

Florida Legal Issues

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Today's Lecturer:

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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)

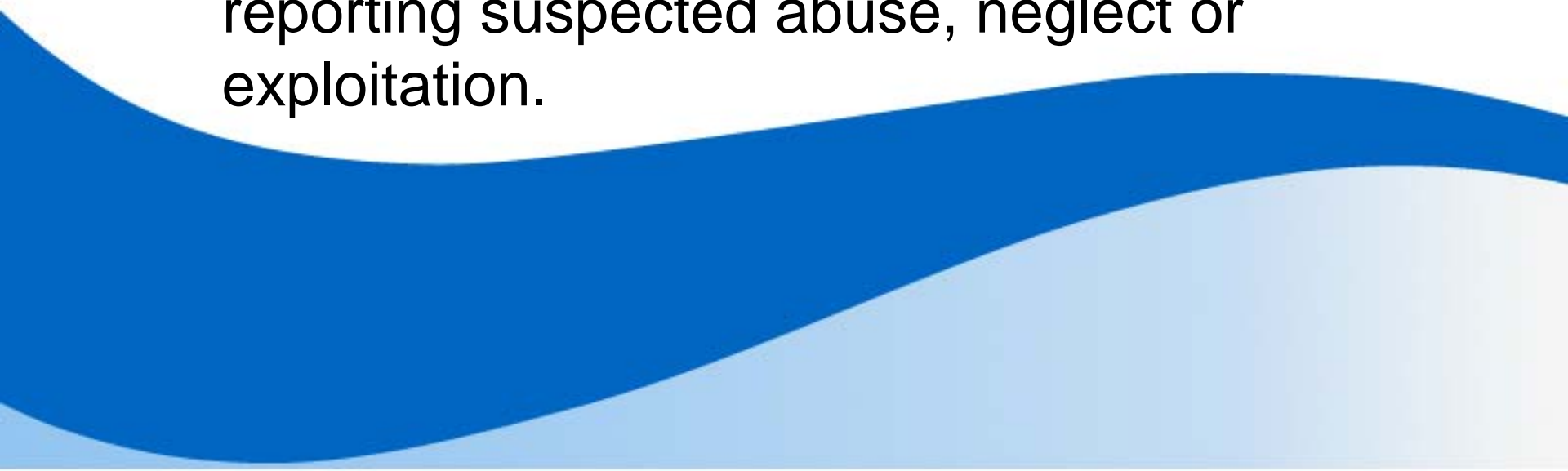
Malpractice vs. Simple Negligence

- 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

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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

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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.
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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.

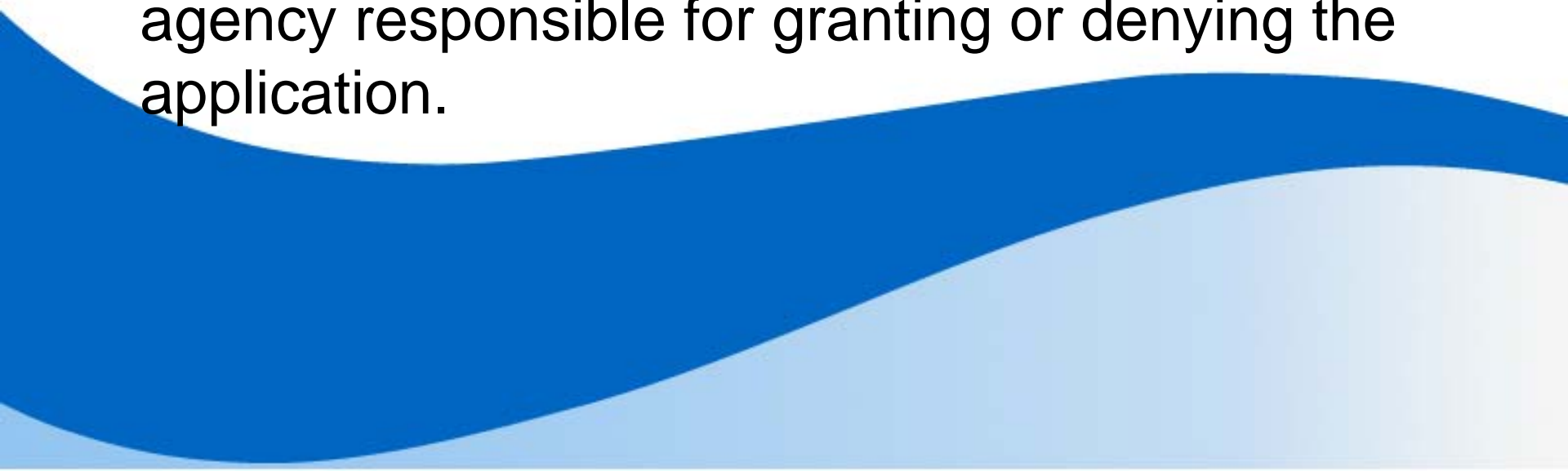
Application for Exemption

- 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.

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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