

Florida Laws & Rules Osteopathic Medicine

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FOMA MID-YEAR SEMINAR

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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 of applicable Laws & Rules for licensed Osteopathic and Allopathic Physicians.
- Knowledge of the disciplinary process.
- Learning of rights afforded to physicians in licensure disciplinary cases.
- Ability to locate applicable statutes and rules through online resources.
- How to protect their right to practice.

LICENSE RENEWAL

Osteopathic Physician

- **Current licenses expire midnight, Eastern Time, March 31, 2018.**
- To ensure you receive your renewal notification from the department, your current mailing address must be on file. Failure to renew an active or inactive license by the expiration date will result in the license being placed in delinquent status. Failure by a delinquent licensee to renew before the expiration of the current licensure cycle renders the license null and void without any further action by the board or the department.
- A licensee who remains on inactive status for more than two consecutive biennial licensure cycles and who wishes to reactivate the license may be required to demonstrate the competency to resume active practice by sitting for a special purpose examination or by completing other reactivation requirements.
- If you are reactivating your license, please refer to the Laws & Rules governing your practice for additional requirements.
- The department will renew your license upon receipt of:
 - Completed renewal application
 - Required fees
 - Updated Practitioner Profile
 - Completed Physician Workforce Survey
 - Completed Financial Responsibility Form
- NOTE- Osteopathic Physicians licensed after July 1 of the second year of the biennium (odd year), are only required to complete the HIV/AIDS, Florida Laws and Rules, Professional & Medical Ethics, Federal & State Laws Related to the Prescribing of Controlled Substances and Prevention of Medical Errors courses

2016-2018 Requirements Osteopathic Physician

REQUIRED SUBJECT AREA	REQUIRED NUMBER OF HOURS	IMPORTANT INFORMATION
• General Hours*	20	20 must be AOA 1-A
• General Hours*	15	These hours can be AOA or AMA
• Medical Errors	2	Must be live
• Professional & Medical Ethics	1	Must be live
• Florida Laws and Rules	1	Must be live
• Federal & State Laws Related to the Prescribing of Controlled Substances	1	Must be live
• TOTAL HOURS	40**	
• * Licensees must obtain 2 hours of domestic violence <u>every third renewal period</u>		
• <u>Of the 15 general hours, only 8 can be home study</u>		

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 General's Office (AG) – provide an Attorney for the Board as Gen Counsel
- Also, provide Attorney(s) from Prosecution Services Unit to represent DOH during prosecution of discipline before Board
- District Court of Appeal (DCA) – court hears appeals from Board and DOAH
- Div. of Admin. Hearings (DOAH)– court hears Formal hearings for disciplinary cases

I. Laws and Rules for Osteopathic Physicians

Florida Statutes (F.S.): *Laws*

- Chapter 459: Osteopathic Medicine
- Chapter 456: Health Professions and Occupations: General Provisions
- Chapter 120: Administrative Procedure Act

Florida Administrative Code (F.A.C.): *Rules*

- Rules: Chapter 64B15: Board of Osteopathic Medicine, F.A.C.
- Rules: Chapter 64B: Division of Medical Quality Assurance, F.A.C.

FS 456 GENERAL PROVISIONS

HEALTH PROFESSIONS AND OCCUPATIONS:

- 456.001 Definitions
- THROUGH
- 456.50 Repeated Medical Malpractice

GENERAL HEALTH CARE PROVISION FOR ALL LICENSED
HEALTH CARE PROVIDERS

456.44 Florida Statute (not complete statute)

(1) DEFINITIONS.—

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

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

- (a) Designate himself or herself as a controlled substance prescribing practitioner on the physician’s practitioner profile.
- (b) Comply with the requirements of this section and applicable board rules.

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

FS 459 Osteopathic Medicine

OSTEOPATHIC MEDICINE

- 459.001 Purpose.
- THROUGH
- 459.026 Reports of adverse incidents in office practice settings.

STATUTE APPLIES TO ALL DO's and Physician assistants & Anesthesiologist Assistants.

FS 459.012

Itemized patient statement.—

Whenever **an osteopathic/a** physician licensed under this chapter renders professional services to a patient, the **osteopathic** physician is required, upon request, to submit to the patient, the patient's insurer, or the administrative agency for any federal or state health program under which the patient is entitled to benefits an itemized statement of the specific services rendered and the charge for each, no later than the **osteopathic** physician's next regular billing cycle which follows the fifth day after the rendering of professional services. **An osteopathic (a) physician may not condition the furnishing of an itemized statement upon prior payment of the bill.**

Whenever the itemized statement is submitted to the patient's insurer or the administrative agency, a copy of the itemized statement shall simultaneously be provided to the patient. Such copy of the itemized statement which is sent to the patient shall, in boldfaced letters, state that: "THIS IS A DUPLICATE COPY OF A STATEMENT SUBMITTED TO YOUR INSURER OR OTHER AGENCY."

Rule 64B15 Osteopathic Medicine

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

II. Investigations

Florida Department of Health (DOH)

How can an investigation begin?

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

Does the Department tell me if I am being investigated?

Notice of Investigation – letter of investigation.

Exceptions = Criminal charge or DOH believes notice will be detrimental to investigation

Right to Remain Silent Contact by DOH

You need to fully understand your rights.

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

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

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

Due Process Rights

Constitutional right to remain silent

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

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

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

ALL communications - through your attorney

Why should I invoke my right to remain silent?

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

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

Physician decided not to remain silent but to write the DOH on his own behalf....result?

Why should I invoke my right to remain silent?

Response?

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

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

If letter written by Attorney No Second Violation, letter by Dr. and because second complaint it is NO LONGER a Minor Violation

64B15-19.007

- (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**

Letter from DOH

At this point, you **SHOULD HAVE** an attorney – sound legal advice
DOH – **MUST** promptly furnish a copy of complaint or document
Within 45 days – you **MUST** submit a written response - it **MUST** be
considered by probable cause panel for the Board of Osteopathic
Medicine

An attorney is able to extend the response timeframe through
properly filed motions

DOH Resources

Investigative Subpoena's

Supported by Affidavit

Departments initiative or request by probable cause

The validity may be challenged – Was it unlawfully issued?

It is unreasonably broad in scope or Requires production of unreasonable materials

Investigative Depositions - Be aware – using deposition at subsequent formal hearing against you DOH may take depositions – own initiative or request probable cause panel; DOH gives you NO NOTICE

Investigation Conclusion

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

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

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

PCP = Probable Cause Panel

III. 64B15-19.007

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

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

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

MD – Failure to provide medical records upon request, to a patient or a patients legal representative or charging copying fees for patient records in violation of rule. \$500 fine and reimbursement of excessive fees charged, provide records within 10 days.

Affect of Citations

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

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

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

IV. Probable Cause Panel (PCP)

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

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

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

Recordings of PCP

Electronically record all proceedings; Recorded by a certified court reporter

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

Must be some evidence to reasonably indicate finding of PC

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

Transcript - the best place to start

Findings of PCP

NO Probable Cause = Case dismissed or receipt of Letter of concern

Violation exists – formal charges not being filed

Issued without an opportunity for hearing or to refute or dispute allegations

Becomes public record

Unclear – considered disciplinary actions

YES Probable Cause = Formal charges – Administrative Complaint

V. Administrative Complaint and Election of Rights

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

The sending of the Administrative Complaint by DOH is deemed served upon the licensee after mailing, and should never be ignored.

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

VI. DEA Changes in Laws and Rules

Determination Transfer Hydrocodone Combination Products (HCPs) to Schedule II

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

DEA Changes in Laws and Rules

Placement of Tramadol Into Schedule IV

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

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

Florida Changes in Laws

Prescription Drug Monitoring Program (PDMP)

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

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

- (a) Designate himself or herself as a controlled substance prescribing practitioner on the physician's practitioner profile.
- (b) Comply with the requirements of this section and applicable board rules.

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

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- (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

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- (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.

Telemedicine Rule

64B15-14.0081

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- (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

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- (7) The practice of medicine by telemedicine does not alter any obligation of the physician or the physician assistant regarding patient confidentiality or recordkeeping.
 - **(8) A physician-patient relationship may be established through telemedicine.**
 - (9)(a) Nothing contained in this rule shall prohibit consultations between physicians or the transmission and review of digital images, pathology specimens, test results, or other medical data by physicians or other qualified providers related to the care of Florida patients.
 - (b) This rule **does not apply** to emergency medical services provided by emergency physicians, emergency medical technicians (EMTs), paramedics, and emergency dispatchers. Emergency medical services are those activities or services to prevent or treat a sudden critical illness or injury and to provide emergency medical care and prehospital emergency medical transportation to sick, injured, or otherwise incapacitated persons in this state.
 - (c) The provisions of this rule **shall not apply where a physician or physician assistant is treating a patient with an emergency medical condition that requires immediate medical care.** An emergency medical condition is a medical condition manifesting itself by acute symptoms of sufficient severity that the absence of immediate medical attention will result in serious jeopardy to patient health, serious impairment to bodily functions, or serious dysfunction of a body organ or part.
 - (d) The provisions of this rule **shall not be construed to prohibit patient care in consultation with another physician** who has an ongoing relationship with the patient, and who has agreed to supervise the patient's treatment, including the use of any prescribed medications, nor on-call or cross-coverage situations in which the physician has access to patient records.

DO Rule 64B15-14.007

Office Surgery Rule

OLDEST Rule 64B15-14.007 Standard of Care for Office Surgery

(3) Level I Office Surgery

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

4. Pre-operative medications not required or used other than minimal pre-operative tranquilization of the patient; anesthesia is local, topical, or none. No drug-induced alteration of consciousness other than minimal pre-operative tranquilization of the patient is permitted in Level I Office Surgery.

OLDER Rule 64B15-14.007 Standard of Care for Office Surgery

(3) Level I Office Surgery

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

4. Anesthesia is local, topical, or none, and preoperative medicines **are limited to a single anxiolytic drug not** in the opiate class. The cumulative dose of the anxiolytic drug shall not exceed the maximum recommended dose (as per the manufacturer's recommendation).

64B15-14.007 Standard of Care for Office Surgery – 5/31/2016

(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

Recent Board Rulings

Allegations: Count I: Section 459.015(1)(x), FS., - committing medical malpractice. Count II: Section 459.015(1)(t), FS., - legend drug outside of professional practice. Count III: Section 459.015(1)(o), F.S., Failing to keep legible medical records.

Action – \$10,000 administrative fine • Costs (\$5960.23) • Laws and Rules Course CME • Drug Course CME • Records Course CME • 18 month probation with indirect monitoring • Quarterly Report to the Board

Recent Board Rulings

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

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

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

Action – Reprimand, Permanent restriction CS II, probation for 2 yrs indirect supervision

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).F.S 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**

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.

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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KNOW YOUR LEGAL RIGHTS AND HOW TO PROTECT THEM