

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019

A Bill

HOUSE BILL 1946

4
5 By: Representative D. Ferguson
6 By: Senator Bledsoe

For An Act To Be Entitled

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8
9 AN ACT TO REQUIRE REPORTING OF CERTAIN EVENTS RELATED
10 TO OFFICE-BASED SURGERY; AND FOR OTHER PURPOSES.

Subtitle

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13 TO REQUIRE REPORTING OF CERTAIN EVENTS
14 RELATED TO OFFICE-BASED SURGERY.

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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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20 SECTION 1. Arkansas Code Title 20, Chapter 9, Subchapter 1, is amended
21 to add an additional section to read as follows:

22 20-9-104. Reporting of certain events related to office-based surgery.

23 (a) As used in this section:

24 (1) "Deep sedation" means a drug-induced depression of
25 consciousness during which:

26 (A) The patient cannot be easily aroused but responds
27 purposefully following repeated painful stimulation;

28 (B) The patient's ability to maintain independent
29 ventilatory function may be impaired;

30 (C) The patient may require assistance in maintaining a
31 patent airway and spontaneous ventilation may be inadequate; and

32 (D) The patient's cardiovascular function is usually
33 maintained without assistance;

34 (2) "General anesthesia" means anesthesia that produces a drug-
35 induced depression of consciousness during which:

36 (A) The patient is not arousable even by painful



1 stimulation;

2 (B) The patient's ability to maintain independent
3 ventilatory function is often impaired;

4 (C) The patient may require assistance in maintaining a
5 patent airway and positive pressure ventilation may be required because of
6 depressed spontaneous ventilation or drug-induced depression of neuromuscular
7 function; and

8 (D) The patient's cardiovascular function may be impaired;

9 (3) "Minimal sedation" means a drug-induced state during which:

10 (A) The patient responds normally to verbal commands;

11 (B) The patient's cognitive function and coordination may
12 be impaired; and

13 (C) The patient's ventilatory and cardiovascular functions
14 are unaffected;

15 (4) "Minor procedure" means:

16 (A) A procedure that can be performed safely with a
17 minimum of discomfort where the likelihood of complications requiring
18 hospitalization is minimal;

19 (B) A procedure performed with local or topical
20 anesthesia; and

21 (C) Liposuction with removal of less than five hundred
22 cubic centimeters (500 cc) of fat under nonsupplemented local anesthesia;

23 (5) "Moderate sedation" means a drug-induced state during which:

24 (A) The patient responds purposefully to verbal commands,
25 either alone or in response to light tactile stimulation;

26 (B) An intervention is not required to maintain a patent
27 airway;

28 (C) The patient maintains a patent airway and spontaneous
29 ventilation is adequate; and

30 (D) The patient's cardiovascular function may be
31 maintained without assistance;

32 (6)(A) "Office-based surgery" means any surgical or other
33 invasive procedure that requires general anesthesia, moderate sedation, or
34 deep sedation.

35 (B) "Office-based surgery" does not include minor
36 procedures or procedures requiring minimal sedation;

1 (7)(A) "Outpatient surgery center" means the same as in § 20-9-
 2 201(9).

3 (B) "Outpatient surgery center" does not include a
 4 hospital; and

5 (8)(A) "Surgical clinic" includes:

6 (i) A medical office owned and operated by a
 7 physician or more than one (1) physician licensed by the Arkansas State
 8 Medical Board, if the medical office does not bill facility fees to a third
 9 party payor; or

10 (ii) A dental office that has a Moderate Sedation
 11 Facility Permit or a Deep Sedation-General Anesthesia Facility Permit issued
 12 by the Arkansas State Board of Dental Examiners.

13 (B) "Surgical clinic" does not include a hospital.

14 (b) When performing office-based surgery, an outpatient surgery center
 15 shall report to the Department of Health within three (3) business days the
 16 occurrence of:

17 (1) A surgically related death and all events related to the
 18 procedure that resulted in the death; and

19 (2) All events related to a procedure that results in:

20 (A) An emergency transfer of a surgical patient to a
 21 hospital;

22 (B) Anesthetic or surgical events requiring
 23 cardiopulmonary resuscitation;

24 (C) Unscheduled hospitalization related to the surgery; or

25 (D) Surgical site deep wound infections.

26 (c) When performing office-based surgery, a surgical clinic shall
 27 report to the Arkansas State Medical Board within three (3) business days the
 28 occurrence of:

29 (1) A surgically related death and all events related to the
 30 procedure that resulted in the death;

31 (2) All events related to a procedure that results in:

32 (A) An emergency transfer of a surgical patient to a
 33 hospital;

34 (B) Anesthetic or surgical events requiring
 35 cardiopulmonary resuscitation;

36 (C) Unscheduled hospitalization related to the surgery; or

(D) Surgical site deep wound infections.

(d) The reports described in subsections (b) and (c) of this section shall include:

(1) The name of the performing physician or provider at the time of the event;

(2) The names of any associated staff at the time of the event;

(3) The location where the event occurred;

(4) The name of the patient and other patient identifying information;

(5) The name of the hospital or emergency center where the patient is transferred, if applicable;

(6) The type of office-based surgery performed;

(7) The date and time of the office-based surgery and the event;

and

(8) A detailed description of the event.

(e)(1) An outpatient surgery center shall establish and maintain an infection prevention, surveillance, and control program as required by rules of the State Board of Health.

(2) A surgical clinic shall establish and maintain an infection surveillance program as necessary to ensure the discovery and reporting of infections required under subsection (c) of this section.

(f) Information reported under subsections (c) and (d) of this section shall not be disclosed publicly in such manner as to identify a patient.

(g)(1) The department and Arkansas State Medical Board shall promulgate rules to implement this section.

(2)(A) When adopting the initial rules to implement this subchapter, the final rules shall be filed with the Secretary of State for adoption under § 25-15-204(f):

(i) On or before January 1, 2020; or

(ii) If approval under § 10-3-309 has not occurred by January 1, 2020, as soon as practicable after approval under § 10-3-309.

(B) The department and Arkansas State Medical Board shall file the proposed rules with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2020, so that the Legislative Council may consider the rule for approval before January 1, 2020.

(h)(1) The department shall enforce the requirements of this section

1 through the licensure and survey process for outpatient surgery centers.

2 (2)(A) The Arkansas State Medical Board shall assess a fine of
3 no less than two thousand five hundred dollars (\$2,500) per violation against
4 a physician who controls or operates a surgical clinic that fails to comply
5 with the requirements of this section.

6 (B) Each day of noncompliance is a separate violation.

7 (i) In an emergency, appropriate life-support measures shall take
8 precedence over the requirements of this subchapter.

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