

# Florida Legal Issues

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## **Today's Lecturer:**

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Board Certified in Health Law by The Florida Bar

# Florida Legal Issues

1. Liability
  2. Mandatory Reporting
  3. Background Screening
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# Liability


## Medical Malpractice

- Presuit Notice Requirements
  - Two Year Statute of Limitations
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# Medical Malpractice

- Medical Malpractice is professional negligence by a healthcare provider through an act or omission that fails to meet the acceptable standard of care.
  - Plaintiff must provide notice of the claim to the healthcare provider before filing suit. Section 766.106, Florida Statutes.
  - Plaintiff must file suit within 2 years of injury. Section 95.11, Florida Statutes. (exceptions apply)

# Malpractice vs. Simple Negligence

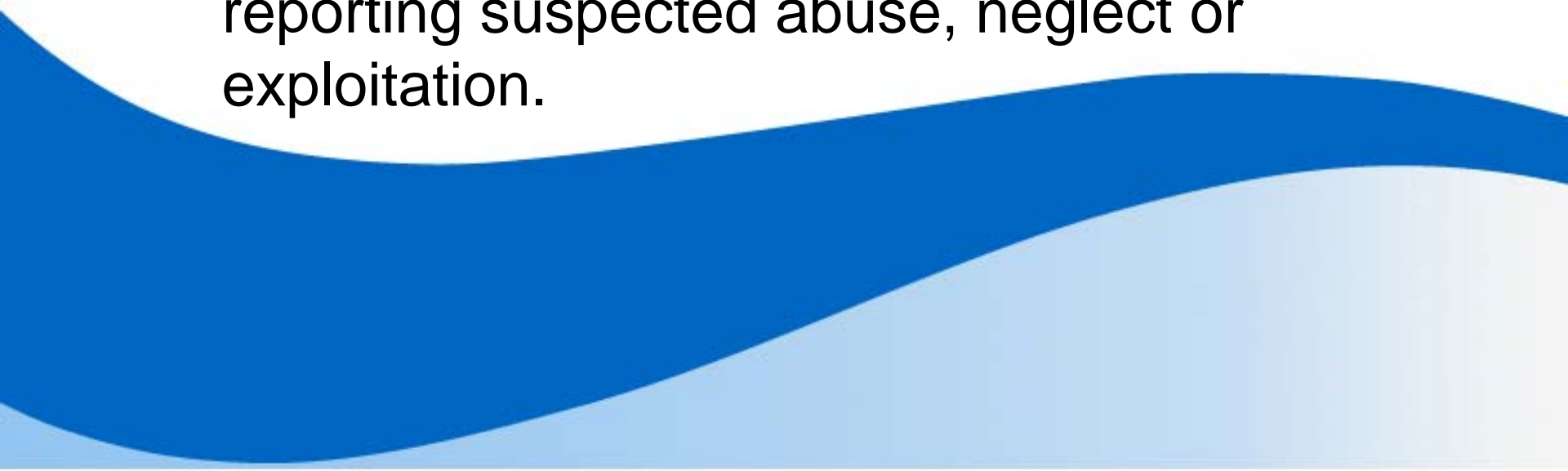
- Wrong Site Surgery is Malpractice
  - Medication Error is Malpractice
  - Slip & Fall probably Simple Negligence
  - Hot Coffee Simple Negligence
  - Tainted Food Simple Negligence
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# **Mandatory Reporting**




# Mandatory Reporting

- Healthcare Facilities are required to report abuse, neglect or exploitation of children and vulnerable adults.
  - Always follow your Facility's procedure on reporting suspected abuse, neglect or exploitation.
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# **Background Screening**

A decorative graphic at the bottom of the slide consisting of two overlapping, wavy shapes. The top shape is a solid, vibrant blue, and the bottom shape is a lighter, semi-transparent blue, creating a layered effect.

# Background Screening

- Florida significantly increased the requirements for background screening in 2010.
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# Background Screening

- Almost every person who works with patients/residents or has access to living areas must obtain Level 2 background screen.
  - Every person that is required to obtain Level 2 background screen must be rescreened every 5 years.
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# Background Screening

- Level 2 background screen requires submission of fingerprints electronically.
  - Locate a Livescan Vendor through the Florida Department of Law Enforcement website.
  - The Agency for Health Care Administration also maintains a list of Livescan Vendors.

# Disqualifying Offenses

- Section 435.04, Florida Statutes.
- Section 408.809, Florida Statutes.
- Employees undergoing Level 2 background screening are required to inform an employer immediately if they are convicted of a disqualifying offense.
- Employers must attest to compliance with background screening with each license renewal.

# Seeking an Exemption


- A person with a disqualifying offense may seek an exemption.
  - Must be 3 years after a disqualifying offense that is a felony.
  - Must be released confinement, probation or other sanction if a misdemeanor.



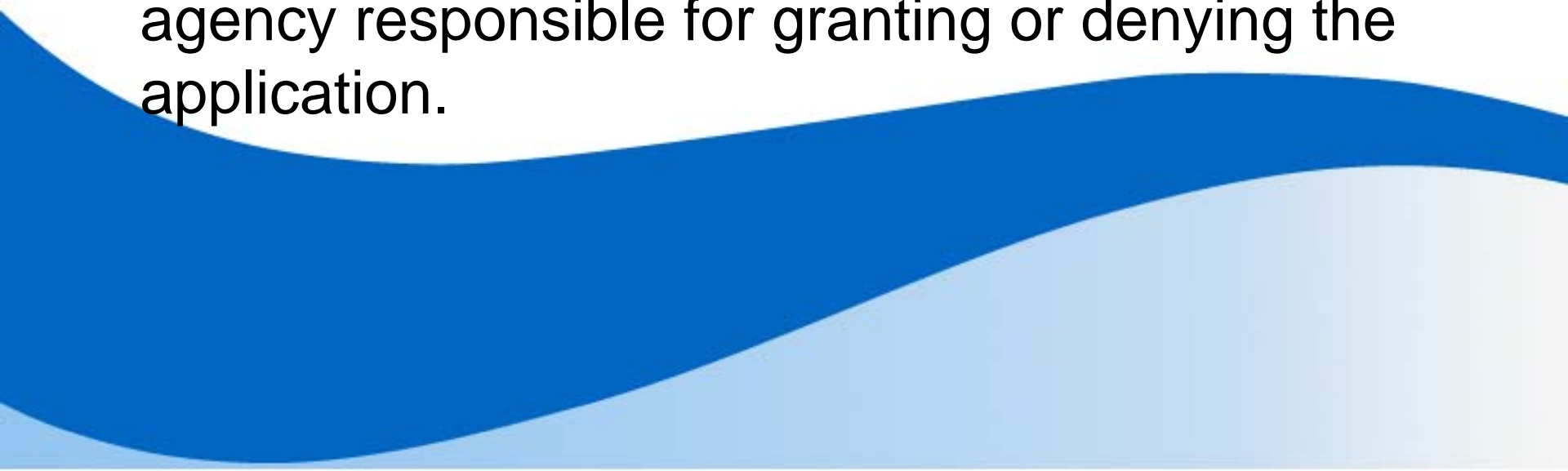
# Application for Exemption

- Know where to submit the application for exemption:
  - Individuals licensed by the Department of Health may need to submit the application to that Department.
  - Individuals working for facilities licensed by the Agency for Health Care Administration should submit the application for exemption to that Agency.


# Exemption Process

- The individual seeking an exemption from a disqualifying offense must demonstrate rehabilitation.
  - The individual seeking an exemption from a disqualifying offense must submit court documents.
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# Exemption Process

- The individual seeking an exemption from a disqualifying offense will need to submit reference letters.
  - The individual applying for an exemption from a disqualifying offense will be interviewed by the agency responsible for granting or denying the application.
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# Exemption Process

- The interviewer will ask the individual about the disqualifying offense.
  - The interviewer will ask the individual to explain their motivation for seeking a position of trust.
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# Exemption Process

- An individual seeking an exemption from a disqualifying offense may be required to appear before their licensing board if they are licensed under the Department of Health.
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# Exemption Process

- The Agency for Health Care Administration or the Department of Health may deny an application if the information provided by the applicant is not persuasive – including the information obtained during the interview.

# Exemption Process

- Individuals seeking exemptions from disqualifying offenses should retain competent legal counsel to guide them through the process.
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**QUESTIONS?**

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