Florida Laws & Rules
Osteopathic Medicine

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2017 FOMA Mid-Year Seminar
October 20, 2017 – Tampa, FL
Disclosure Statement

I have no financial relationship in regard to the content of this presentation - JDW
Educational Objectives
Florida Laws and Rules

• Understanding of applicable Laws & Rules for licensed Osteopathic and Allopathic Physicians.
• Knowledge of the disciplinary process.
• Learning of rights afforded to physicians in licensure disciplinary cases.
• Ability to locate applicable statutes and rules through online resources.
• How to protect their right to practice.
What Fla Statute applies to ALL health care practitioners?

A. Florida Statute 459
B. Florida Statute 456
C. Florida Statute 484 Part II
D. Rule 64B15
LICENSE RENEWAL

Osteopathic Physician

- **Current licenses expire midnight, Eastern Time, March 31, 2018.**
- To ensure you receive your renewal notification from the department, your current mailing address must be on file. Failure to renew an active or inactive license by the expiration date will result in the license being placed in delinquent status. Failure by a delinquent licensee to renew before the expiration of the current licensure cycle renders the license null and void without any further action by the board or the department.
- A licensee who remains on inactive status for more than two consecutive biennial licensure cycles and who wishes to reactivate the license may be required to demonstrate the competency to resume active practice by sitting for a special purpose examination or by completing other reactivation requirements.
- If you are reactivating your license, please refer to the Laws & Rules governing your practice for additional requirements.
- The department will renew your license upon receipt of:
  - Completed renewal application
  - Required fees
  - Updated Practitioner Profile
  - Completed Physician Workforce Survey
  - Completed Financial Responsibility Form

*NOTE- Osteopathic Physicians licensed after July 1 of the second year of the biennium (odd year), are only required to complete the HIV/AIDS, Florida Laws and Rules, Professional & Medical Ethics, Federal & State Laws Related to the Prescribing of Controlled Substances and Prevention of Medical Errors courses.*
# 2016-2018 Requirements

## Osteopathic Physician

<table>
<thead>
<tr>
<th>REQUIRED SUBJECT</th>
<th>REQUIRED NUMBER</th>
<th>IMPORTANT INFORMATION</th>
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<tbody>
<tr>
<td><strong>Required Subject</strong></td>
<td><strong>Required Number</strong></td>
<td><strong>Important Information</strong></td>
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<td><strong>Area</strong></td>
<td><strong>Of Hours</strong></td>
<td><strong>Information</strong></td>
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<td>• General Hours*</td>
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<td>20 must be AOA 1-A</td>
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<td>• General Hours*</td>
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<td>These hours can be AOA or AMA</td>
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<td>• Medical Errors</td>
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<tr>
<td>• Professional &amp; Medical Ethics</td>
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<tr>
<td>• Florida Laws and Rules</td>
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<td>• Federal &amp; State Laws Related to the Prescribing of Controlled Substances</td>
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<td>• <strong>TOTAL HOURS</strong></td>
<td><strong>40</strong></td>
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* Licensees must obtain 2 hours of domestic violence every third renewal period

* Of the 15 general hours, only 8 can be home study
FSACOFP Reports to CE BROKER

• THE FSACOFP REPORTS THE HOURS YOU RECEIVE HERE TODAY TO CE BROKER ON YOUR BEHALF! CE BROKER IS THE STATEWIDE CLEARING HOUSE FOR ALL CONTINUING EDUCATION HOURS FOR HEALTH CARE PROFESSIONALS. FSACOFP REPORTS FOR YOU!
Who’s on First?

- Dept. of Health (DOH) – licenses health care practitioners
- Board of Osteopathic Medicine (Board) – rulemaking, and disciplinary hearings
- Attorney Generals Office (AG) – provide an Attorney for the Board as Gen Counsel
- Also, provide Attorney(s) from Prosecution Services Unit to represent DOH during prosecution of discipline before Board
- District Court of Appeal (DCA) – court hears appeals from Board and DOAH
- Div. of Admin. Hearings (DOAH) – court hears Formal hearings for disciplinary cases
I. Laws and Rules for Osteopathic Physicians

Florida Statutes (F.S.): Laws
• Chapter 459: Osteopathic Medicine
• Chapter 456: Health Professions and Occupations: General Provisions
• Chapter 120: Administrative Procedure Act

Florida Administrative Code (F.A.C.): Rules
• Rules: Chapter 64B15: Board of Osteopathic Medicine, F.A.C.
• Rules: Chapter 64B: Division of Medical Quality Assurance, F.A.C.
FS 456 GENERAL PROVISIONS

HEALTH PROFESSIONS AND OCCUPATIONS:

• 456.001 Definitions
• THROUGH
• 456.50 Repeated Medical Malpractice

GENERAL HEALTH CARE PROVISION FOR ALL LICENSED HEALTH CARE PROVIDERS
456.44 Florida Statute
(not complete statute)

(1) DEFINITIONS.—

(e) “Chronic nonmalignant pain” means pain unrelated to cancer which persists beyond the usual course of disease or the injury that is the cause of the pain or more than 90 days after surgery.

(2) REGISTRATION.—Effective January 1, 2012, a physician licensed under chapter 458, chapter 459, chapter 461, or chapter 466 who prescribes any controlled substance, listed in Schedule II, Schedule III, or Schedule IV as defined in s. 893.03, for the treatment of chronic nonmalignant pain, must:

(a) Designate himself or herself as a controlled substance prescribing practitioner on the physician’s practitioner profile.

(b) Comply with the requirements of this section and applicable board rules.

(3) STANDARDS OF PRACTICE.—The standards of practice in this section do not supersede the level of care, skill, and treatment recognized in general law related to health care licensure. (a)-(g)
FS 459 Osteopathic Medicine

OSTEOPATHIC MEDICINE

• 459.001 Purpose.

• THROUGH

• 459.026 Reports of adverse incidents in office practice settings.

STATUTE APPLIES TO ALL DO’s and Physician assistants & Anesthesiologist Assistants.
Formal supervisory relationships, standing orders, and established protocols; notice; standards.

1) NOTICE.—(a) When a physician enters into a formal supervisory relationship or standing orders with an emergency medical technician or paramedic licensed pursuant to s. 401.27, which relationship or orders contemplate the performance of medical acts, or when a physician enters into an established protocol with an advanced registered nurse practitioner, which protocol contemplates the performance of medical acts set forth in s. 464.012(3) and (4), the physician shall submit notice to the board. The notice shall contain a statement in substantially the following form:

I, (name and professional license number of physician), of (address of physician) have hereby entered into a formal supervisory relationship, standing orders, or an established protocol with (number of persons) emergency medical technician(s), (number of persons) paramedic(s), or (number of persons) advanced registered nurse practitioner(s).
Rule 64B15 Osteopathic Medicine

- 64B15-6 PHYSICIAN ASSISTANT (19)
- 64B15-7 ANESTHESIOLOGIST ASSISTANTS (14)
- 64B15-9 PROCEDURE (6)
- 64B15-10 FEES (12)
- 64B15-12 EXAMINATIONS AND LICENSURE (10)
- 64B15-13 CONTINUING EDUCATION (6)
- 64B15-14 PRACTICE REQUIREMENTS (16)
- 64B15-15 MEDICAL RECORDS (5)
- 64B15-16 RESIDENT INTERNSHIP (2)
- 64B15-18 PRESCRIPTIONS OF CERTAIN MEDICINAL DRUGS BY PHARMACISTS (4)
- 64B15-19 DISCIPLINARY GUIDELINES (10)
- 64B15-20 FINANCIAL RESPONSIBILITY (3)
- 64B15-22 REGISTRATION OF HOSPITAL RESIDENTS AND INTERNS (4)
II. Investigations

Florida Department of Health (DOH)

How can an investigation begin?

1) Upon written complaint signed by complaining individual;
2) Anonymous Complaint; 3) Confidential Informant complaint; and 4) DOH.

Does the Department tell me if I am being investigated?

Notice of Investigation – letter of investigation.

Exceptions = Criminal charge or DOH believes notice will be detrimental to investigation
Right to Remain Silent
Contact by DOH

You need to fully understand your rights.

After you receive written notification about investigation, you will receive a phone call from a Department Investigator

He/She will try to convince you he/she is your friend

Often DOH Investigators will try to convince you there is nothing to this Complaint – talk to us and we will close it out! (not always a true statement)
Due Process Rights

Constitutional right to remain silent

5th Amendment Due Process right to remain silent as applied to the Federal Government

14th Amendment Due Process right to remain silent as applied to the States

You DO NOT have to respond to any questions by DOH investigator

ALL communications - through your attorney
Why should I invoke my right to remain silent?

Physician receives letter of investigation for improper advertising, the physician failed to conspicuously identify the osteopathic physician by name in the advertisement or failed to conspicuously identify the osteopathic physician referred to in the advertising as an osteopathic physician. 64B15-14.001(2)(k), FAC

*Violation is considered a Citation 64B15-19.007(2)(f) FAC

Physician decided not to remain silent but to write the DOH on his own behalf….result?
Why should I invoke my right to remain silent?

Response?

Physician writes letter to DOH on letterhead without correctly identifying himself as DO., only – Dr. John Doe

Physician received initial letter for failing to identify Dr. as DO and in letter to DOH he again failed to identify himself on letterhead as DO. – so, Dr receives a second complaint!!!!

If letter written by Attorney No Second Violation, letter by Dr. and because second complaint it is NO LONGER a Minor Violation
(1) As used in this rule, “citation” means an instrument which meets the requirements set forth in Section 456.077, F.S., and which is served upon a licensee or certificate holder for the purpose of assessing a penalty in an amount established by this rule.

(2) In lieu of the disciplinary procedures contained in Section 456.073, F.S., the Department is hereby authorized to dispose of any violation designated herein by issuing a citation to the subject for a complaint that is the basis for the citation.

(3) The following violations with accompanying fines may be disposed of by citation. If it is not listed as a citation, then it is handled through a FORMAL COMPLAINT
At this point, you SHOULD HAVE an attorney – sound legal advice
DOH – MUST promptly furnish a copy of complaint or document
Within 45 days – you MUST submit a written response - it MUST be considered by probable cause panel for the Board of Osteopathic Medicine
An attorney is able to extend the response timeframe through properly filed motions
DOH Resources

Investigative Subpoena’s
Supported by Affidavit
Departments initiative or request by probable cause
The validity may be challenged – Was it unlawfully issued?
It is unreasonably broad in scope or Requires production of unreasonable materials
Investigative Depositions - Be aware – using deposition at subsequent formal hearing against you DOH may take depositions – own initiative or request probable cause panel; DOH gives you NO NOTICE
Investigation Conclusion

Entire investigative report with all exhibits is forwarded to Departments legal section in Tallahassee –

*If a Citation or Minor Violation, then case does NOT go to PCP – licensee receives notice of Citation or Notice of Noncompliance. Physician then either accepts and complies; or, does not accept and then regular disciplinary process resumes.

Case then presented to PCP to determine whether probable cause exists and an administrative complaint issued. If no finding of probable cause – case dismissed.

PCP = Probable Cause Panel
III. 64B15-19.007 Citations

DO - Falsely certifying compliance with required continuing medical education hours for the purpose of renewing a license or certificate. The fine shall be $2,000.

DO and MD - Failure to keep current mailing or practice address on file with the Board. The fine shall be $250.

DO - Failure to register as a dispensing practitioner. The fine shall be $500.
Affect of Citations

If the subject does not dispute the matter in the citation in writing within 30 days after the citation is served by personal service or within 30 days after receipt by certified mail, the citation shall become a final order of the Board.

Failure to pay the fine and costs within the prescribed time period constitutes a violation of F.S., which will result in further disciplinary action. All fines and costs are to be made payable to “Department of Health – Citation.”

(5) Once the citation becomes a final order, the citation and complaint become a public record pursuant to Chapter 119, F.S., unless otherwise exempt from the provisions of Chapter 119, F.S. The citation and complaint may be considered as aggravating circumstances in future disciplinary actions.
IV. Probable Cause Panel (PCP)

456.073, FS (4) The determination as to whether probable cause exists shall be made by majority vote of a probable cause panel of the board, or by the department, as appropriate. Each board may provide by rule for multiple probable cause panels composed of at least two members. Each board by rule establishes members of PCP.

64B15-9.006 (1) The probable cause panel shall be composed of at least two (2) members and not more than three (3) members. 1 BOOM Board Member, 2 may be professional or former consumer board member, and no more than 1 lay member.

(4) The determination as to whether probable cause exists that a violation of the provisions of Chapters 456 and 459, F.S., and/or the rules promulgated pursuant thereto, has occurred shall be made by a majority vote of the probable cause panel of the Board.
Recordings of PCP

Electronically record all proceedings; Recorded by a certified court reporter.

Transcripts may be obtained from the court reporter, Request copy of transcript of the probable cause panel proceeding – must meet test of being “meaningful” –

Discussion of evidence by PC members

Must be some evidence to reasonably indicate finding of PC

The Department must justify actions but board may Not just “rubber stamp” recommendation

Transcript - the best place to start
Findings of PCP

NO Probable Cause = Case dismissed or receipt of Letter of concern
Violation exists – formal charges not being filed
Issued without an opportunity for hearing or to refute or dispute allegations
Becomes public record
Unclear – considered disciplinary actions
YES Probable Cause = Formal charges – Administrative Complaint
V. Administrative Complaint and Election of Rights

Administrative complaints are sent to a licensee after conclusion of the investigation, presentation to the probable cause panel, and sent with a form titled – Election of Rights.

The sending of the Administrative Complaint by DOH is deemed served upon the licensee after mailing, and should never be ignored.
Once received, you must file within 21 days and Failure to file – licensee in default and license may be suspended by the DOH

Extension of time from department through legal counsel or request

Three ways to proceed (must choose only one way to proceed):

- Formal hearing
- Informal hearing
- Settlement agreement
Election of Rights

Formal Hearing before a hearing officer DOA Hearings

Full evidentiary hearing – DOH must meet its burden of proving up the material

Quite similar to a criminal or civil case

Absolutely foolish – to go this route WITHOUT legal assistance
Election of Rights

• Informal Hearing – before the Board of Osteopathic Medicine.
  • Physician MUST NOT dispute the facts of the alleged complaint.
  • Physician goes before BOOM and presents testimony/evidence requesting for leniency in their penalties for the violation.
  • BOOM can reduce penalties, keep the penalties as offered by the Prosecutor, increase the penalties, or go as far as reduce the charges or dismiss the complaint.
  • Physician should go with counsel, or at the least, after consultation with counsel.
Election of Rights

• Settlement Agreement – presented by the Prosecutor to resolve the matter.
  • Physician will have to appear before the BOOM for the Board to accept.
  • Physician’s appearance will be after agreeing to the Prosecutor’s negotiated penalties for the alleged violations in the complaint.
  • BOOM may accept the Agreement, or reject the Agreement. If BOOM rejects, they will make a counter-offer to resolve the matter. The physician can either accept the counter-offer immediately, or up to 7-14 days later; or reject the counter-offer and go to either a Formal or Informal Hearing (likely to have same result at Informal Hearing as the counter-offer.)
Prosecution of Administrative Complaint

Licensee has due process PROPERTY rights, including, but not limited to:
Right to Remain Silent
Proper and adequate notice and adequate time to respond
See agency’s investigative file, called discovery including subpoena’s issues, depositions
Right to Counsel with Right to Examine and cross examine witnesses
Prosecution of Administrative Complaint

Attorney’s from the Attorney General’s office presents the case to the Full Board of Osteopathic Medicine for Informal Hearings or Settlement Agreements & to the Administrative Law Judge for Formal Hearings.

After completion of the case, and a finding of guilt by either the Board or ALJ, an Order is entered with penalties:

Penalties can include a reprimand, probation, practice restrictions, or revocation of licensure.
Prosecution Penalties

64B15-19.002(4) False, deceptive or misleading advertising. (459.015(1)(d)FS) 1\textsuperscript{st} offense letter of concern to reprimand and $1k fine, 2\textsuperscript{nd} offense probation and up to $5k fine, 3\textsuperscript{rd} offense up to 1 yr suspension followed by probation up to $5k fine

(11) Kickbacks and unauthorized fee arrangements. (459.015(1)(j)FS) 1\textsuperscript{st} offense probation or suspension and up to $5k fine or denial, 2\textsuperscript{nd} offense denial, revocation, or suspension followed by probation up to $10k fine.

(35) Presigning blank prescription forms. (459.015(1)(ee), FS) 1\textsuperscript{st} offense reprimand or suspension and $5k fine, 2\textsuperscript{nd} offense probation/revocation up to $10k fine
Judicial Review and Stays of Final Order

Upon Order, one party wins – one party loses. If you lose, you can file a Motion to Stay the Order while you Appeal! The burden of proof is on the agency to prove probable danger to the community.

You will be the unhappy party; Rarity – Department feels need to appeal the decision!

Seek judicial review – District Court of Appeal.

Five District Court of Appeals

Each has jurisdiction to hear appeals from licensing boards final orders
VI. DEA Changes in Laws and Rules

Determination Transfer Hydrocodone Combination Products (HCPs) to Schedule II

DEA rescheduled hydrocodone Based on consideration of all comments, the scientific and medical evaluation and accompanying recommendation of the HHS, and based on the DEA's consideration of its own eight-factor analysis, the DEA finds that these facts and all other relevant data constitute substantial evidence of potential for abuse of HCPs. As such, the DEA has rescheduled HCPs as a schedule II controlled substance under the CSA.
DEA Changes in Laws and Rules

Placement of Tramadol Into Schedule IV

Based on consideration of all comments, the scientific and medical evaluation and accompanying recommendation of the HHS, and based on the DEA's consideration of its own eight-factor analysis, the DEA finds that these facts and all other relevant data constitute substantial evidence of potential for abuse of tramadol. As such, the DEA is scheduling tramadol as a controlled substance under the CSA.

Based on these findings, the Deputy Administrator of the DEA concludes that tramadol, including its salts, isomers, and salts of isomers, warrants control in schedule IV of the CSA. 21 U.S.C. 812(b)(4).
Florida Changes in Laws

Prescription Drug Monitoring Program (PDMP)

Any physician prescribing controlled substances level II-IV should be registered through the PDMP. While not mandatory, if you prescribe a controlled substance II-IV and not view the PDMP, you may be falling below the standard of care. As of July 2014 30.5% of participating physicians were Osteopathic Physicians.

456.44, F.S. REGISTRATION.—Effective January 1, 2012, a physician licensed under chapter 458, chapter 459, chapter 461, or chapter 466 who prescribes any controlled substance listed in schedule II, schedule III, or schedule IV, as defined in s. 893.03, for the treatment of chronic nonmalignant pain, must:

(a) Designate himself or herself as a controlled substance prescribing practitioner on the physician’s practitioner profile.

(b) Comply with the requirements of this section and applicable board rules.
TELEMEDICINE
Changes in Telemedicine Rule

• Beginning in 2014, the BOM and the BOOM, after promulgating Rule 64B15-14.0081, took action to repeal their existing rules and promulgate new rules for Telemedicine.

• BOM and BOOM promulgated the EXACT SAME LANGUAGE. There is no difference if you are a DO or an MD in performing Telemedicine.

• Then the BOM and the BOOM addressed the issue of ordering vs prescribing controlled substances for hospitalized patients through the use of telemedicine.

• The rule amendment does not prescribe the behavior or actions of any regulated entity or licensee but rather clarifies that physicians can indeed order controlled substances for hospitalized patients through the use of telemedicine.
Telemedicine Rule

64B15-14.0081

• (1)“Telemedicine” means the practice of medicine by a licensed Florida physician or physician assistant where patient care, treatment, or services are provided through the use of medical information exchanged from one site to another via electronic communications. Telemedicine shall not include the provision of health care services only through an audio only telephone, email messages, text messages, facsimile transmission, U.S. Mail or other parcel service, or any combination thereof.

• (2) The standard of care, as defined in Section 456.50(1)(e), F.S., shall remain the same regardless of whether a Florida licensed physician or physician assistant provides health care services in person or by telemedicine.
Telemedicine Rule

64B15-14.0081

• (3) Florida licensed physicians and physician assistants providing health care services by telemedicine are responsible for the quality of the equipment and technology employed and are responsible for their safe use. Telemedicine equipment and technology must be able to provide, at a minimum, the same information to the physician and physician assistant which will enable them to meet or exceed the prevailing standard of care for the practice of medicine.

• (4) Controlled substances shall not be prescribed through the use of telemedicine except for the treatment of psychiatric disorders. This provision does not preclude physicians or physician assistants from ordering controlled substances through the use of telemedicine for patients hospitalized in a facility licensed pursuant to Chapter 395, F.S.
(5) Prescribing medications based solely on an electronic medical questionnaire constitutes the failure to practice medicine with that level of care, skill, and treatment which is recognized by reasonably prudent physicians as being acceptable under similar conditions and circumstances, as well as prescribing legend drugs other than in the course of a physician’s professional practice.

(6) Physicians and physician assistants shall not provide treatment recommendations, including issuing a prescription, via electronic or other means, unless the following elements have been met:

- (a) A documented patient evaluation, including history and physical examination to establish the diagnosis for which any legend drug is prescribed.
- (b) Discussion between the physician or the physician assistant and the patient regarding treatment options and the risks and benefits of treatment.
- (c) Maintenance of contemporaneous medical records meeting the requirements of Rule 64B15-15.004, F.A.C.
(7) The practice of medicine by telemedicine does not alter any obligation of the physician or the physician assistant regarding patient confidentiality or recordkeeping.

(8) A physician-patient relationship may be established through telemedicine.

(9)(a) Nothing contained in this rule shall prohibit consultations between physicians or the transmission and review of digital images, pathology specimens, test results, or other medical data by physicians or other qualified providers related to the care of Florida patients.

(b) This rule does not apply to emergency medical services provided by emergency physicians, emergency medical technicians (EMTs), paramedics, and emergency dispatchers. Emergency medical services are those activities or services to prevent or treat a sudden critical illness or injury and to provide emergency medical care and prehospital emergency medical transportation to sick, injured, or otherwise incapacitated persons in this state.

(c) The provisions of this rule shall not apply where a physician or physician assistant is treating a patient with an emergency medical condition that requires immediate medical care. An emergency medical condition is a medical condition manifesting itself by acute symptoms of sufficient severity that the absence of immediate medical attention will result in serious jeopardy to patient health, serious impairment to bodily functions, or serious dysfunction of a body organ or part.

(d) The provisions of this rule shall not be construed to prohibit patient care in consultation with another physician who has an ongoing relationship with the patient, and who has agreed to supervise the patient’s treatment, including the use of any prescribed medications, nor on-call or cross-coverage situations in which the physician has access to patient records.
DO Rule 64B15-14.007
Office Surgery Rule

**OLDEST** Rule 64B15-14.007 Standard of Care for Office Surgery
(3) Level I Office Surgery
   (a) Scope. Level I office surgery includes the following:
      4. Pre-operative medications not required or used other than minimal pre-operative tranquilization of the patient; anesthesia is local, topical, or none. No drug-induced alteration of consciousness other than minimal pre-operative tranquilization of the patient is permitted in Level I Office Surgery.

**OLD** Rule 64B15-14.007 Standard of Care for Office Surgery
(3) Level I Office Surgery
   (a) Scope. Level I office surgery includes the following:
      4. Anesthesia is local, topical, or none, and preoperative medicines are limited to a single anxiolytic drug not in the opiate class. The cumulative dose of the anxiolytic drug shall not exceed the maximum recommended dose (as per the manufacturer’s recommendation).
(3) Level I Office Surgery.

(a) Scope. Level I office surgery includes the following:

4. Anesthesia is limited to minimal sedation. The patient's level of sedation is that of minimal sedation and anxiolysis and the chances of complications requiring hospitalization are remote. Minimal sedation and anxiolysis is a drug-induced state during which patients respond normally to verbal commands. Although cognitive function and physical coordination may be impaired, airway reflexes, and ventilatory and cardiovascular functions are unaffected. Controlled substances, as defined in Sections 893.02 and 893.03, Florida Statutes, are limited to oral administration in doses appropriate for the unsupervised treatment of insomnia, anxiety or pain.
MEDICAL MARIJUANA
In order to qualify to order low-THC cannabis or medical cannabis for patients, a physician must have an active, unrestricted license as a physician under Chapter 458, F.S., or osteopathic physician under Chapter 459, F.S. Additionally, a physician employed as a medical director by a dispensing organization may not order low-THC or medical cannabis for patients.

Physicians who meet the above requirements may gain access to the Compassionate Use Registry after completing the required 8-hour course and examination. The course and examination are provided by the Florida Medical Association and the Florida Osteopathic Medical Association. Successful completion of the course is required each time a physician renews his or her license.
(4) PHYSICIAN CERTIFICATION.—
(a) A qualified physician may issue a physician certification only if the qualified physician:
1. Conducted a physical examination while physically present in the same room as the patient and a full
   assessment of the medical history of the patient.
2. Diagnosed the patient with at least one qualifying medical condition.
3. Determined that the medical use of marijuana would likely outweigh the potential health risks for the patient, and
   such determination must be documented in the patient's medical record. If a patient is younger than 18 years of age, a
   second physician must concur with this determination, and such concurrence must be documented in the patient’s
   medical record.
4. Determined whether the patient is pregnant and documented such determination in the patient’s medical record. A
   physician may not issue a physician certification, except for low-THC cannabis, to a patient who is pregnant.
5. Reviewed the patient’s controlled drug prescription history in the prescription drug monitoring program database
   established pursuant to s. 893.055.
6. Reviews the medical marijuana use registry and confirmed that the patient does not have an active physician
   certification from another qualified physician.
7. Registers as the issuer of the physician certification for the named qualified patient on the medical marijuana use
   registry in an electronic manner determined by the department, and:
   a. Enters into the registry the contents of the physician certification, including the patient’s qualifying condition and
      the dosage not to exceed the daily dose amount determined by the department, the amount and forms of
      marijuana authorized for the patient, and any types of marijuana delivery devices needed by the patient for the
      medical use of marijuana.
   b. Updates the registry within 7 days after any change is made to the original physician certification to reflect such
      change.
7. Registers as the issuer of the physician certification for the named qualified patient on the medical marijuana use registry in an electronic manner determined by the department, and:
   a. Enters into the registry the contents of the physician certification, including the patient’s qualifying condition and the dosage not to exceed the daily dose amount determined by the department, the amount and forms of marijuana authorized for the patient, and any types of marijuana delivery devices needed by the patient for the medical use of marijuana.
   b. Updates the registry within 7 days after any change is made to the original physician certification to reflect such change.
   c. Deactivates the registration of the qualified patient and the patient’s caregiver when the physician no longer recommends the medical use of marijuana for the patient.
8. Obtains the voluntary and informed written consent of the patient for medical use of marijuana each time the qualified physician issues a physician certification for the patient, which shall be maintained in the patient’s medical record. The patient, or the patient’s parent or legal guardian if the patient is a minor, must sign the informed consent acknowledging that the qualified physician has sufficiently explained its content. The qualified physician must use a standardized informed consent form adopted in rule by the Board of Medicine and the Board of Osteopathic Medicine, which must include, at a minimum, information related to:
b. The approval and oversight status of marijuana by the Food and Drug Administration.
c. The current state of research on the efficacy of marijuana to treat the qualifying conditions set forth in this section.
d. The potential for addiction.
e. The potential effect that marijuana may have on a patient’s coordination, motor skills, and cognition, including a warning against operating heavy machinery, operating a motor vehicle, or engaging in activities that require a person to be alert or respond quickly.
f. The potential side effects of marijuana use.
g. The risks, benefits, and drug interactions of marijuana.
h. That the patient’s de-identified health information contained in the physician certification and medical marijuana use registry may be used for research purposes.
Qualifying conditions include:
- Cancer
- Epilepsy
- Glaucoma
- HIV
- AIDS
- Post-traumatic stress disorder (PTSD)
- Amyotrophic lateral sclerosis (ALS)
- Crohn’s disease
- Parkinson’s disease
- Multiple sclerosis (MS)
- Medical conditions of the same kind or class as or comparable to those above
- A terminal condition diagnosed by a physician other than the qualified physician issuing the physician certification (SEE NEXT SLIDE FOR ADDITIONAL REQUIREMENTS)
- Chronic nonmalignant pain caused by a qualifying medical condition or that originates from a qualifying medical condition and persists beyond the usual course of that qualifying medical condition
(b) If a qualified physician issues a physician certification for a qualified patient diagnosed with a qualifying medical condition pursuant to paragraph (2)(k), the physician must submit the following to the applicable board within 14 days after issuing the physician certification:

1. Documentation supporting the qualified physician’s opinion that the medical condition is of the same kind or class as the conditions in paragraphs (2)(a)-(j).

2. Documentation that establishes the efficacy of marijuana as treatment for the condition.

3. Documentation supporting the qualified physician’s opinion that the benefits of medical use of marijuana would likely outweigh the potential health risks for the patient.

4. Any other documentation as required by board rule.
Recent Board Rulings


Action – Reprimand, $7.5k fine, Laws Course, UF Drug Course, Risk Mgmt., Permanent restriction not own, operate or practice in Pain Mgmt Clinic, probation 2 yrs direct, 3 yrs indirect, may not prescribe 2-5 CS
Recent Board Rulings

Allegations: Section 459.015(1)(b), FS., - license to practice osteopathic medicine acted against by another jurisdiction

Action – Suspension until receipt of unencumbered license in other state, CE hours, Boundaries course

Allegations: Section 456.072(1)(c), FS., - convicted of crime related to the practice

Action – Reprimand, Permanent restriction CS II, probation for 2 yrs indirect supervision
A Rule as promulgated by the Board of Osteopathic Medicine?

File for Variance or Waiver of a Rule - 120.542, FAC  
Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness. Hearing before the Board of Osteopathic Medicine.

A Law in statute?

Requires the Florida Osteopathic Medicine Practice Act to be opened up and subject to change in all sections of the Practice Act of 459, FS. Through legislative process.
Resources

www.floridahealth.gov Florida Department of Health Home Page – Verify a License

www.floridasosteopathicmedicine.gov/ Board of Osteopathic Medicine Homepage

www.leg.state.fl.us/Statutes/index.cfm All Florida Statutes

www.flrules.org/default.asp All Florida Rules of Board, and All Boards
Thank you for your time!

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