Florida Laws & Rules
Osteopathic Medicine

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Disclosure Statement

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

• Understanding applicable Laws & Rules for licensed Osteopathic 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
The Board of Osteopathic Medicine performs which of the following functions?

A. Rulemaking
B. Discipline
C. Declaratory
D. All of the above
E. None of the above
TRUE or FALSE?

• An Osteopathic Physician is required to provide the patient with a copy of the physician’s medical records, including x-rays, upon written request by the patient’s legal representative and after payment of the cost of copying, including reasonable staff time, and after payment of the entire bill for services rendered?
LICENSE RENEWAL
Osteopathic Physician

- 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>AREA</strong></td>
<td><strong>OF HOURS</strong></td>
<td><strong>INFORMATION</strong></td>
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<tr>
<td>• General Hours*</td>
<td>20</td>
<td>20 must be AOA 1-A</td>
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<tr>
<td>• General Hours*</td>
<td>15</td>
<td>These hours can be AOA or AMA</td>
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<td>• Medical Errors</td>
<td>2</td>
<td>Must be live</td>
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<tr>
<td>• Professional &amp; Medical Ethics</td>
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<td>• Florida Laws and Rules</td>
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<td>• Federal &amp; State Laws Related to the Prescribing of Controlled Substances</td>
<td>1</td>
<td>Must be live</td>
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<tr>
<td>• TOTAL HOURS</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
FOMA
Reports to CE BROKER

- THE FOMA 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. FOMA REPORTS FOR YOU!
Who’s on First?

- Dept. of Health (DOH) – licenses health care practitioners
- Board of Osteopathic Medicine (Board or BOOM) – 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
- Chapter 381: Public Health

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.
- Rules: Chapter 64-4: Compassionate Use, 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
(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.
FS 459.0122 - Patient records; termination of osteopathic physician’s practice.

The board shall provide by rule for the handling of the medical records of an osteopathic physician licensed under this chapter which pertain to the osteopathic physician’s patients and which are in existence at the time an osteopathic physician sells or otherwise terminates a practice. The rules shall provide for notification of the patient and for an opportunity for the patient to request the transfer to the patient or another physician of the patient’s records upon payment of actual costs for such transfer.
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)
MEDICAL RECORDS?
64B15-15.002 Handling of Patient Records Upon Termination of Practice.

1) When an osteopathic physician sells or otherwise voluntarily terminates practice, the physician shall notify patients of such termination by causing to be published, in the newspaper of greatest general circulation in the county of practice, a notice which shall contain the date of termination and an address at which the records may be obtained.

2) When a physician’s practice is involuntarily terminated by suspension, emergency or otherwise, the physician shall immediately notify patients of such termination by causing to be published, in the newspaper of greatest general circulation in the county of practice, a notice which shall contain the date of termination and an address at which the records may be obtained. A copy of the notice shall be mailed to the board office within ten days of publication.

3) In addition to the requirements of subsections (1) and (2) above, the physician shall place in a conspicuous location in or on the facade of the office a sign, announcing the termination of the practice. The sign shall be placed 30 days prior to the termination, when such termination is voluntary, and shall remain until the termination date. When the termination of practice is involuntary, the physician shall immediately cause the sign to be placed and shall remain in place for 30 days.

4) For purposes of this rule, voluntary termination shall include retirement or relocation of the physician’s practice. Involuntary termination shall include suspension, revocation, relinquishment, or expiration of the physician’s license to practice osteopathic medicine.
64B15-15.002 Handling of Patient Records Upon Termination of Practice.

(5) Both the notice and sign shall advise the physician’s patients of their opportunity to transfer or receive their records.

(6) For purposes of this rule, an osteopathic physician may ask the Board to be exempt from this rule when relocation occurs in the general area of the practice.

(7) The osteopathic physician shall provide for the retention of medical records in existence concerning any patient of the osteopathic physician for at least a period of two (2) years from the date his practice is sold or otherwise terminated. In the event that the osteopathic physician does not personally retain the medical records, then he shall publish a notice in the newspaper of greatest general circulation in the county in which he practiced immediately preceding termination of his practice, which shall provide the address at which the records shall be retained for the two (2) year period.

(8) Physicians whose patient records are maintained by an institution or health care entity formed under Chapter 641, F.S., shall be exempt from this rule.

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

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

Failure to register as a dispensing practitioner. The fine shall be $500.

Failure of the licensee to satisfy continuing education hours. The fine shall be $75 for each hour not completed or completed late. In addition, the licensee shall make up all hours not completed, and such hours shall not be counted toward the current renewal cycle.

Failure to report to the Board within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. The fine shall be $800.
Effect 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.
Election of Rights

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) 1st offense letter of concern to reprimand and $1k fine, 2nd offense probation and up to $5k fine, 3rd offense up to 1 yr suspension followed by probation up to $5k fine

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

(35) Presigning blank prescription forms. (459.015(1)(ee), FS) 1st offense reprimand or suspension and $5k fine, 2nd 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
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 became Effective May 24, 2016) This provision does not preclude physicians 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.
Telemedicine Rule

64B15-14.0081

• (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.
(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, F.S., are limited to oral administration in doses appropriate for the unsupervised treatment of insomnia, anxiety or pain.
64B15-14.012 Optional Informed Consent for Cataract Surgery

Pursuant to Section 459.026, F.S., for those physicians who choose to use it, the Board has approved form DOH-MQA 1255 (10/15), entitled “Florida Board of Medicine and Florida Board of Osteopathic Medicine Approved Informed Consent Form for Cataract Operation With or Without Implantation of Intraocular Lens,” which is hereby incorporated by reference and available from http://www.flrules.org/Gateway/reference.asp?No=Ref-06412 and from the Board’s website at http://floridasosteopathicmedicine.gov/resources/. The Board-approved informed consent form is not executed until:

- (1) The physician performing the surgery has explained the information in the consent form to the patient. Such physician is prohibited from delegating this responsibility to another person. The physician performing the surgery is also required to sign the informed consent form;

- (2) The patient or the person authorized by the patient to give consent is required to sign the informed consent form; and

- (3) A competent witness is also required to sign the informed consent form.

Rulemaking Authority 459.026 FS. Law Implemented 459.026 FS. History—New 2-28-12, Amended 2-8-16

(1) through (80) No change.
(81) Willfully failing to comply with s. 627.64194 or s. 641.513, F.S.
with such frequency as to indicate a general business practice.
(Section 459.015(1)(vv), F.S.)

FIRST OFFENSE:

SECOND OFFENSE:

letter of concern  reprimand and an administrative fine in the amount
of $1,000.00 to $5,000.00.

reprimand  revocation and an administrative fine in the amount
of $5,000.00 to $10,000.00.

F.S. 627.64194 Coverage requirements for services provided by nonparticipating providers;
payment collection limitations.

F.S. 641.513 Requirements for providing emergency services and care.
Recent Board Rulings


Proposed settlement Agreement – Fines, Costs, 13 CE hours within 1 year

REJECTED BY BOARD!!! Board motioned to…
REVOKE THE LICENSE

• 2008, the Board of Osteopathic Medicine (Board), entered a Final Order against Respondent in case no. 2006-06863, restricting Respondent's practice from performing cosmetic surgery involving any type of incision into the human body, until such time as Respondent demonstrates competency in plastic surgery by obtaining Board certification through a Board certified through the American Board of Medical Specialties, or American Osteopathic Association.

• To date not demonstrated competency in plastic surgery, nor obtained Board Certification as required by the 2008 Order.

• Physician continued to perform cosmetic surgery on patients.
Recent Board Rulings


FACTS: Physician prescribed controlled substances to 4 patients without proper evaluation with medical history and physical examination; no written treatment plans; no periodic reviews; fail to adequately drug monitor with pill counts and urinalysis; failing to first use alternatives to CS for treatment!
REVOKE THE LICENSE

- The minimum penalty up to the maximum for the four charges listed included anything from a reprimand with fine, denial or letter of concern and fine, up to revocation for gross malpractice under 459.015(x), FS.
- The overprescribing of the controlled substances, and the gross malpractice during the practice of osteopathic medicine enabled the BOOM to revoke the license of this physician.
Recent Board Rulings

- Allegations of Complaint: Violation of Section 459.015(1)(x)(FS), committing medical malpractice; Section 459.015(1)(t)(FS) legend drug outside of professional practice; Section 459.015(1)(pb)(FS) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto; And Section 459.015(1)(0).FS Failing to keep legible medical records.

- **Reprimand • Appearance • $10,000 administrative fine • Costs $10,614.05 • Laws and Rules Course • Drug Course • Records Course • CME Risk Management • Restriction on Prescribing • Probation for two years with indirect monitoring**
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.
Additionally, ordering physicians must comply with each of the following legal requirements:
Physicians may only order low-THC or medical cannabis for a patient if he or she has treated that patient during the immediate preceding 3 months.
Physicians must determine that the risks of treating the patient with low-THC or medical cannabis are reasonable in light of the potential benefit to the patient.
If a patient is younger than 18 years of age, a second physician must concur with the low-THC or medical cannabis order, and such determination must be documented in the patient’s medical record.
An ordering physician must maintain a patient treatment plan that includes the dose, route of administration, planned duration, and monitoring of the patient’s symptoms and other indicators of tolerance or reaction to the order for low-THC or medical cannabis. The physician must submit a patient treatment plan for each patient quarterly to the University of Florida College Of Pharmacy, or any time the plan changes.
An ordering physician must enter an order of low-THC or medical cannabis for the named patient into the Compassionate Use Patient Registry, and update the registry to reflect the contents of the order. The physician must update the registry within 7 days after any change is made to the original order and must deactivate the patient’s registration when treatment is discontinued.
A physician may not order more than a 45-day supply of low-THC or medical cannabis for a patient.
It is the responsibility of the qualified ordering physician to follow Florida constitution and statute, diagnose patients and determine if medical marijuana is an appropriate treatment. In partnership with law enforcement, enforcement actions initiated by the department against patients, doctors and businesses will be focused on those operating outside the regulatory structure in Florida law.
VII. What if I don’t like…

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.
PRACTITIONER PROFILE

• HOW TO UPDATE YOUR PRACTITIONER PROFILE WITH ADDRESS CHANGES, PRACTICE LOCATIONS, OR OTHER INFORMATION REQUIRED TO BE UPDATED
  • VISIT - http://flhealthsource.gov/mqa-services
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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