

FLORIDA LAWS & RULES
PROFESSIONAL MEDICAL ETHICS

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FOMA



MY DISCLOSURES

- ❖ I voluntarily come here
- ❖ I have no disclosures
- ❖ I do not represent The Board of Osteopathic Medicine- BOOM
- ❖ Do not ask me for legal advice

PURPOSE

- Overall function/process of the BOOM
- Top Ten Important Rules to maintain a clear & active license /updates
- Most important 459.015 (1) (o)
failure to maintain legible MR
- Case based examples

MEDICAL ETHICS

- Sets forth duties for healthcare providers
 - What Providers should do
 - What Providers should not do
- Chapter 459 Florida Statutes governs DO
 - Rule 64B15 F.A.C.
- Chapter 456 F.S. relates to all health care professions

ETHICS & COMPLIANCE

- Go hand in hand
- Code of conduct established to enforce federal, state and local laws & as well as the mission and values of the organization or your practice.
- Patient care ethics clinical side of medicine
- Reimbursement business side of medicine
- Contract ethics business side of medicine
- Anti-kick back statute refers to referral for gain for federal programs/contracts
- Stark laws –conflict of interest outside referrals for gain
- False claims act

PATIENT RIGHTS

- Communication open & honest integral part of dr- pt relationship
- Right to receive information from physician regarding benefits, risks and cost
- Right to make decisions
- Right to courtesy, respect, dignity, responsiveness & timely attention to health needs
- Right to confidentiality
- Right to continuity of healthcare
- Right to have adequate care

BOARD FUNCTION

- The purpose of BOOM is to ensure that every licensed DO meets minimum requirements for **safe & effective practice**
- Credentialing new applications-
- Disciplinary matters-consider what the action is necessary to **protect** the public and then only secondarily what action if any will serve to rehabilitate the licensee being disciplined
- Rulemaking authority

FLORIDA BOARD OF OSTEOPATHIC MEDICINE

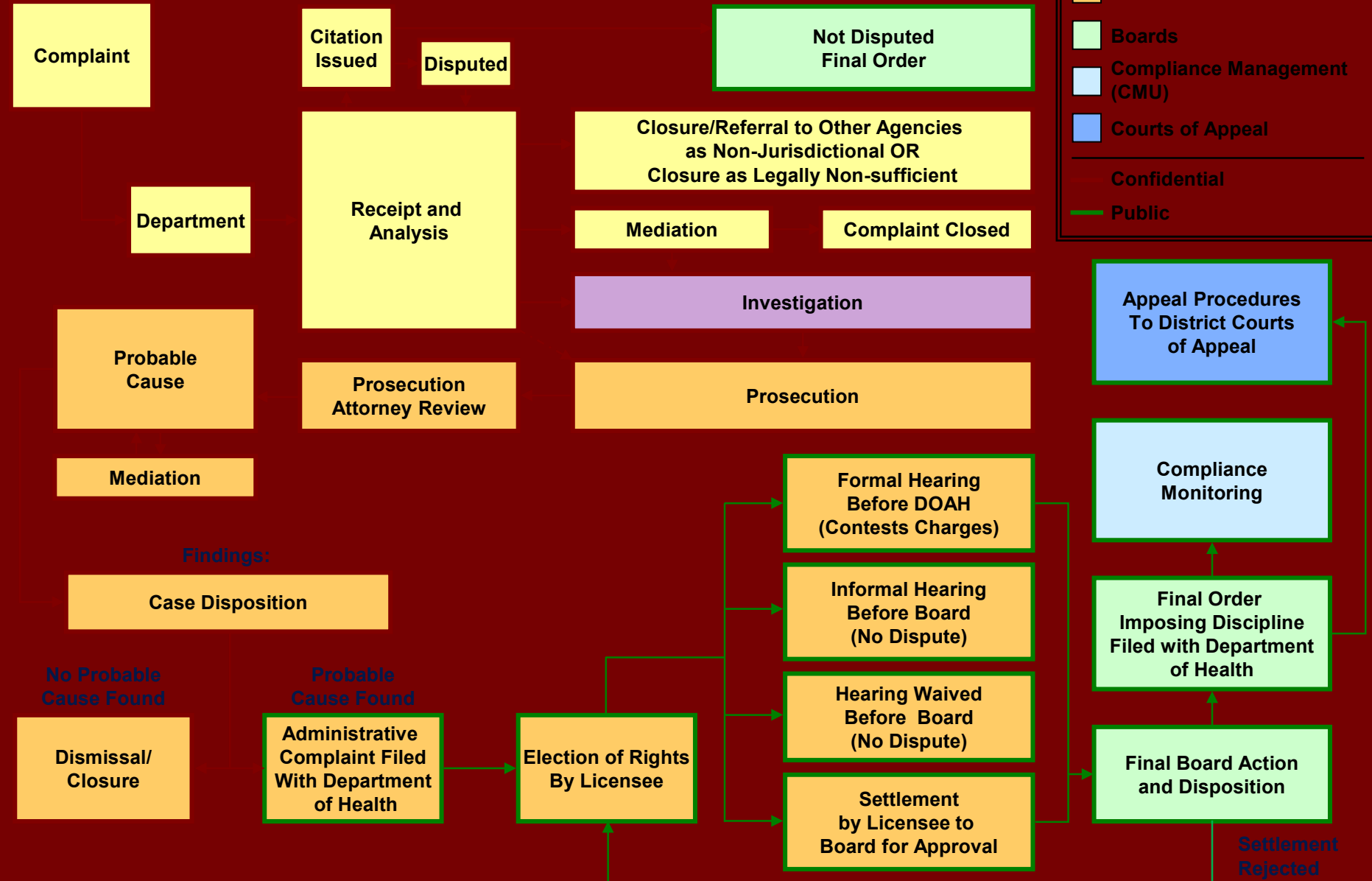


BOARD OF OSTEOPATHIC MEDICINE

- Operate under the sunshine law
- Operate under the code of ethics for public officers and employees
- All cases filed are public record after a probable cause panel determines there is a potential violation.



Division of Medical Quality Assurance Enforcement Process



COMPLAINTS

- Out of state actions/civil/federal/hospitals/insurance companies/patient/family
- Quality of care-Overprescribing or surgical, informed consent does not match the procedure attempted or done, retained F.B.
- Communication issues - why?
 - Failure to consider pt background
 - Details of your treatment plan unclear to pt
 - Lack of timely follow up about results
 - Medical records 459.015 (1)(o)
- Failure to maintain professionalism boundaries- sexual misconduct

ENFORCEMENT PROCESS

- Complaint goes to the DOH
- Analysis is done
 - Citation is issued- “get out of jail card-like a traffic ticket”
non patient safety issues
 - Closure
 - Mediation
 - Investigation—prosecution service unit (ISU)
 - Probable cause –mediation
 - No probable cause –dismissal

COMPLAINTS

- Analyzed for **legal** sufficiency-violation of Florida statutes
 - If none, process ends
 - If yes, the complaints goes to PSU
- PSU evaluates legal components -1st lookover by Dept. medical consultant
 - ISU, MR, interview witnesses, obtain evidence, prepare investigative report
 - Burden is on PSU difficult to prove malpractice

RESPONDING TO COMPLAINT

- Statement made is part of evidence
 - obtain a qualified health care admin attorney
- Advise the investigator you will be represented by legal counsel & they will respond on your behalf
- Make sure the complete investigative file is received & your attorney provides zealous legal & well-founded med defense

RESPONSE TO COMPLAINT

- Your collaboration for a defense will address all issues of the complaint
- Submit an opinion from your own expert to refute the departments' expert opinion
- Timing to submission is prior to the PCP
- Example “integrative” med case or “surgical” approach

ENFORCEMENT PROCESS

If probable cause is found

Administrative complaint filed DOH

Election of Rights by licensee

- Formal hearing before DOAH
- Informal hearing before board-no dispute
- Hearing waived before board-no dispute

ENFORCEMENT

- Settlement agreement to board for approval- (attorney who is versed in administrative law ***NEGOTIATE)
- Clause to petition for early termination of probation
- Clause to petition for reinstatement of license restriction removals

ENFORCEMENT

Final board action and disposition

- Final order imposing discipline filed with DOH-difficult to modify
- Compliance monitoring
- Appeal procedures to district courts of appeal (\$)

DISCIPLINARY GUIDELINES

64B15-6.0111

- The BOOM have violations set forth
- Recommended penalties
- First offense and for subsequent offenses.
- The BOOM-by statute-the penalties are predetermined range.

The BOOM may wish to administer a more lenient penalty \$ vs. a stiffer penalty depending on the nature of the offense and previous offenses.

WHAT IS THE BEST WAY TO PROTECT YOUR MEDICAL LICENSE?

1. KEEP YOUR PATIENTS AS FRIENDS, EXCHANGE CELL PHONE NUMBERS?
2. MAINTAIN A FACEBOOK WITH YOUR PATIENTS?
3. MAINTAIN THOSE MEDICAL RECORDS !

MEDICAL LICENSE-MED RECORDS

- IS VIEWED AS A PROPERTY ASSET AND IT CANNOT BE TAKEN AWAY UNLESS DUE PROCESS IS FOLLOWED- clear & convincing evidence
- **Good medical records will protect you**
- Timely & accurate progress notes prior to discharging a patient or dictating those post op notes prior to next case, state the pertinent facts objectively & completely, legible
- attempt to obtain old records
- MR- JUSTIFY YOUR TREATMENT PLAN
- Modifying or updating paper records one line, initial, date & time, no white outs
EMR addendum date and time

TREATING OFFICE STAFF & FAMILY MEMBERS

- Nothing in rule about treating family, & staff. Boundary & emotional component may skew clinical judgment & personal bias
- Maintain office records as you would for any other patient

459.015 (1) (O)

- Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed DO or the DO extenders & supervising DO by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure & that justify the course of treatment of the patient, including, but not limited to, patient histories, exam results, test results, records of drugs prescribed, dispensed, or administered: & reports of consultations & hospitalizations

64B15-14.008

- aa. A documented patient evaluation, including H&P, adequate to establish the diagnosis for which any drug is prescribed.
- b. Sufficient dialogue between the osteopathic physician & the patient regarding treatment options, risks & benefits of tx.
- c. Maintenance of contemporaneous medical records meeting the requirements rule 64B15-15.004F.A.C.

MEDICAL RECORDS

- ❖ You must keep charts on the family, employee and friends.
- ❖ A prescription creates the physician/patient relationship.
- ❖ Records are required even for family.
- ❖ Spouse & friends may become adverse parties.
- ❖ Cannot self prescribe controlled substance

456.057 MEDICAL RECORDS

- You are responsible to hold pt records 5 yrs
- You are to notify pt in letter or by sign as to where to pick up records
- Place a notice in newspaper and notify the BOOM 30 days before you move
- Complete your hospital charts if leaving the area

HOW LONG MUST I KEEP MEDICAL RECORDS?

According to Florida law, a physician is responsible for maintaining records for at least five years (64B15-15.004). Because malpractice lawsuits can be brought up to seven years after the date of an incident (eight years for some minors), physicians are encouraged to maintain records for the full seven years (Under the Statute of Limitations and Statute of Repose)

456.057

- Record owners shall notify the BOOM when they are terminating practice, retiring, or relocating, and no longer available to patients, specifying who the new records owner is and where medical records can be found.

MEDICAL RECORDS DECEASED
RELOCATION OR TERMINATION
PRACTICE 456.058

- Custodian may be appointed in the event of a death of a practitioner, the mental or physical incapacitation of the practitioner, or the abandonment of medical records by a practitioner.
- Records are to be held at least 2 yrs.

64B15-15.001 MED RECORDS

- MR of deceased physicians; retention; time limitations
 - at least 2 years
 - within 30 days publish in county newspaper notice information of location of MR of deceased doctor

64B15-14.007 OFFICE SURGERY

- The medical records & logs for office surgery shall be maintained for **six** years from the last patient contact

64B15-15.003 MEDICAL RECORD RELEASE

- Timely release of request means < 30 days.
- Reasonable cost pg. 1-25 cost shall be no more than \$1.00/pg.
Any pg. >25 pg no more than a quarter/pg.
- You cannot condition release of patient records on payment of fees owed for services

64B15-15.004 WRITTEN RECORDS RETENTION

- Shall maintain the written records of a patient for at least 5 yr. from the date the patient was last examined.
- When the MR are released or transferred to another D.O. the new record owner shall maintain them for at least 5 yrs.

MEDICAL RECORD CASE

- Dr. X treated patient Mr. Smith >15yrs. Patient is diagnosed with a brain tumor subsequently expires.
- Dr. X terminates his practice and transfers his medical records to another Broward County provider Dr. G.
- Mrs. Smith attempts to obtain records of deceased spouse and was told they were not available.

MEDICAL RECORD

- Dr. G the received the active patient files but did not have Mr. Smith's chart and Iron Mountain the retainer of Dr. X old inactive charts did not have the file.
- Dr. X response to the BOOM was since the patient's last office visit was 2017 and Mr. Smith had expired the records were shredded.

MEDICAL RECORDS

- Outcome was that there is probable cause of the violation of practice acts for failure to maintain the records for five years despite Mr. Smith expiration.

CASE-MR

- Dr. W terminated practice in Broward County. Contracted with medical record custodian service prior to relocation.
- He had financial difficulties. Failed to pay company that provided custodial service.
- Civil case then became an administrative complaint on his license for failure of his legal obligation to pay the company. It appeared to be an abandonment of his medical records.

MR-HIPAA 456.057 (7)

- Respondent treated pt. in ER & he questioned a patient regarding PMH in front of a number of her relatives. It is further alleged ER dr showed the relatives her patient chart in support of his statement regarding her PMH
- MR may not be furnished to, & the medical condition of a pt may not be discussed with any person other than the pt, the pt legal representative other than HCP involved in pt care or tx, except upon written authorization of pt.

RULE # 1

- **MAINTAIN THOSE MEDICAL RECORDS**
- THIS WILL BE THE PRIMARY MODE OF LICENSE PROTECTION IF ANY COMPLAINT EVER ARISES.
- Privacy maintained

PRESCRIBING



GOOD PRACTICE RULE# 2

- Do not pre- sign prescription pads.
- Do not leave prescription pads in office desk or in examination room. They should be on your personal body in pocket and at end of day collect from training doctors and lock.

HB 831 ELECTRONIC PRESCRIBING

- Effective January 1, 2020 The law requires prescribers to generate and transmit all prescription electronically, **unless**:
- The practitioner and the dispenser are the same entity;
- The prescription cannot be transmitted electronically under the most recently implemented version of the National Council for Prescription Drug Programs SCRIPT Standard;
- The practitioner has been issued a waiver by the department, not to exceed 1 year, due to demonstrated economic hardship, technology limitations that are not reasonably within the control of the practitioner, or another exceptional circumstance demonstrated by the practitioners;

ELECTRONIC PRESCRIBING

- The practitioner reasonably determines that it would be impractical for the patient in question to obtain a medicinal drug prescribed by electronic prescription in a timely manner and such delay would adversely impact the patient's medical condition;
- The practitioner is prescribing a drug under a research protocol;
- The prescription is for a drug for which the federal Food and Drug Administration requires the prescription to contain elements that may not be included in electronic prescribing;
- The prescription is issued to an individual receiving hospice care or who is a resident of a nursing home facility; or
- The practitioner determines that it is in the best interest of the patient, or the patient determines that it is in his or her own best interest to compare prescription drug prices among area pharmacies. The practitioner must document such determination in the patient's medical record.

PRESCRIPTION PRACTICES

- Do **NOT** pre-sign blank prescription pads
- If you prescribe any non-controlled substance to a family member, create a complete patient chart.
- Don't take shortcuts when prescribing narcotic pain meds. Document your process!



CASE

- DO supervised PA
- Due to limitations with E-prescribing DO left the PA with 10 pre-signed prescriptions
- PA was terminated from practice and somehow one of the pre-signed prescriptions was for Adderall
- Pharmacist called office to reach DO regarding dosing irregularity and however could not reach DO to confirm dose
- This case was reported to police as a possible rx theft?

RULE # 2

- Prescribe safely
- Prescribe only when clinically appropriate
- Chronic nonmalignant pain management / acute pain
- Medical records justifies your treatment plan

CASE

- Respondent prescribe large quantities of controlled substances without medical justification
- Failed to offer or employ modalities of pain management
- Failed to monitor patient's compliance
- Failed to address positive urine drug screen
- Failed to address or recommend alternative interventions

ADMINISTRATIVE COMPLAINTS

- 459.015 (1)(x) committing malpractice by violation 459.015 (1)(t) by prescribing, dispensing, administering, supplying, selling giving mixing or otherwise preparing a legend drug including any C.S. other in in the course of DO professional practice
- 459.015 (1) (pp) failing to follow the guidelines (any violation of practice)
- 459.015(1)(o) failing to maintain legible treatment records

456.063

- Sexual misconduct in the practice of a health care profession is prohibited.

THE INBALANCE OF POWER

- PATIENTS HAVE A RIGHT TO MAKE THEIR OWN INFORMED MEDICAL CARE DECISIONS. THIS INFORMED CONSENT GIVES THE APPEARANCE THAT A DR-PATIENT ARE EQUAL.
- PATIENTS AND DR NEVER HAVE AN EQUAL RELATIONSHIP.
- THE DR HAS SPECIAL KNOWLEDGE AND SKILLS
- PATIENT IS VULNERABLE AND DEPENDANT
- UNETHICAL TO HAVE SEX WITH A PATIENT DESPITE CONSENSUAL CONSENT

INBALANCE

- MEANS SPECIAL DUTIES
- ACT PROFESSIONALLY
- GUIDE THE RELATIONSHIP PROPERLY
- KEEP THE PATIENT'S WELFARE AS TOP PRIORITY

BOUNDARY CASES

- Boundary are imaginary lines that exist between doctor and patient
- BURN OUT PHYSICIANS
 - long working hours
 - restricted social life
 - not surprising that they sometimes meet future partners in the workplace
 - Addiction issues

BOUNDARY

- 55% of physicians experience some burnout
- To reduce stress alter work habits, reduce work hours, alter altitude and do self-care.
- The “litmus test” for a real vacation is defined as one that is not a tax write off.

CASE

- Respondent treated daughter for chronic pain
- Prescribed various quantities of carisoprodol, cyclobenzaprine, methadone, oxycodone and Xanax.
- Failed to discuss risks and benefits of controlled substances
- Failed to implement a proper treatment plan
- Failed to create and maintain pain management contract
- Failed to consult with other practitioners
- Failed to consider non opioid options

459.0141

Violation of the osteopathic physician-patient relationship through which the osteopathic physician uses the relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity outside the scope of the practice or the scope of generally accepted examination or treatment of the patient.

GROUNDS FOR DISCIPLINARY ACTION

- SEXUAL MISCONDUCT IN THE PRACTICE OF OSTEOPATHIC MEDICINE

459.015 1(l) Exercising influence within a patient-physician relationship for purposes of engaging in a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her physician.

456.063 SEXUAL MISCONDUCT

- Sexual misconduct not only is extended to the patient but also to the immediate family member, guardian, or representative of the patient. Inducing or attempting to induce such person to engage in, verbal or physical sexual activity outside the scope of the professional practice is prohibited.
- Sexual misconduct does not only mean penetration. It applies to body language pelvic thrusting, inappropriate touching like a gyn exam without gloves. Always have a chaperone present.

GOOD PRACTICES

- ❖ Remember a prescription creates a physician/patient relationship.
- ❖ ALWAYS HAVE A CHAPERONE WHEN DOING GYN/GU EXAMS
- ❖ If caring for family members & friends maintain that medical record
- ❖ THINK TWICE! One must educate family & friends they do not know you have to keep MR

BOUNDARY

- GETTING INTIMATE WITH STAFF MAY TURN AGAINST A LICENSEE. FEMALE STAFF THOUGHT SHE HAD TO HAVE SEX WITH HER BOSS TO MAINTAIN HER JOB POSITION/SECURITY
- PRN WAS CONTACTED IN THESE CASES FOR FITNESS TO RETURN TO PRACTICE & UNDERLYING ADDICTION DISORDER WAS FOUND IN 2/3 CASES

RULE #3

- REMEMBER THOSE BOUNDARIES
- No flirting no sex with patients/pt caretakers
- Be careful with staff
- This includes residents not getting involved with parents of their pediatric patients.
- 30- day notice to terminate the dr relationship

459.003 (3) "PRACTICE OF OSTEOPATHIC MEDICINE"

- ❖ "Means the diagnosis, treatment, operation, or prescription for any human disease, pain, injury, deformity, or other physical or mental condition, which practice is based in part upon educational standards and requirements which emphasize the importance of the musculoskeletal structure and manipulative therapy in the maintenance and restoration of health."
- ❖ Literally once you open your mouth and render an opinion in any medium you are practicing

CASE

- Staff from environmental services, lpn, med assistant, r.n., etc may voice a physical ailment in the hallway
- Inform the Employee/patient to check in so their concerns maybe properly addressed or have them see their own physician
- Rendering an opinion may be construed as practicing medicine by the staff person
- All mediums text, social media, web , telehealth , office, locations hallway

USE OF SOCIAL MEDIA-FSMB

- ❖ The United States Preventive Services Task Force came out with a recommendation, in October 2011, against routine Prostate Specific Antigen (PSA) screening in healthy men for prostate cancer.
- ❖ A urologist posted a tweet that used some disrespectful language to disagree with the recommendation.
- ❖ The tweet has now gone viral and has been read by many of his patients, colleagues, fellow researchers, family and friends.

SOCIAL MEDIA

- ❖ A concerned patient reports her physician frequently describes “partying” on his Face Book page which is accompanied by images of himself intoxicated.
- ❖ The patient begins to question whether her physician is in a proper state prepared to treat her when she has early morning doctor’s appointments.
- ❖ Be careful what is posted.

DOCTOR –PATIENT RELATIONSHIP

- ❖ Osteopathic physician is also a baseball coach for his son's team. The father of one of the players texted you regarding new GI symptoms son was having.
- ❖ What do you do?

DOCTOR-PATIENT RELATIONSHIP

- A. Ask the father to bring son to the office for appointment ASAP
- B. Advise the son to take a laxative
- C. Explain to parent that there are boundary issues and violation of code of conduct and refer to a colleague.

SOCIAL MEDIA

- Friending can blur professional boundaries
- Do not dx or tx patients over social media

SURGICAL CASE

- ❖ Patient arrives at ER unstable, diabetic coma, acidotic, missed dialysis treatments for several days. Due to anasarca and instability of patient, code is called. Dr. A responds (anesthesiologist) successfully places a femoral line in thrashing patient.
- ❖ Due to confusion during code guide wire inadvertently is left in groin.
- ❖ Collaborative procedure note EMR completed by Dr. A

CASE

- ❖ Radiologist locates guide wire during another procedure and reports to hospital.
- ❖ Hospital and doctor respond by creating a template for Cerner record that would alert any physician doing procedure final accounting of supplies.

CASE

- ❖ Administrative complaint has what two violations?
- ❖ 456.072 (1) (cc) (F.S.)
- ❖ 459.015 (1)(o) F.S.

CASE

- ❖ In the BOOM discussion during the informal hearing, questions regarding the medical records are brought and the procedure note is present in the chart review (different in format). Dr. A explains that this hospital does a collaborative team-based notes during codes. The procedure was documented with good detail.

CASE

- ❖ 456.072 (1) (cc) F.S. Leaving a foreign body in a patient.
- ❖ Poss. Penalties
- ❖ 1st offense denial or probation & \$5000 fine (min) to max denial or revocation & \$10,000 fine
- ❖ 2nd offense denial or suspension & \$10,000 fine to max
- ❖ Denial or revocation & \$10,000 fine.
- ❖ Final disposition-was dismissal due to excellent MR and mitigating events. Dr A. responding to code in patient thrashing about. Photos accompanied chart. Documentation was very detailed. Dr. A had to pay DOH fee for case file investigation as this cannot be waived.

NEW OFFICE SURGERY REGISTRATION SB 732

Senate Bill 732, Office Surgery, was signed into law by Governor DeSantis. The effective date is January 1, 2020. The bill provides important new registration requirements and practice standards for office surgery centers.

Effective January 1, 2020, all offices in which a physician performs a liposuction procedure in which more than 1,000 cubic centimeters of supernatant fat is removed, a Level II office surgery center, or a Level III office surgery center must register with the department and comply with the requirements in s. 458.328 and s. 459.0138. The only exception is if the office is licensed as a facility under chapter 390 or chapter 395.

Each office surgery center must:

- Have a designated physician who is responsible for ensuring compliance with the laws and rules governing office surgeries; and
- Demonstrate financial responsibility equal to the minimum required for physicians

All currently registered office surgery centers will be required to reapply by January 1, 2020, with no additional fees, and meet the requirements for a designated physician and financial responsibility.

SURGICAL CASES

2004-2015 BOM 446 disciplined cases

Florida “pause rule”

Completed immediately prior to surgery & repeated if there is any delay or distraction

Correct patient (2 identifiers)

Correct procedure consent has been signed

Correct site and side of the procedure

Correct patient position that the site marked is & visible

TIME OUT SURGERY

- Despite “time out” surgery cases still come before the board.
- If surgeon has more than one hospital privileged “time out procedure” vary from institution to institution.

SURGICAL ERRORS

- Midline incision leading to confusion as to which side
- Misreading radiographic images
- Unknown human error
- Strange vertebral anatomy, miscounting vertebra
- Operating on the side closest to the physician after other side verified as correct side
- Correct site, wrong surgery
- Removed unintended tissue during procedure

POTENTIAL FACTORS ASSOC WSS

1. Human factors such as staff or physician fatigue, multiple team members, diffusion or lack of accountability, poor team communication, change of personnel, haste, heavy workload, staff inexperience, turnover, incompetence, cognitive factors

2. Patient factors pt sedated confusion, inability to engage pt, patient illiteracy, pt has a common name or same name as another pt,

3. Procedure factors- wrong side draped/prepped
Similar or same procedures back to back, not observed marking, cross checking consent forms,

CASE

- ❖ Case overbooked or add on emergencies.
- ❖ Waiting area full, holding bay full.
- ❖ O.R. has patient booked for right shoulder arthroscopic procedure.
- ❖ Another procedure cancelled. Nurse brings in the next patient and she starts to drape the patient for left sided procedure. Anesthesiologist in holding area wishes to move things along and starts the block on left side as nurse has prepped the patient.

WHAT VIOLATION?

- ❖ 456.072 (1) (z) (bb) Performing or attempting to perform health care services on the wrong patient, wrong site, wrong procedure or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical conditions. (included the preparation of the patient)

REPORTING OF ADVERSE INCIDENTS

- 459.026 (3) F.S. Notification to the dept must be submitted in writing by certified mail and postmarked within 15 days after the occurrence of the adverse incident.

ADVERSE INCIDENTS 459.026

- (4) Means an event over which the physician or licensee could exercise control and which is associated in whole or in part with a medical intervention, rather than the condition for which such intervention occurred, and which results in the following patient injuries:

459.026 ADVERSE INCIDENTS

- (a) The death of a patient
- (b) Brain or spinal damage to a patient
- (c) The performance of a surgical procedure on the wrong patient
- (d) 1. The performance of a wrong-site surgical procedure; or 2.the performance of a wrong surgical procedure; or

459.026

- (d) 3. The surgical repair of damage to a patient resulting from a planned surgical procedure where the damage is not a recognized specific risk as disclosed to the patient and documented through the informed-consent process if it results in: death; brain or spinal damage; permanent disfigurement not to include the incision scar; fracture or dislocation of bones or joints; a limitation of neurological, physical, or sensory function; or any condition that required the transfer of the patient.

459.026

- (e) a procedure to remove unplanned foreign objects remaining from a surgical procedure,
- (f) any condition that required the transfer of a patient of a hospital licensed under chapter 395 from an ambulatory surgical center licensed under chapter 395 or any facility or any office maintained by a physician for the practice of medicine which is not licensed under chapter 395.

RULE # 4 PAUSE-TIME OUT

- Pause before you make the incision on the correct site of the correct patient.
- The “pause” before the procedure must be in the chart.
- If you make the mistake, inform the patient or patient representative and document it the record.

INCOMPETENCE



CITATIONS 456.77

- Is like a traffic ticket “get out of jail card.” Instead of a disciplinary hearing it can be issued.
- Citations for offenses are cases which do not involve direct patient care .
- Examples CME violations, failure to pay NICA (legal obligation), advertising, failure to display signs, failure to report to the Board within 30 days been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.

CITATIONS

- Examples failure to keep current address on file with the board, excessive charging copying fees, failure to update physician profile.
- First time failure to pay fine or costs imposed by a board order within 30 days of the due date of the fine or costs – failure to pay >30 days will result in an AC

CITATIONS

- After 30 days if the BOOM does not receive a response the citations becomes a final order.
- Once the citation becomes a final order, the citation and complaint become a public record pursuant to Chapter 119 FS.

CITATIONS

- Address not on file?
- Failing to perform any statutory or legal obligation placed upon a licensee. 459.072(k)
- Delegate staff to open mail?

456.072 (1) (X) F.S.

- Osteopathic physician was involved in a motor vehicle accident. No injuries. Osteopathic physician left the scene of the accident because he forgot his cell phone at home and wished to call authorities. Osteopathic dr. gets a ticket for leaving the scene of the accident.

CASE

- 456.072 (1) (c) IF LICENSEE HAS BEEN CONVICTED OR FOUND GUILTY OF , OR ENTERED A PLEA OF NOLO CONTENDERE TO, REGARDLESS OF ADJUDICATION, A CRIME IN ANY JURISDICTION IN ANY STATE MUST BE REPORTED
- 456.072(1) (F) OTHER STATE ACTIONS, SUSPENSION, REVOCATION, INCLUDING DENIAL OF LICENSE
- BACKGROUND CHECKS WILL SHOW IT ALL

CASE

- DR APPLIES FOR FL LICENSE 2009
- QUESTION ON CASE OF SEXUAL MISCONDUCT IN PENNSYLVANIA
- APPEARS IN PERSON BOOM & STATES UNDER OATH HE DID NOT HAVE AN INTIMATE RELATIONSHIP WITH PT.
- FLORIDA LICENSE IS GRANTED IN 2009
- LICENSE RENEWAL PROCESS REPORTS OF PENNSYLVANIA FINAL ORDER FOR REVOCATION OF LICENSE DATED 1 WK AFTER FLORIDA BOOM APPEARANCE FOR POSS SEX MISCONDUCT

456.072(1) (H) & 456.072 (X) CASE

- DR DID NOT INFORM FLORIDA BOOM
- ATTEMPTED TO OBTAIN OBTAINING OR RENEWING LICENSE TO PRACTICE BY BRIBERY, BY FRAUDULENT MISREPRESENTATION OR THROUGH AN ERROR OF THE BOOM
- FAILED TO REPORT TO BOOM IN WRITING WITHIN 30 DAYS AFTER THE Pennsylvania board action on his license

459.072 (1) (X) F.S.

- Failure to report to the BOOM in writing within thirty days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to a crime in any jurisdiction.

RULE # 5 REPORT ALL CRIMINAL ACTIVITIES

- Grounds for discipline penalties and enforcement
457.072
- 456.072 (1) (x) Report all criminal activities after you receive your medical license includes in & out of state
- Maintain copy of correspondence and return receipt with mail
- Florida DOH Licensure Support Services Unit, Bin #C10, Tallahassee, Florida 32399-3267 or
- mqalicensureservices@FHHealth.gov

UPDATE PRACTITIONER PROFILE-RULE #6

- Within 15 days update:
 - Address
 - Staff privileges
 - Medical practice history
 - Financial responsibility
 - Board certification
 - Education
 - Disciplinary/criminal history

FLORIDA LICENSE

- ❖ Considered to be a “property asset”
- ❖ Think of it like a property
- ❖ Maintain it, CME- 40 hour biennial
- ❖ 3 Live hours
- ❖ Change of address if you move
- ❖ Inactive license is still a license and DOH cannot take away without due process

REPORT ON PROFESSIONAL LIABILITY CASES & ACTIONS 456.049

Shall report to the Office of Insurance Regulation any claim or action for damages for personal injury alleged to have been caused by error, omission, or negligence in the performance professional services

Florida cases are automatically reported, recent cause on PCP out of state licensee did not report

LICENSURE RENEWAL

Every licensee must complete 40 hours of approved CE within the biennium for which they are claimed.

The requirements are:

Two (2) hour course relating to Prevention of Medical Errors (live/participatory)

One (1) hour of Florida Laws and Rules/Professional Medical Ethics
(live/participatory)

Two (2) hours Prescribing of Controlled Substances (live or online)

Two (2) hours of Domestic Violence as part of every third biennium renewal (live
or online)

Human trafficking (live or online)

Twenty (20) hours of general AOA category 1A CE

related to the practice of osteopathic medicine or under osteopathic auspices

LICENSE RENEWAL

- BOOM cannot change the statutory requirements for the live hours
- A healthcare provider cannot renew their license unless all the requirements are met
- Start process at least 3 months in advance in case documents need to be submitted to CE broker.

456.072 (1) (K)

- DO has illness renders him temporarily disabled not working
- Did not check office mail
- DO defaulted on 1 or more HEAL totaling \$220,460
- Failed to provide proof to DOH within 45 day of his/her repayment schedule agreed by all parties

456.072(1)

- Student loans/comply with scholarship service obligations
- Failure to perform a statutory or legal obligation & the minimum disciplinary action shall be a suspension of the license until new payment terms are agreed upon
- License suspended!!
- Fine 10% of the defaulted loan amt.

RULE # 7

- Keep up with your legal obligations, child support, NICA, student loans etc

456.035 ADDRESS OF RECORD

- Before you move to a new practice, notify the BOOM.
- What can happen if no current address is on file?
 - A. Crisis at renewal
 - B. Late renewal may mean practicing on an inactive license
 - C. If practicing on an inactive license = criminal offense

KEEP CONTACT INFORMATION
CURRENT



METHOD OF NOTIFICATION

- Electronic notification shall be allowed by the department; however, it shall be the responsibility of the licensee to ensure that the electronic notification was received by the department. A licensee's failure to notify the dept of a change of address constitutes a violation of this section, and the licensee may be disciplined by the board.

459.008 LICENSE RENEWAL- RULE #8

- This is your responsibility not your office manager
- The licensee must have on file the address of her or his primary place of practice within this state prior to engaging in that practice.
- CME requirements
- Physician workforce survey 459.0081

64B15-14.001 ADVERTISING

- 459.015(1)d false, deceptive, or misleading advertising.

64B15-14.001 (2) K

- Fails to conspicuously identify the osteopathic physician by name in the advertisement or fails to conspicuously identify the osteopathic physician referred to in the advertising as an osteopathic physician.

“ADVERTISING AND ADVERTISEMENT”

- Means any statements oral or written, disseminated to or before the public or any portion thereof, with the intent of furthering the purpose, either directly or indirectly, of selling professional services, or offering to perform professional services or inducing members of the public to enter any obligation relating to such professional services.

456.062 ADVERTISEMENT OF FREE OR
DISCOUNTED SERVICES-REQUIRED
STATEMENT

\$50 OFF LASER TX

“THE PATIENT AND ANY OTHER PERSON RESPONSIBLE FOR PAYMENT HAS A RIGHT TO REFUSE TO PAY, CANCEL PAYMENT, OR BE REIMBURSED FOR PAYMENT FOR ANY OTHER SERVICE, EXAMINATION, OR TREATMENT THAT IS PERFORMED AS A RESULT OF & WITHIN 72 HOURS OF RESPONDING TO THE ADVERTISEMENT FOR THE FREE, DISCOUNTED FEE, OR REDUCED FEE SERVICE, EXAMINATION, OR TREATMENT.

RULE # 9

- Identify yourself as an osteopathic physician in all publications, letterhead, website, signage.

RULE # 10 DUTY TO REPORT/ NEW HB 229 IMPAIRED PRACTITIONER PROGRAM

- Report to the DOH any person who the licensee knows in in violation of chapter 456 or 459.
- However the person or the licensee may self report to PRN if they are unable to practice medicine with reasonable skill & safety by reason of illness or use of alcohol, drugs, narcotics, chemicals or any other type of material or as a result of physical or mental condition
- Must be reported prior to any complaint issued

PRN

- Report suspect alcohol/drugs &/or psychiatric illness
- Inaccessible to patients & staff
- Decreased workload or workload intolerance & performance
- Frequent trips to the bathroom & unexplained absences
- Frequent absences or illness
- Sporadic punctuality
- Defensive when questioned or confronted
- Alcohol on breath with attempts to cover with mints

PRN

- Deadlines not met
- Questionable practice judgment
- Unsatisfactory documentation performance
- Deteriorating personal hygiene
- Unsatisfactory documentation performances
- Personality and behavior changes
- Shakiness, tremors of hands, agitation

TOP TEN RULES

- ❖ 1. Maintain medical records
- ❖ 2. Prescribe safely
- ❖ 3. Remember those boundaries . Think twice before getting intimate with patients/caretakers. Remember boundaries include social media.

TOP TEN RULES

- ❖ 4. Time out- Pause before you make an incision/injection on the correct site of the correct patient.
- ❖ 5. If convicted of a crime or plead nolo contendere to a crime in any jurisdiction you must update your physician profile and notify the BOOM in writing (return receipt) within 30 days.

TOP TEN

- ❖ 6. Update physician profile
- ❖ 7. Keep up with your legal obligations, child support, student loans, etc.
- ❖ 8. License renewal requirements

TOP TEN SUMMARY

- ❖ 9. Advertisement- D.O. or Osteopathic physician or surgeon clear to the patient.
- ❖ 10. Duty to Report

PLEDGE OF OSTEOPATHIC COMMITMENT

- I pledge to provide compassionate quality care to my patients
- Partner with them to promote health
- Display integrity & professionalism through my career
- Advance the philosophy, practice and science of osteopathic medicine
- Continue life long learning
- Support my profession with loyalty in action, work and deed

CONTACT INFORMATION

- Kama.Monroe@flhealth.gov BOOM ED
 - 850-245-4162
- Carol.Taylor@flhealth.gov administrator
 - 850-245-4588
- All telephone and correspondence are public records

RESOURCES

- <http://floridasosteopathicmedicine.gov/resources/>
 - Statutes 456 and 459 can be viewed
- <https://www.flrules.org/gateway/result.asp>
- type in osteopathic & updates can be viewed
- Florida PRN admin@flprn.org
 - 904-261-3996

FSMB

<https://www.fsmb.org/policy/education-meetings/educational-modules>

Docinfo.org