applicable.

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

238 (e) The department shall inspect a registered office at
239 least annually, including a review of patient records, to ensure
240 that the office is in compliance with this section and rules
241 adopted hereunder unless the office is accredited by a
242 nationally recognized accrediting agency approved by the board.
243 The inspection may be unannounced, except for the inspection of
244 an office that meets the description of clinic specified in s.
245 459.0137(1)(a)3.h., and those wholly owned and operated
246 physician offices described in s. 459.0137(1)(a)3.g. which
247 perform procedures referenced in s. 459.0137(1)(a)3.h., which
248 must be announced.

249 (f) The department may suspend or revoke the registration
250 of an office in which a procedure or surgery identified in
251 paragraph (a) is performed for failure of any of its physicians,
252 owners, or operators to comply with this section and rules
253 adopted hereunder or s. 458.328 and rules adopted thereunder. If
254 an office's registration is revoked for any reason, the
255 department may deny any person named in the registration
256 documents of the office, including the persons who own or
257 operate the office, individually or as part of a group, from
258 registering an office to perform procedures or office surgeries
259 pursuant to this section or s. 458.328 for 5 years after the
260 revocation date.

261 (g) The department may impose any penalty set forth in s.

2019732er

262 456.072(2) against the designated physician for failure of the
263 office to operate in compliance with the office health and
264 safety requirements of this section and rules adopted hereunder
265 or s. 458.328 and rules adopted thereunder.

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

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

275 (2) RULEMAKING.—

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

279 (b) The board may adopt rules to administer the
280 registration, inspection, and safety of offices in which a
281 physician performs procedures or office surgeries pursuant to
282 this section.

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

285 459.015 Grounds for disciplinary action; action by the
286 board and department.—

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

289 (xx) Performing a liposuction procedure in which more than
290 1,000 cubic centimeters of supernatant fat is removed, a Level

2019732er

291 II office surgery, or a Level III office surgery in an office
292 that is not registered with the department pursuant to s.
293 458.328 or s. 459.0138.

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