

MEMO

TO: FOMA
FROM: Jason D. Winn, Esq., General Counsel FOMA
RE: Closing or relocating a medical office

Question?

I am relocating/closing my practice, what do I have to do?

When a physician relocates his/her office, the Florida Statutes and the Board of Osteopathic Medicine Rules set forth the requirements of the physician. The following is a guide for osteopathic physicians to follow, when closing or relocating a medical office. While this is guide, it should not be considered to be legal advice, and ultimately, it is the responsibility of the physician to follow the laws and rules set forth by the Florida Legislature, and Board of Osteopathic Medicine. A physician should always consult an attorney well versed in administrative law when relocating or terminating a medical practice to ensure the Statutes and Rules are followed.

The controlling statutes and rules are as follows:

1. 456.057, F.S.
2. 456.058, F.S.
3. 459.0122, F.S.
4. 64B15-15.002, F.A.C.
5. 64B15-15.003, F.A.C.

- First, a physician must determine if they are leaving the practice voluntarily or involuntarily?
- If the doctor is leaving voluntarily, they must notify patients in the newspaper of greatest circulation in the county of practice with the termination date, and the address where the records may be obtained. The doctor shall place a sign announcing the termination of practice at the office beginning 30 days prior to termination.
- If the doctor is leaving involuntarily, an immediate notice in the newspaper of greatest circulation in the county of practice, including a termination date and the address where the records may be obtained, a copy of which shall be provided to the Board office within 10 days of publication. The doctor shall place a sign announcing the termination of practice at the office immediately, and shall remain in place for 30 days.
 - **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.
 - (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.

(9) Nothing herein precludes a licensee of this Board from receiving records and delivering the records to the patient upon receipt of authorization to release the records.

Specific Authority 456.057, 459.0122 FS. Law Implemented 456.057, 459.0122 FS. History—New 5-13-87, Amended 7-19-89, Formerly 21R-15.002, Amended 1-10-94, Formerly 61F9-15.002, Amended 4-9-95, Formerly 59W-15.002.

- Secondly, if a patient does make contact with office, and requests copies of their medical files, can I charge them for copying costs?

- **64B15-15.003 Patient Records; Costs of Reproduction; Timely Release.**

(1) Any Osteopathic Physician who makes an examination of or administers treatment to any person shall upon request of such person or his/her legal representative release copies of all reports and patient medical records made of such examination or treatment, including x-rays and insurance information. The furnishing of such copies shall not be conditioned upon payment of an unpaid or disputed fee for services rendered, but may be conditioned upon payment by the requesting party of the reasonable costs of reproducing the records.

(2) Reasonable costs of reproducing copies of written or typed documents or reports shall be as follows:

(a) For the first 25 pages, the cost shall be no more than \$1.00 per page.

(b) For each page in excess of 25 pages, the cost shall be no more than 25 cents.

(3) Reasonable costs of reproducing x-rays, and such other special kinds of records shall be the actual costs. The phrase “actual costs” means the cost of the material and supplies used to duplicate the record, as well as the labor costs and overhead costs associated with such duplication.

(4) An Osteopathic Physician shall comply with a patient's written request for copies of records and reports in a timely manner, with due regard for the patient's health needs. In the absence of circumstances beyond the control of the licensee, timely shall mean less than 30 days.

Specific Authority 456.057, 459.005 FS. Law Implemented 456.057 FS. History—New 10-28-91, Formerly 21R-15.003, 61F9-15.003, 59W-15.003, Amended 4-30-03.

- Thirdly, the general health care provision, Florida Statute 456, relates to the physicians requirement upon relocating or terminating practice – again, 2 years is the time to keep records upon death, relocating, or terminating practice.
 - **456.058 Disposition of records of deceased practitioners or practitioners relocating or terminating practice.**—Each board created under the provisions of chapter 457, chapter 458, chapter 459, chapter 460, chapter 461, chapter 463, part I of chapter 464, chapter 465, chapter 466, part I of chapter 484, chapter 486, chapter 490, or chapter 491, and the department under the provisions of chapter 462, shall provide by rule for the disposition, under that chapter, of the medical records or records of a psychological nature of practitioners which are in existence at the time the practitioner dies, terminates practice, or relocates and is no longer available to patients and which records pertain to the practitioner’s patients. The rules shall provide that the records be retained for at least 2 years after the practitioner’s death, termination of practice, or relocation. In the case of the death of the practitioner, the rules shall provide for the disposition of such records by the estate of the practitioner.

History.—s. 85, ch. 97-261; s. 80, ch. 2000-160; s. 115, ch. 2000-318.

Note.—Former s. 455.677

- Fourthly, the rule for Osteopathic Physicians is promulgated through:
 - **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.
 - History.—ss. 14, 29, ch. 86-290; s. 4, ch. 91-429.
- Finally, if I am moving out of state, what do I have to do to keep my Florida license?
 - **64B15-13.001 Continuing Education for Biennial Renewal.**

(1)(a) Every person licensed pursuant to Chapter 459, F.S., except those licensed as physician assistants pursuant to Section 459.022, F.S., shall be required to complete forty (40) hours of continuing medical education courses approved by the Board in the twenty-four (24) months preceding each biennial renewal period as established by the Department. Five of the continuing medical education hours for renewal shall include a one hour Risk Management Course, one hour Florida Laws and Rules, one hour on the laws regarding the use and abuses of controlled substances, and two hours Prevention of Medical Errors Course. Beginning in the 2010-2012 licensure biennium, five of the continuing medical hours for renewal shall include one hour of professional and medical ethics education, one hour Florida Laws and Rules, one hour on the federal and state laws related to the prescribing of controlled substances, and a two hour Prevention of Medical Errors Course.

(b) A licensee shall not be required to complete continuing medical education if the initial license is issued subsequent to July 1 of the second year of the biennium, except as found in paragraph 64B15-13.001(1)(a), F.A.C.

(c) A licensee shall complete a two (2) hour Domestic Violence Course as part of every third biennial renewal of licensure.

(d) A licensee shall complete a one (1) hour HIV/AIDS course no later than upon first biennial renewal of licensure.

(2) At least twenty (20) of the forty (40) hours of the continuing medical education required under this rule shall be American Osteopathic Association approved Category I-A continuing education related to the practice of osteopathic medicine or under osteopathic auspices.

(3)(a) For purposes of this rule, risk management means the identification, investigation, analysis, and evaluation of risks and the selection of the most advantageous method of correcting, reducing, or eliminating identifiable risks as defined in Section 741.30, F.S.

(b) The continuing medical education found in paragraph 64B15-13.001(1)(a), F.A.C., with regard to Risk Management, Florida Laws and Rules, controlled substances, professional and medical ethics, and the prevention of medical errors shall be obtained by the completion of live, participatory attendance courses. However, the continuing medical education found in paragraphs 64B15-13.001(1)(c) and (d), F.A.C., with regard to HIV/AIDS and domestic violence, may be obtained by the completion of non-live/participatory attendance.

(c) For purposes of this rule, Florida laws and rules means Chapters 456 and 459, F.S., and Rule Chapter 64B15, F.A.C.

(d) The One hour of Risk Management or professional and medical ethics education may be fulfilled by attending at least three (3) hours of disciplinary matters at a regular meeting of the Board of Osteopathic Medicine in compliance with the following:

1. The licensee must sign in with the Executive Director of the Board, or designee, before the meeting day begins.
2. The licensee must remain in continuous attendance.
3. The licensee must sign out with the Executive Director of the Board, or designee, at the end of the meeting day or at such other earlier time as affirmatively authorized by the Board. The licensee may receive CME credit in risk management or professional and medical ethics education for attending the disciplinary portion of a Board meeting only if the licensee is attending on that day solely for that purpose; the licensee may not receive such credit if appearing at the Board meeting for another purpose. Members of the Board of Osteopathic Medicine may receive risk management or professional and medical ethics credit for such attendance at one full day of disciplinary hearings at a regular meeting of the Board.

4. A licensee may use no more than five (5) hours of continuing education in the area of risk management for the purpose of completing the continuing education requirements for each biennial renewal.

(e) For purposes of this rule, a one (1) hour course on the federal and state laws related to the prescribing of controlled substances shall include: a review of the applicable federal and state laws and rules; review of the current Florida statistics regarding morbidity and mortality of controlled substance related deaths; pharmacology of opiate drugs; proper prescribing of opiate drugs; and a review of physician liability for overprescribing controlled substances.

(f) For purposes of this rule, a two hour Prevention of Medical Errors course shall include a study of root cause analysis, error reduction and prevention, and patient safety. The course shall address medication errors, surgical errors, diagnostic inaccuracies, and system failures, and shall provide recommendations for creating safety systems in health care organizations. The course must include

information relating to the five most mis-diagnosed conditions during the previous biennium, as determined by the Board. The following areas have been determined as the five most mis-diagnosed conditions: cancer, wrong-site/patient surgery, acute abdomen, heart conditions, and surgical complications/errors.

(4) The following courses are approved by the Board:

(a) Organized courses of post graduate study offered by or approved by the American Osteopathic Association or the American Medical Association or any of their divisional societies;

(b) Organized courses of post graduate study sponsored by a medical school recognized and approved by the American Osteopathic Association or the American Medical Association;

(c) Organized courses of post graduate study sponsored by a specialty college of the American Osteopathic Association or the American Medical Association;

(d) Organized courses of post graduate study sponsored by the Public Health Service, state or territorial health services, or a branch of the United States Armed Services;

(e) Fellowships approved by the American Osteopathic Association or the American Medical Association; Internship or residency approved by the American Osteopathic Association or the Accreditation Council for Graduate Medical Education; each fellow, intern and/or resident shall be responsible for obtaining the continuing medical education required under this rule. For fellows, interns, and/or residents in approved AOA, AMA or ACGME educational training programs, ten (10) continuing medical education credit hours shall be awarded for successful completion of each 6 month training program period;

(f) Teacher hours, lecture hours or scientific papers read and published which are approved for credit by the American Osteopathic Association;

(g) Annual convention and mid-year seminars sponsored by the Florida Osteopathic Medical Association;

(h) Internship or residency approved by the American Osteopathic Association or the Accreditation Council for Graduate Medical Education;

(i) Routine hospital programs, including clinical and pathological conferences, mortality review, medical audit committees, tumor board, peer review or utilization review; that are approved by the American Osteopathic Association, (AOA), the American Medical Association, (AMA), or by the Board.

(5) Home study hours up to a maximum of eight (8) hours per biennium may be utilized toward continuing education requirements for renewal. In order to be acceptable, said home study hours must be approved by the AOA, the AMA, the Board, or approved for credit as a college or university extension course with approved grading and evaluation standards. Any licensee who is a member of the Armed Forces of the United States on active duty and for a period of six (6) months after discharge from active duty may obtain all forty (40) hours of continuing education through home study.

(6) In addition to the continuing medical education credits authorized above, a volunteer expert witness who is providing expert witness opinions for cases being reviewed pursuant to Chapter 459, F.S., shall receive five (5) hours of credit in the area of risk management for each case reviewed. A volunteer expert may not accrue in excess of 15 hours of credit per biennium pursuant to this paragraph. Former Board members serving on the Probable Cause Panel shall be allowed a maximum of 15 hours of credit per biennium pursuant to Section 456.013, F.S.

Rulemaking Authority 459.005, 459.008(4) FS. Law Implemented 456.013(5), (6), (7), 459.008 FS. History—New 10-23-79, Amended 1-29-86, Formerly 21R-13.01, Amended 12-5-89, 4-8-91, 2-16-92, Formerly 21R-13.001, Amended 1-10-94, Formerly 61F9-13.001, Amended 10-25-95, Formerly 59W-13.001, Amended 1-19-98, 6-3-98, 4-14-99, 5-26-02, 5-10-04, 7-27-04, 2-9-05, 2-14-06, 1-29-07, 5-10-09, 4-5-10.

Again, this is a guideline osteopathic physicians may use when relocating or terminating a medical practice. A physician should always consult an attorney well versed in administrative law when relocating or terminating a medical practice to ensure the Florida Statutes 456, 459 and rule 64B15 are followed.

