

Florida Laws,
Rules and
Medical Ethics

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Disclosure Statement

**I have no financial
relationship in regard to
the content of this
presentation - JDW**

Educational Objectives Florida Laws, Rules and Medical Ethics

Understanding of 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.

What constitutes medical ethics?

Why should I be concerned about medical ethics?

Why Laws, Rules and Medical Ethics?

Recently the Board of Osteopathic Medicine amended their rules for osteopathic physicians in Florida - changing the required CE hours for renewal to NOW include 2 hours of Prescribing Controlled Substances as a mandatory course and MUST be completed by January 31, 2019 if you are licensed in Florida and hold are authorized by the DEA to prescribe CS.

Also, the Board combined the one hour for laws and rules with the one hour for medical ethics.

There are still 5 mandatory hours for each biennium - this course, Medical Errors 2 hours, and Prescribing Controlled Substances 2 hours

TRUE OR FALSE?

When prescribing controlled substances to a patient 16 years of age or older (not non-opioid V) I DO **NOT** HAVE TO CONSULT E-FORCSE.

TRUE OR FALSE?

When I refer a patient to an entity I am an investor in, the patient doesn't need to know.

What Florida Statute is the Osteopathic
Medicine Practice Act?

A. Florida Statute Chapter 456

B. Florida Statute Chapter 458

C. Florida Statute Chapter 459

D. Florida Statute Chapter 461

What Fla Rule applies to DO's?

A. Florida Rule 64B6

B. Florida Rule 64B8

C. Florida Rule 64B9

D. Florida Rule 64B15

LICENSE RENEWAL Osteopathic Physician

Current licenses expire at midnight, Eastern Time, on March 31, 2024.

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- Domestic Violence is required every third biennium

LICENSE RENEWAL Osteopathic Physician

64B15-13.001 Continuing Education for Biennial Renewal

PURPOSE AND EFFECT: The Board proposed the development of a rule amendment to address the format for continuing medical education for the 2020-2022 biennial renewal period.

64B15-13.001 Continuing Education for Biennial Renewal.

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. Continuing medical education (CME) requirements for biennial renewal of licensure are set forth in this rule. For the 2020-2022 biennial renewal period, all of the CME required by this rule may be obtained by completion of courses offered in a distance learning format.

- ▶ Notice of Development of Rulemaking
- ▶ **RULE EFFECTIVE MARCH 2, 2022 and allows for all hours during the 2020-2024 biennial renewal period to be completed through distance learning.**

2022-2024 Requirements Osteopathic Physician

REQUIRED SUBJECT AREA	REQUIRED NUMBER OF HOURS	IMPORTANT INFORMATION
General Hours*	20	20 must be AOA 1-A
General Hours* or AMA	15	These hours can be AOA
Medical Errors	2	Must be live
Florida Laws, Rules and Medical Ethics	1	Must be live
Prescribing of Controlled Substances	2	Does not have to be live
TOTAL HOURS	40**	

* Licensees must obtain 2 hours of domestic violence every third renewal period

Report to CE BROKER

REPORT THE HOURS YOU
RECEIVE HERE TODAY TO CE
BROKER! CE BROKER IS THE
STATEWIDE CLEARING HOUSE
FOR ALL CONTINUING
EDUCATION HOURS FOR HEALTH
CARE PROFESSIONALS.

Pelvic Exam 2021

Effective Date: July 1, 2021

SB 716 (Full Text)

Summary:

The bill amends section 456.51, Florida Statutes, relating to informed consent for pelvic examinations. The bill excludes visual assessment, imaging, and diagnostic medical or surgical procedures from the definition of pelvic examination, requires informed verbal consent of conscious patients in addition to written consent, prescribes those circumstances when consent is not required, and limits the need for informed consent to the initial pelvic examination of a pregnant woman under certain circumstances.

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Changes in Laws Reproductive Health 2021

Effective Date: July 1, 2021

SB 716 (Full Text)

Summary:

The bill amends section 456.51, Florida Statutes, relating to informed consent for pelvic examinations. The bill excludes visual assessment, imaging, and diagnostic medical or surgical procedures from the definition of pelvic examination, requires informed verbal consent of conscious patients in addition to written consent, prescribes those circumstances when consent is not required, and limits the need for informed consent to the initial pelvic examination of a pregnant woman under certain circumstances.

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Changes in Laws PARENTAL CONSENT 2021

Effective Date: July 1, 2021

HB 241 (Full Text)

Summary: The bill creates the “Parents’ Bill of Rights,” which states that licensed health care providers and facilities cannot provide services, prescribe medicine, or perform any procedure without first obtaining written parental consent unless otherwise authorized by law.

The bill requires a health care practitioner, or his or her employees, to obtain parental consent before performing health care services on a minor child and subjects health care practitioners and health care facilities to disciplinary action for violation of these parental consent requirements in certain instances. The bill includes criminal penalties as well as providing grounds for disciplinary action.

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Changes in Laws PARENTAL CONSENT 2022

Section 1. Subsection (1) of section 743.064, Florida

Statutes, is amended to read:

743.064 Emergency medical care or treatment to minors without parental consent.—

(1)The absence of parental consent notwithstanding, a physician licensed under chapter 458 or an osteopathic physician licensed under chapter 459 may render emergency medical care or treatment to any minor who has been injured in an accident or who is suffering from an acute illness, disease, or condition if, within a reasonable degree of medical certainty, delay in initiation or provision of emergency medical care or treatment would endanger the health or physical well-being of the minor, and provided such emergency medical care or treatment is administered in a hospital licensed by the state under chapter 395 or in a college health service. Emergency medical care or treatment may also be rendered in the prehospital setting by paramedics, emergency medical technicians, and other emergency medical services personnel, provided such care is rendered consistent with the provisions of chapter 401. These persons shall follow the general guidelines and notification provisions of this section.

Section 2. This act shall take effect July 1, 2022

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Changes in Laws - OFFICE SIGNS Human Trafficking 2019

For more information please visit:

<http://www.flhealthsource.gov/humantrafficking/SIGNS> -

<http://www.flhealthsource.gov/humantrafficking/#signs>

Each healthcare provider licensed by one of the named Boards must post a sign regarding human trafficking in a conspicuous place accessible to employees by January 1, 2021. The sign must be at least **11 x 15 inches** and in at least 32-point type. The sign must contain statutorily required language and be posted in English and Spanish. The Department has also provided Mandarin translations of these signs for use in offices where those languages are spoken. The links below contain signs that meet the statutory requirements when printed at the listed size.

Human Trafficking (English/Spanish)

Human Trafficking (English/Spanish/Mandarin)

Changes in Laws - Non-Opioid Alternative 2019-2021

House Bill 451, Nonopioid Alternatives, was approved by Governor DeSantis and is effective July 1, 2019. The bill requires that before providing anesthesia or prescribing, ordering, dispensing, or administering an opioid listed as a Schedule II controlled substance to treat pain, the patient must be informed about available nonopioid alternatives. A healthcare practitioner will discuss the advantages and disadvantages of using nonopioid alternatives. Under the new law, the department is required to develop an educational pamphlet about using nonopioid alternatives and post the pamphlet on the department's website. Healthcare practitioners must provide the patient with this educational pamphlet. Those healthcare practitioners providing emergency services and care are exempt from these requirements.

2021 Bill - CAN BE GIVEN IN ELECTRONIC FORMAT

Effective Date: July 1, 2021 SB 530

Summary:

The bill allows prescribing health care practitioners, who are required to provide information about nonopioid alternatives, to provide health care patients (or their representatives under certain circumstances) the required educational pamphlet electronically in lieu of providing a printed copy.

Pamphlet found at: <http://www.floridahealth.gov/PROGRAMS-AND-SERVICES/non-opioid-pain-management/index.html>

http://www.floridahealth.gov/PROGRAMS-AND-SERVICES/non-opioid-pain-management/_documents/alternatives-facts-8.5x11-eng.pdf

http://www.floridahealth.gov/PROGRAMS-AND-SERVICES/non-opioid-pain-management/_documents/alternatives-checklist.pdf

Changes in Laws -2022 Electronic Prescribing Requirements

House Bill 831 (2019), Electronic Prescribing, was signed into law by Governor DeSantis. The effective date is January 1, 2020. The bill provides important new requirements for prescribers to generate and transmit all prescriptions electronically upon licensure renewal or by July 1, 2021, whichever is earlier.

- ▶ The law requires prescribers to generate and transmit all prescription electronically, who maintains a system of electronic health records, unless:
 - The practitioner and the dispenser are the same entity; (Dispensing Physician)
 - 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;
 - 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.**

Florida Changes in Laws 2021

456.44 Controlled substance prescribing.

(1) DEFINITIONS. AS used in this section, the term: (a) "Acute pain" means the normal, predicted, physiological, and time-limited response to an adverse chemical, thermal, or mechanical stimulus associated with surgery, trauma, or acute illness. The term does not include pain related to:

1. Cancer.
2. A terminal condition. For purposes of this subparagraph, the term "terminal condition" means a progressive disease or medical or surgical condition that causes significant functional impairment, is not considered by a treating physician to be reversible without the administration of life-sustaining procedures, and will result in death within 1 year after diagnosis if the condition runs its normal course.
3. Palliative care to provide relief of symptoms related to an incurable, progressive illness or injury.
4. A traumatic injury with an Injury Severity Score of 9 or greater.

Florida Changes in Laws 2021

(4) STANDARDS OF PRACTICE FOR TREATMENT OF ACUTE PAIN.*The applicable boards shall adopt rules establishing guidelines for prescribing controlled substances for acute pain, including evaluation of the patient, creation and maintenance of a treatment plan, obtaining informed consent and agreement for treatment, periodic review of the treatment plan, consultation, medical record review, and compliance with controlled substance laws and regulations. Failure of a prescriber to follow such guidelines constitutes grounds for disciplinary action pursuant to s. 456.072(1)(gg), punishable as provided in s. 456.072(2).

Florida Changes in Laws 2021

(5) PRESCRIPTION SUPPLY.' (a) For the treatment of acute pain, a prescription for an opioid drug listed as a Schedule II controlled substance in s. 893.03 or 21 U.S.C. s. 812 may not exceed a 3-day supply, except that up to a 7-day supply may be prescribed if:

1. The prescriber, in his or her professional judgment, believes that more than a 3-day supply of such an opioid is medically necessary to treat the patient's pain as an acute medical condition;

2. The prescriber indicates "ACUTE PAIN EXCEPTION" on the prescription; and 3. The prescriber adequately documents in the patient's medical records the acute medical condition and lack of alternative treatment options that justify deviation from the 3-day supply limit established in this subsection. (b) For the treatment of pain other than acute pain, a prescriber must indicate "NONACUTE PAIN" on a prescription for an opioid drug listed as a Schedule II controlled substance in s. 893.03 or 21 U.S.C. s. 812.

(6) EMERGENCY OPIOID ANTAGONIST. For the treatment of pain related to a traumatic injury with an Injury Severity Score of 9 or greater, a prescriber who prescribes a Schedule II controlled substance listed in s. 893.03 or 21 U.S.C. s. 812 must concurrently prescribe an emergency opioid antagonist, as defined in s. 381.887(1).

Changes in Laws -2022 Telehealth House Bill 17

Section 1. Paragraph (c) of subsection (2) of section 456.47, Florida Statutes, is amended to read:

456.47 Use of telehealth to provide services.—

(2) PRACTICE STANDARDS.—

(c) A telehealth provider may not use telehealth to prescribe a controlled substance listed in Schedule II of s. 893.03 unless the controlled substance is prescribed for the following:

1. The treatment of a psychiatric disorder;
2. Inpatient treatment at a hospital licensed under chapter 395;
3. The treatment of a patient receiving hospice services as defined in s. 400.601; or
4. The treatment of a resident of a nursing home facility as defined in s. 400.021.

Section 2. This act shall take effect July 1, 2022

Changes in
Laws - 2023
Telehealth
House Bill 267

The bill revises the definition of telehealth to include audio-only telephone call in the telehealth technology authorization statute.

Protection from Discrimination Based on Health Care Choices 2023 SB 252

- ▶ *SB 252 Protection from Discrimination Based on Health Care Choices*
- ▶ *Effective Date: June 1, 2023, except as otherwise provided in the act*
[SB 252](#) (Full Text)
- ▶ **Summary:**
- ▶ The bill prohibits business entities and governmental entities from requiring a person to provide certain documentation or requiring a COVID-19 test to gain access to, entry upon, or service from such entities or as a condition of contracting, hiring, promotion, or continued employment; prohibiting business and governmental entities from refusing to hire persons, discharging persons, depriving or attempting to deprive persons of employment opportunities, adversely affecting persons with respect to employment, or otherwise discriminating against any person based on knowledge or belief of a person's vaccination or COVID-19 post infection recovery status or failure to take a COVID-19 test. The bill requires such entities to provide exemptions and reasonable accommodations for religious and medical reasons.

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Protection from Discrimination Based on Health Care Choices 2023 SB 252

- ▶ The bill amends several statutes in order to prohibit mask mandates, mandates on emergency use authorizations (EUA) vaccinations, messenger ribonucleic acid (mRNA) vaccinations, and COVID-19 vaccinations, and COVID-19 testing mandates in educational institutions, business entities, and governmental entities. The bill prohibits these entities and institutions from requiring proof of a vaccination with one of the specified types of vaccinations, post infection recovery from COVID-19, or a COVID-19 test to gain access to, entry upon, or service from the entity or institution. The bill also prohibits business and governmental entities from certain employment practices based on an employee's, or a potential employee's, vaccination or post infection status or the refusal to take a COVID-19 test. The bill's provisions relating to mRNA vaccines are repealed on June 1, 2025.
- ▶ Additionally, the bill prohibits business entities, governmental entities, and educational institutions from requiring a person to wear a mask, a face shield, or any other facial covering that covers the nose and mouth or denying a person access to, entry upon, service from, or admission to such entity or institution or otherwise discriminating against any person based on his or her refusal to wear a mask, face shield, or other facial covering. The bill provides exceptions to these prohibitions for health care providers and practitioners, if the provider or practitioner meets specific requirements established by the bill, and for when a mask or facial covering is required safety equipment. Business entities and governmental entities that violate these provisions are subject to discipline by the Florida Department of Legal Affairs (DLA) while educational institutions are subject to discipline by the Florida Department of Health (DOH). Such discipline may include fines of up to \$5,000 for each violation.

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Protection from Discrimination Based on Health Care Choices 2023 SB 252

- ▶ The bill establishes requirements for mandating masks in health care settings. The bill requires the DOH and the Agency for Health Care Administration (AHCA) to jointly develop standards for the use of facial coverings in such settings by July 1, 2023, and requires each health care provider and health care practitioner who operates or manages an office to establish policies and procedures for facial coverings by August 1, 2023, that are consistent with the standards adopted by the DOH and the AHCA if they require any individual to wear a mask.
- ▶ The bill prohibits governmental entities and educational institutions from adopting, implementing, or enforcing an international health organization guideline unless authorized by state law, rule, or executive order issued pursuant to a declared emergency.
- ▶ The bill also creates and amends several statutes related to the provision of health care for COVID-19 including:
 - Prohibiting a hospital from interfering with COVID-19 treatment alternatives that are recommended by a health care practitioner with privileges at the hospital.
 - Requiring a health care practitioner to obtain specified informed consent from a patient before prescribing any medication for the treatment of COVID-19 to the patient.
 - Prohibiting a pharmacist from being disciplined for properly dispensing medications prescribed for the treatment of COVID-19.

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Changes in Laws -2023 Physician Certifications for Medical Marijuana use HB 387

- ▶ *Effective Date: July 1, 2023*
[HB 387](#) (Full Text)
- ▶ **Summary:**
- ▶ The bill authorizes a qualified physician who performs an in-person examination of a patient for the initial physician certification to use telehealth to conduct subsequent examinations of that patient for renewals. The bill also authorizes the Florida Department of Health to suspend the registration of a qualified physician for up to 2 years if the qualified physician violates the requirements of s. 381.986, F.S., or provides, advertises, or markets telehealth services before July 1, 2023.

Changes in Laws -2023 Referral of Patients by Health Care Providers SB 718

- ▶ *Effective Date: July 1, 2023*
[SB 718](#) (Full Text)
- ▶ **Summary:**
- ▶ The bill amends s. 456.053, F.S., regulating financial arrangements between referring health care providers and health care service providers, to alter a safe harbor provision for permitted referrals from a health care provider to another provider for designated health services that solely serves patients of the referring health care provider. The bill removes the direct supervision requirement and the requirement that the physician be present in the office suite, allowing general supervision of such services from locations outside of the office where the services are provided. The bill allows self-referring health care providers to avoid the cost of having a physician present while health care services are provided. The change in state law also **aligns with federal Stark law** provisions regarding self-referrals by a health care provider to another provider in which **the referring physician has a financial or other pecuniary interest.**

Changes in Laws -2023 Health Care Provider Accountability (Office based surgeries) HB 1471

- ▶ *Effective Date: July 1, 2023*
[HB 1471](#) (Full Text)
- ▶ **Summary:**
- ▶ The bill addresses health care provider accountability related to nursing home residents' rights, unlicensed facilities, and standards of care for certain office surgeries. Section 400.022, F.S., establishes an extensive list of resident rights that a nursing home must afford to its residents. The list includes, but is not limited to, the right to civil and religious liberties, the right to participate in social and other activities that do not impact other residents' rights, and the right to refuse medication and treatment. The bill adds to the list of nursing home residents' rights the right to be free from sexual abuse, neglect, and exploitation.
- ▶ The bill authorizes the Agency for Health Care Administration (AHCA) to seek an ex parte temporary injunction to prevent continuing unlicensed activity by a provider who has been warned by the agency to cease such unlicensed activity. The bill establishes the temporary injunction process, including petition requirements, subsequent inspections to determine compliance, and a permanent injunction process if the provider is not complying with the ex parte temporary injunction. These changes apply to any entity licensed by AHCA.

Changes in Laws -2023 Health Care Provider Accountability (Office based surgeries) HB 1471

- ▶ With regard to office surgeries, the bill:
 - Establishes standards of practice for physicians performing gluteal fat grafting procedures in office surgery settings.
 - Requires that any duty delegated by a physician during a gluteal fat grafting procedure must be completed under the direct supervision of the physician.
 - Provides that **gluteal fat extractions and injections may not be delegated** and that injections must be done under ultrasound guidance to ensure that fat is only injected into the subcutaneous space and not across the fascia covering gluteal muscle.
 - Requires the Department to inspect any office where office surgeries will be done before the office is registered – if the office refuses such inspection, it will not be registered until the inspection can be completed.
 - Provides that if an office that has already been registered with the Department refuses an inspection, its registration must be immediately suspended for 14 days and remain suspended until the inspection is completed.

Changes in Laws - 2023 Standards of Treatment of Sex Reassignment SB 254

175 (2) If sex-reassignment prescriptions or procedures are
176 prescribed for or administered or performed on patients **18 years**
177 **of age or older**, consent must be voluntary, informed, and in
178 writing on forms adopted in rule by the Board of Medicine and
179 the Board of Osteopathic Medicine. Consent to sex-reassignment
180 prescriptions or procedures is **voluntary and informed only if**
181 **the physician who is to prescribe or administer the**
182 **pharmaceutical product or perform the procedure has, at a**
183 **minimum, while physically present in the same room:**
184 (a) **Informed** the patient of the nature and risks of the
185 prescription or procedure in order for the patient to make a
186 prudent decision;
187 (b) **Provided the informed consent form**, as adopted in rule
188 by the Board of Medicine and the Board of Osteopathic Medicine,
189 to the patient; and
190 (c) **Received the patient's written acknowledgment**, before
191 the prescription or procedure is prescribed, administered, or
192 performed, that the information required to be provided under
193 this subsection has been provided.

Changes in Laws - 2023 Standards of Treatment of Sex Reassignment SB 254

194 (3) Sex-reassignment prescriptions or procedures may not be
195 prescribed, administered, or performed **except by a physician.**

196 For the purposes of this section, the term “physician” is
197 defined as a physician licensed under chapter 458 or chapter 459
198 or a physician practicing medicine or osteopathic medicine in
199 the employment of the Federal Government.

200 (4) Consent required under subsection (2) does not apply to
201 renewals of prescriptions consistent with those referenced under
202 s. 456.001(9)(a)1. and 2. if a physician and his or her patient
203 have met the requirements for consent for the initial
204 prescription or renewal. However, separate consent is required
205 for any new prescription for a pharmaceutical product not
206 previously prescribed to the patient.

Changes in Laws - 2023 Standards of Treatment of Sex Reassignment SB 254

207 (5)(a) Violation of this section constitutes grounds for
208 disciplinary action under this chapter and chapter 458 or
209 chapter 459, as applicable.

210 (b) Any health care practitioner who willfully or actively
211 participates in a violation of subsection (1) commits a felony
212 of the third degree, punishable as provided in s. 775.082, s.
213 775.083, or s. 775.084.

214 (c) Any health care practitioner who violates subsection
215 (2), subsection (3), or subsection (4) commits a misdemeanor of
216 the first degree, punishable as provided in s. 775.082 or s. 21

218 (6)(a) The Board of Medicine and the Board of Osteopathic
219 Medicine shall adopt emergency rules to implement this section.

220 (b) Any emergency rules adopted under this section are
221 exempt from s. 120.54(4)(c) and shall remain in effect until
222 replaced by rules adopted under the nonemergency rulemaking
223 procedures of the Administrative Procedure Act.7 775.083.

Florida Board
of Osteopathic
Medicine RULE
CHANGES:
Standards of
Treatment of
Gender
Dysphoria in
Minors

64B15-14.014 Standards of Practice for the Treatment of Gender Dysphoria in Minors.

(1) The following therapies and procedures performed for the treatment of gender dysphoria in minors are prohibited.

(a) Sex reassignment surgeries, or any other surgical procedures, that alter primary or secondary sexual characteristics.

(b) Puberty blocking, hormone, and hormone antagonist therapies.

(2) Minors being treated with puberty blocking, hormone, or hormone antagonist therapies prior to the effective date of this rule may continue with such therapies.

Rulemaking Authority 459.015(1)(z) FS. Law Implemented 459.015(1)(z) FS. History—New 3-28-23.

Federal Changes in Laws - DEA!

On December 29, 2022, the Consolidated Appropriations Act of 2023 enacted a new one-time, eight-hour training requirement for all Drug Enforcement Administration (DEA)-registered practitioners on the treatment and management of patients with opioid or other substance use disorders. Below is information on this new requirement.

Who is responsible for satisfying this new training requirement?

- All DEA-registered practitioners, with the exception of practitioners that are solely veterinarians.

How will practitioners be asked to report satisfying this new training requirement?

- Beginning on June 27, 2023, practitioners will be required to check a box on their online DEA registration form—regardless of whether a registrant is completing their initial registration application or renewing their registration—affirming that they have completed the new training requirement.

What is the deadline for satisfying this new training requirement?

- The deadline for satisfying this new training requirement is the date of a practitioner's next scheduled DEA registration submission—regardless of whether it is an initial registration or a renewal registration—on or after June 27, 2023.

- This one-time training requirement affirmation will not be a part of future registration renewals.

Federal Changes in Laws - DEA!

How can practitioners satisfy this new training requirement?

There are multiple ways that practitioners can satisfy this new training requirement.

- First, the following groups of practitioners are deemed to have satisfied this training:

1. Group 1: All practitioners that are board certified in addiction medicine or addiction psychiatry from the American Board of Medical Specialties, the American Board of Addiction Medicine, or the American Osteopathic Association.

2. Group 2: All practitioners that graduated in good standing from a medical (allopathic or osteopathic), dental, physician assistant, or advanced practice nursing school in the United States within five years of June 27, 2023, and successfully completed a comprehensive curriculum that included at least eight hours of training on:

- Treating and managing patients with opioid or other substance use disorders, including the appropriate clinical use of all drugs approved by the Food and Drug Administration for the treatment of a substance use disorder; or

- Safe pharmacological management of dental pain and screening, brief intervention, and referral for appropriate treatment of patients with or at risk of developing opioid and other substance use disorders.

Federal Changes in Laws - DEA!

Second, practitioners can satisfy this training by engaging in a total of eight hours of training on treatment and management of patients with opioid or other substance use disorders from the groups listed below. A few key points related to this training:

1. The training does not have to occur in one session. It can be cumulative across multiple sessions that equal eight hours of training.
2. Past trainings on the treatment and management of patients with opioid or other substance use disorders can count towards a practitioner meeting this requirement. In other words, if you received a relevant training from one of the groups listed below— prior to the enactment of this new training obligation on December 29, 2022—that training counts towards the eight-hour requirement.
3. Past DATA-Waived trainings count towards a DEA registrant's 8-hour training requirement.
4. Trainings can occur in a variety of formats, including classroom settings, seminars at professional society meetings, or virtual offerings.

WHO is WHO?

Dept. of Health (DOH) - licenses ALL health care practitioners

Board of Osteopathic Medicine/Board of Medicine (Board) - rulemaking, and disciplinary hearings

Attorney Generals Office (AG) - provide an Attorney for the Board as Gen Counsel

Also, provide Attorney(s) from Prosecution Services Unit to represent DOH during prosecution of discipline before Board

District Court of Appeal (DCA) - court hears appeals from Board and DOAH

Div. of Admin. Hearings (DOAH)- court hears Formal hearings for disciplinary cases

I. Laws and Rules for Osteopathic Physicians

Florida Statutes (F.S.): Laws

Chapter 459: Osteopathic Medicine

Chapter 456: Health Professions and Occupations: General Provisions

Chapter 120: Administrative Procedure Act

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

Rules: Chapter 64B15: Board of Osteopathic Medicine, F.A.C.

Rules: Chapter 64B: Division of Medical Quality Assurance, F.A.C.

FS 456 GENERAL PROVISIONS

HEALTH PROFESSIONS AND OCCUPATIONS:

456.001 Definitions

THROUGH

456.50 Repeated Medical Malpractice

GENERAL HEALTH CARE PROVISION FOR ALL
LICENSED HEALTH CARE PROVIDERS

F.S. § 456.052

Disclosure of financial interest by production.

- (1) A health care provider shall not refer a patient to an entity in which such provider is an investor unless, prior to the referral, **the provider furnishes the patient with a written disclosure form, informing the patient of:**
 - (a) The existence of the investment interest.
 - (b) The name and address of each applicable entity in which the referring health care provider is an investor.
 - (c) The patient's right to obtain the items or services for which the patient has been referred at the location or from the provider or supplier of the patient's choice, including the entity in which the referring provider is an investor.
 - (d) The names and addresses of **at least two alternative** sources of such items or services available to the patient.
- (2) The physician or health care provider shall post a copy of the disclosure forms in a conspicuous public place in his or her office.
- (3) A violation of this section shall constitute a **misdemeanor of the first degree**, punishable as provided in s. 775.082 or s. 775.083. In addition to any other penalties or remedies provided, a violation of this section shall be grounds for disciplinary action by the respective board.

History.—s. 1, ch. 86-31; s. 84, ch. 91-224; s. 13, ch. 92-178; s. 92, ch. 97-261; s. 76, ch. 2000-160.

Note.—Former s. 455.25; s. 455.701.

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.

459.0152, F.S. Specialties

459.0152 Specialties.—An osteopathic physician licensed under this chapter may not hold himself or herself out as a board-certified specialist unless the osteopathic physician has successfully completed the requirements for certification by the American Osteopathic Association or the Accreditation Council on Graduate Medical Education and is certified as a specialist by a certifying agency approved by the board. However, an osteopathic physician may indicate the services offered and may state that his or her practice is limited to one or more types of services when this accurately reflects the scope of practice of the osteopathic physician.

459.015, FS Grounds for disciplinary action; action by the board and department

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(s) Performing professional services which have not been duly authorized by the patient or client or his or her legal representative except as provided in s. 743.064, s. 766.103, or s. 768.13.

(hh) Failing to supervise adequately the activities of those physician assistants, paramedics, emergency medical technicians, advanced practice registered nurses, anesthesiologist assistants, or other persons acting under the supervision of the osteopathic physician.

(ee) Presigning blank prescription forms.

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.

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)

RULE 64B15- 19.007 Citations

(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**

RULE

64B15-19.008 Mediation

64B15-19.008 Mediation.

(1) The provisions set forth in subsection (2), below, shall qualify for mediation only when the violation can be remedied by the licensee and there is no intentional misconduct.

(2) The Board finds that the following offenses may be mediated if the offense meets the criteria of Section 456.078, F.S.:

(a) False, deceptive or misleading advertising not involving intentional misconduct;

(b) Failure to comply with the requirements of Sections 381.026 and 381.0261, F.S., to provide patients with information about their patient rights and how to file a patient complaint;

(c) Failure to provide, upon request, patient records to a patient or a patient's legal representative;

(d) Negligently failing to file a report or record required by state or federal law;

(e) Falsely certifying compliance with required continuing medical education hours for the purpose of renewing a license or certification;

(f) Failure to verify profile information or failure to comply with the requirements for profiling and credentialing;

(g) Failure to notify the Department of change of practice or mailing address;

(h) Charging copying fees for patient records in violation of Rule 64B15-15.003, F.A.C.; and,

(i) Failure to pay the fines or costs imposed by Board order.

(3) If a licensee is no longer eligible for mediation or if mediation fails, the above-referenced violations shall be eligible for the issuance of a citation pursuant to Rule 64B15-19.007, F.A.C.

Rulemaking Authority
456.078 FS. Law
Implemented 456.078 FS.
History-New 11-30-94,
Formerly 59W-19.008,
Amended 5-3-05, 7-29-08, 10-
8-12.

64B15-14.014 Standards of Practice for the Treatment of Gender Dysphoria in Minors.

(1) The following therapies and procedures performed for the treatment of gender dysphoria in minors are prohibited.

(a) Sex reassignment surgeries, or any other surgical procedures, that alter primary or secondary sexual characteristics.

(b) Puberty blocking, hormone, and hormone antagonist therapies.

(2) Minors being treated with puberty blocking, hormone, or hormone antagonist therapies prior to the effective date of this rule may continue with such therapies.

Rulemaking Authority 459.015(1)(z) FS. Law Implemented 459.015(1)(z) FS. History—New 3-28-23.

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

Other Due Process Rights

Right to counsel - make sure when you hire counsel, they are well versed in administrative law. Also, it doesn't hurt to have one that is able to effectively communicate the position of the client - maybe not as a "cat lawyer"

**The
Guardian**

**The
Guardian**

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. CITATIONS

64B15- 19.007

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

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


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

(i) Failure to timely provide medical records, upon request to a patient or a patient's legal representative. The fine shall be \$500.00.


(j) Charging copying fees for patient records in violation of Rule 64B15-15.003, F.A.C. The fine shall be \$750.00.

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.

64B15-19.008 Mediation

(1) The provisions set forth in subsection (2), below, shall qualify for mediation only when the violation can be remedied by the licensee and there is no intentional misconduct.

(2) The Board finds that the following offenses may be mediated if the offense meets the criteria of Section 456.078, F.S.:

(a) False, deceptive or misleading advertising not involving intentional misconduct;

(b) Failure to comply with the requirements of Sections 381.026 and 381.0261, F.S., to provide patients with information about their patient rights and how to file a patient complaint;

(c) Failure to provide, upon request, patient records to a patient or a patient's legal representative;

(d) Negligently failing to file a report or record required by state or federal law;

(e) Falsely certifying compliance with required continuing medical education hours for the purpose of renewing a license or certification;

(f) Failure to verify profile information or failure to comply with the requirements for profiling and credentialing;

(g) Failure to notify the Department of change of practice or mailing address;

(h) Charging copying fees for patient records in violation of Rule 64B15-15.003, F.A.C.; and,

(i) Failure to pay the fines or costs imposed by Board order.

(3) If a licensee is no longer eligible for mediation or if mediation fails, the above-referenced violations shall be eligible for the issuance of a citation pursuant to Rule 64B15-19.007, F.A.C.

*Rulemaking Authority
456.078 FS. Law
Implemented 456.078 FS.
History-New 11-30-94,
Formerly 59W-19.008,
Amended 5-3-05, 7-29-08,
10-8-12.*

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 Guidance

Violation exists - formal charges not being filed - Letter of Guidance

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

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 Medicine/Osteopathic Medicine.

Physician MUST NOT dispute the facts of the alleged complaint.

Physician goes before Board and presents testimony/evidence requesting for leniency in their penalties for the violation.

Board 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 Board 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.

Board may accept the Agreement, or reject the Agreement. If Board 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



MEDICAL MARIJUANA

MEDICAL MARIJUANA RULES

To access the medical marijuana **consent form** visit:

<https://floridasosteopathicmedicine.gov/forms/medical-marijuana-consent-form.pdf>

To access the medical marijuana statutorily **required documentation** form visit:

<https://floridasosteopathicmedicine.gov/forms/statutorily-required-documentation-smm.pdf>

New Practice Standards Related to Smoking Marijuana for Medical Use

<https://flboardofmedicine.gov/forms/medical-marijuana-consent-form.pdf>

Under the authority of § 381.986, Florida Statutes (F.S.), new practice standards for the certification of smoking marijuana as a route of administration became effective on July 13, 2021. All osteopathic physicians who are authorized to issue a certification for the medical use of marijuana in a form for smoking as defined in § 381.986(1), F.S., must now comply with the new practice standards set forth in Rule 64B15-14.0131, Florida Administrative Code (F.A.C.). The new practice standards address a number of issues including patient evaluation, establishment of treatment plans, informed consent, periodic patient review and consultation, and the maintenance of medical records. Qualified osteopathic physicians must at all times remain in compliance with Rule 64B15-14.0131, F.A.C., and all state laws and regulations addressing the issuance of certifications for the medical use of marijuana in a form for smoking. In addition to the new practice standards, qualified osteopathic physicians must have patients who will use smoking marijuana as a route of administration sign an updated “Medical Marijuana Consent Form,” which is incorporated by reference in Rule 64B15-14.013, F.A.C.

Medical Marijuana and Tele-Health 381.986 Medical use of marijuana.

The Governor's executive order has expired and there is no longer the ability for physicians to treat medical marijuana patients through telemedicine.

1(l) "Qualified patient" means a resident of this state who has been added to the medical marijuana use registry by a qualified physician to receive marijuana or a marijuana delivery device for a medical use and who has a qualified patient identification card.

1(m) "Qualified physician" means a person who holds an active, unrestricted license as an allopathic physician under chapter 458 or as an osteopathic physician under chapter 459 and is in compliance with the physician education requirements of subsection (3).

(4) PHYSICIAN CERTIFICATION

(a) A qualified physician may issue a physician certification only if the qualified physician:

1. Conducted a physical examination while physically present in the same room as the patient and a full assessment of the medical history of the patient.

Medical Ethics - Why should I be concerned?

AOA Code of Ethics

The American Osteopathic Association has formulated this Code to guide its member physicians in their professional lives. The standards presented are designed to address the osteopathic physician's ethical and professional responsibilities to patients, to society, to the AOA, to others involved in health care and to self.

Further, the American Osteopathic Association has adopted the position that physicians should play a major role in the development and instruction of medical ethics.

I have ethics, yes I do, I have ethics,
how about you?



I have ethics, yes I do, I have ethics,
how about you?



What is Medical Ethics?

Medical ethics involves examining a specific problem, usually a clinical case, and using values, facts, and logic to decide what the best course of action should be.

Some ethical problems are fairly straightforward, such as determining right from wrong. But others can also be more perplexing, such as deciding between two "rights"—two values that are in conflict with each other—or deciding between two different value systems, such as the patient's (or their guardian) versus the doctor's.

What are the Basic Principles of Medical Ethics?

Autonomy

Requires that the patient have autonomy of thought, intention, and action when making decisions regarding health care procedures. Therefore, the decision-making process must be free of coercion or coaxing. In order for a patient to make a fully informed decision, she/he must understand all risks and benefits of the procedure and the likelihood of success. Because ARTs are highly technical and may involve high emotions, it is difficult to expect patients to be operating under fully-informed consent.

Justice

The idea that the burdens and benefits of new or experimental treatments must be distributed equally among all groups in society. Requires that procedures uphold the spirit of existing laws and are fair to all players involved. The health care provider must consider four main areas when evaluating justice: fair distribution of scarce resources, competing needs, rights and obligations, and potential conflicts with established legislation. Reproductive technologies create ethical dilemmas because treatment is not equally available to all people.

Beneficence

Requires that the procedure be provided with

the intent of doing good for the patient involved. Demands that health care providers develop and maintain skills and knowledge, continually update training, consider individual circumstances of all patients, and strive for net benefit.

Non-maleficence

Requires that a procedure does not harm the patient involved or others in society. Infertility specialists operate under the assumption that they are doing no harm or at least minimizing harm by pursuing the greater good. However, because

assistive reproductive technologies have limited success rates uncertain overall outcomes, the emotional state of the patient may be impacted negatively. In some cases, it is difficult for doctors to successfully apply the do no harm principle.

Examples of medical ethics scenarios

Withholding treatment to meet an organization's budget, or because of insurance policies;

Accepting money from pharmaceutical or device manufacturers;

Upcoding to get treatment covered;

Getting romantically involved with a patient or family member;

Covering up a mistake;

Reporting an impaired colleague;

Cherry-picking patients;

Prescribing a placebo;

Practicing defensive medicine to avoid malpractice lawsuits;

Dropping insurers; and

Breaching patient confidentiality owing to a health risk.

Medical ethics issues?

The Medical Practice Act defines unprofessional conduct in each state. Although laws vary from state to state, some examples of unprofessional conduct include the following:

Physician abuse of a patient

Inadequate record keeping

Failing to meet the standard of care

Prescribing drugs in excess or without legitimate reason

Failing to meet continuing medical education requirements

Dishonesty

Conviction of a felony

Delegating the practice of medicine to an unlicensed individual

Minor fee disagreements and poor customer service are not considered unprofessional conduct.

TATOOS, WHAT ARE THEY GOOD FOR?



Paramedics brought to the emergency department an unconscious 70-year-old man with “Do Not Resuscitate” tattooed on his chest. The ICU team decided to honor the preference expressed in the tattoo. Subsequently, a copy of his written DNR request was obtained.

But in the new case, the man's doctors were conflicted about the decision not to honor the tattoo, because of "the patient's extraordinary effort to make his presumed advance directive known."

So they consulted a medical ethics expert, who advised the doctors to honor the patient's tattoo. The expert "suggested that it was most reasonable to infer that the tattoo expressed an authentic preference," the report said.

Later, the hospital found that the man actually did have an official DNR order with the Florida Department of Health. The man's doctors were "relieved" to find that their decision matched this official request.

The man's condition soon deteriorated, and he died without undergoing CPR or invasive life-support methods.

The doctors conclude that "this patient's tattooed DNR request produced more confusion than clarity," and that the case "neither supports nor opposes the use of tattoos to express end-of-life wishes."

The report was published Nov. 30 in the New England Journal of Medicine.



State of Florida DO NOT RESUSCITATE ORDER

(please use ink)

Patient's Full Legal Name: _____ Date: _____
(Print or Type Name)

PATIENT'S STATEMENT

Based upon informed consent, I, the undersigned, hereby direct that CPR be withheld or withdrawn.
(If not signed by patient, check applicable box):

- Surrogate
- Proxy (both as defined in Chapter 765, F.S.)
- Court appointed guardian
- Durable power of attorney (pursuant to Chapter 709, F.S.)

(Applicable Signature) (Print or Type Name)

PHYSICIAN'S STATEMENT

I, the undersigned, a physician licensed pursuant to Chapter 458 or 459, F.S., am the physician of the patient named above. I hereby direct the withholding or withdrawing of cardiopulmonary resuscitation (artificial ventilation, cardiac compression, endotracheal intubation and defibrillation) from the patient in the event of the patient's cardiac or respiratory arrest.

(Signature of Physician) (Date) Telephone Number (Emergency)

(Print or Type Name) (Physician's Medical License Number)

DH Form 1896, Revised December 2004

PHYSICIAN'S STATEMENT

I, the undersigned, a physician licensed pursuant to Chapter 458 or 459, F.S., am the physician of the patient named above. I hereby direct the withholding or withdrawing of cardiopulmonary resuscitation (artificial ventilation, cardiac compression, endotracheal intubation and defibrillation) from the patient in the event of the patient's cardiac or respiratory arrest.

(Signature of Physician) (Date) Telephone Number (Emergency)

(Print or Type Name) (Physician's Medical License Number)

DH Form 1896, Revised December 2004



State of Florida DO NOT RESUSCITATE ORDER

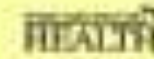
Patient's Full Legal Name (Print or Type) _____ (Date) _____

PATIENT'S STATEMENT

Based upon informed consent, I, the undersigned, hereby direct that CPR be withheld or withdrawn.
(If not signed by patient, check applicable box):

- Surrogate
- Proxy (both as defined in Chapter 765, F.S.)
- Court appointed guardian
- Durable power of attorney (pursuant to Chapter 709, F.S.)

(Applicable Signature) (Print or Type Name)



State of Florida DO NOT RESUSCITATE ORDER

(please use ink)

Patient's Full Legal Name: _____ Date: _____

EXAMPLE

PATIENT'S STATEMENT

Based upon informed consent, I, the undersigned, hereby direct that CPR be withheld or withdrawn.
(If not signed by patient, check applicable box):

- Surrogate
- Proxy (both as defined in Chapter 765, F.S.)
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(Signature of Physician) (Date) Telephone Number (Emergency)

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DH Form 1896, Revised December 2004

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(Signature of Physician) (Date) Telephone Number (Emergency)

(Print or Type Name) (Physician's Medical License Number)

DH Form 1896, Revised December 2004



State of Florida DO NOT RESUSCITATE ORDER

Patient's Full Legal Name (Print or Type) _____ (Date) _____

PATIENT'S STATEMENT

Based upon informed consent, I, the undersigned, hereby direct that CPR be withheld or withdrawn.
(If not signed by patient, check applicable box):

- Surrogate
- Proxy (both as defined in Chapter 765, F.S.)
- Court appointed guardian
- Durable power of attorney (pursuant to Chapter 709, F.S.)

(Applicable Signature) (Print or Type Name)

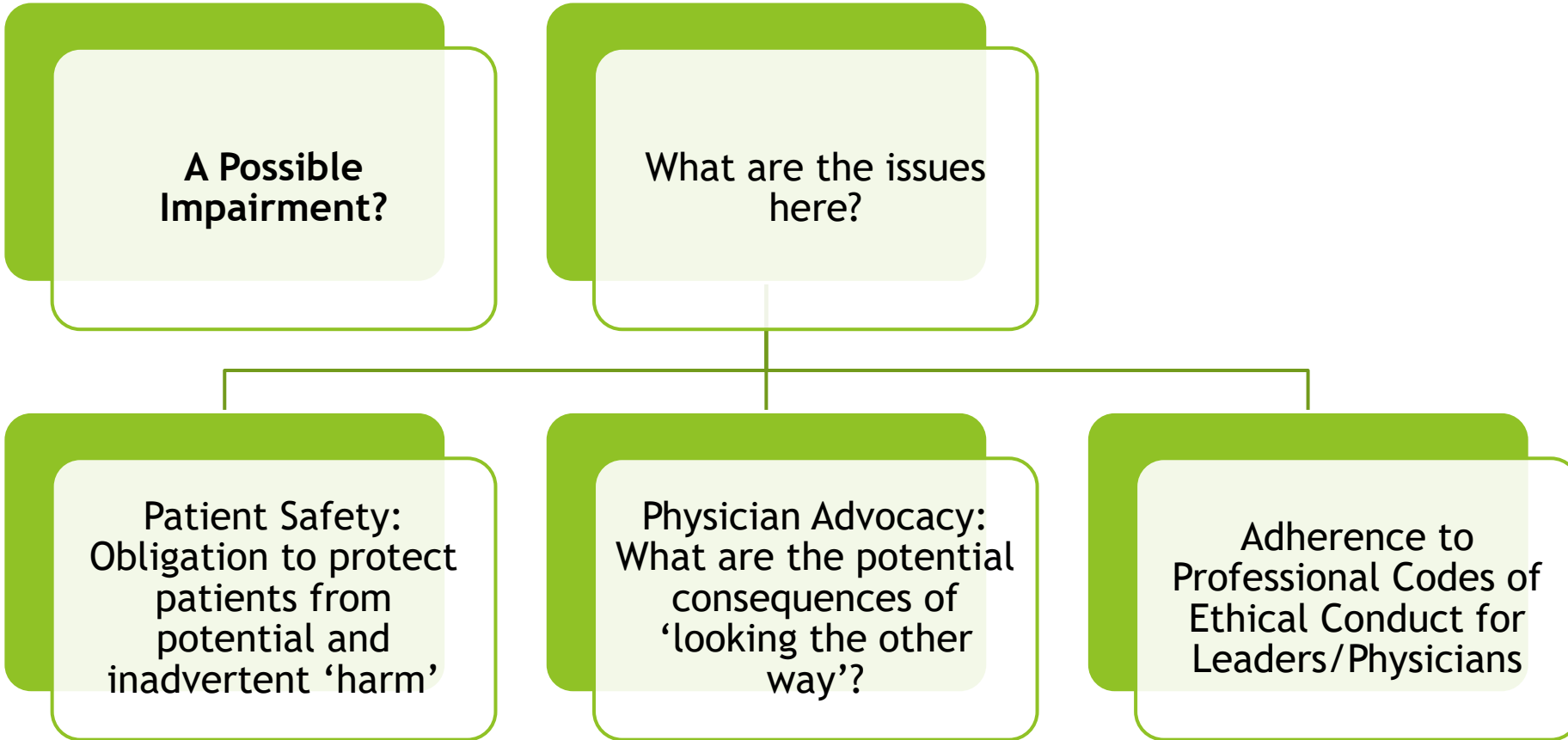
(Print or Type Name) (Physician's Medical License Number)

DH Form 1896, Revised December 2004

A Possible Impairment?

One of your senior partners who has been an invaluable mentor (he hired you originally), colleague, and friend has been showing subtle signs of forgetfulness and minor lapses when interpreting scans. You ask him if there is anything going on and he tells you that he has been a little tired lately and a little time off will do wonders. You let it go and several weeks later he misses an obvious mass on a lung scan that results in a delay in diagnosis and treatment of a pulmonary malignancy.

What are the issues here?



456.063 Sexual misconduct; disqualification for license, certificate, or registration

(1) Sexual misconduct in the practice of a health care profession means violation of the professional relationship through which the health care practitioner uses such relationship to engage or attempt to engage the patient or client, or an immediate family member, guardian, or representative of the patient or client in, or to induce or attempt to induce such person to engage in, verbal or physical sexual activity outside the scope of the professional practice of such health care profession. Sexual misconduct in the practice of a health care profession is prohibited.

(2) Each board within the jurisdiction of the department, or the department if there is no board, shall refuse to admit a candidate to any examination and refuse to issue a license, certificate, or registration to any applicant if the candidate or applicant has:

(a) Had any license, certificate, or registration to practice any profession or occupation revoked or surrendered based on a violation of sexual misconduct in the practice of that profession under the laws of any other state or any territory or possession of the United States and has not had that license, certificate, or registration reinstated by the licensing authority of the jurisdiction that revoked the license, certificate, or registration; or

(b) Committed any act in any other state or any territory or possession of the United States which if committed in this state would constitute sexual misconduct.

For purposes of this subsection, a licensing authority's acceptance of a candidate's relinquishment of a license which is offered in response to or in anticipation of the filing of administrative charges against the candidate's license constitutes the surrender of the license.

(3) Licensed health care practitioners shall report allegations of sexual misconduct to the department, regardless of the practice setting in which the alleged sexual misconduct occurred.

459.0141, F.S.
Sexual
misconduct in
the practice of
osteopathic
medicine

The osteopathic physician-patient relationship is founded on mutual trust. Sexual misconduct in the practice of osteopathic medicine means 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. Sexual misconduct in the practice of osteopathic medicine is prohibited.

History.—ss. 13, 17, ch. 89-374; s. 4, ch. 91-429.

Patient Boundaries Case Study

Physician saw patient in his office as a patient.

Then he started calling her, multiple times, to offer a job.

Later he called back and was “breathing heavily and his tone of voice had

changed”.

He proceeded to state inappropriate things to the patient regarding her body and how he wanted to touch her.

Action taken:

Revocation



Its only my ethics, Right?

456.072(1)(i) Except as provided in s. 465.016, failing to report to the department any person who the licensee knows is in violation of this chapter, the chapter regulating the alleged violator, or the rules of the department or the board. However, a person who the licensee knows is unable to practice with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of a mental or physical condition, may be reported to a consultant operating an impaired practitioner program as described in s. 456.076 rather than to the department.

456.072(1) other ethical violations

Exercising

- Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party.

Failing

- Failing to comply with the requirements of ss. 381.026 and 381.0261 to provide patients with information about their patient rights and how to file a patient complaint.

Engaging or attempting

- Engaging or attempting to engage in sexual misconduct as defined and prohibited in s. 456.063(1).

AOA Code of Ethics

Section 1. The physician shall keep in confidence whatever she/he may learn about a patient in the discharge of professional duties. Information shall be divulged by the physician when required by law or when authorized by the patient.

Section 2. The physician shall give a candid account of the patient's condition to the patient or to those responsible for the patient's care.

Section 3. A physician-patient relationship must be founded on mutual trust, cooperation, and respect. The patient, therefore, must have complete freedom to choose her/his physician. The physician must have complete freedom to choose patients whom she/he will serve. However, the physician should not refuse to accept patients for reasons of discrimination, including, but not limited to, the patient's race, creed, color, sex, national origin, sexual orientation, gender identity

or handicap. In emergencies, a physician should make her/his services available.

Section 4. A physician is never justified in abandoning a patient. The physician shall give due notice to a patient or to those responsible for the patient's care when she/he withdraws from the case so that another physician may be engaged.

Section 5. A physician shall practice in accordance with the body of systematized and scientific knowledge related to the healing arts. A physician shall maintain competence in such systematized and scientific knowledge through study and clinical applications.

Section 6. The osteopathic medical profession has an obligation to society to maintain its high standards and, therefore, to continuously regulate itself. A substantial part of such regulation is due to the efforts and influence of the recognized local, state and national associations representing the osteopathic medical profession. A physician should maintain membership in and actively support such associations and abide by their rules and regulations.

Section 7. Under the law a physician may advertise, but no physician shall advertise or solicit patients directly or indirectly through the use of matters or activities which are false or misleading.

Section 8. A physician shall not hold forth or indicate possession of any degree recognized as the basis for licensure to practice the healing arts unless he is actually licensed on the basis of that degree in the state in which she/he practices. A physician shall designate her/his osteopathic school of practice in all professional uses of her/his name. Indications of specialty practice, membership in professional societies, and related matters shall be governed by rules promulgated by the American Osteopathic Association.

Section 9. A physician should not hesitate to seek consultation whenever she/he believes it advisable for the care of the patient.

Section 10. In any dispute between or among physicians involving ethical or organizational matters, the matter in controversy should first be referred to the appropriate arbitrating bodies of the profession.

Section 11. In any dispute between or among physicians regarding the diagnosis and treatment of a patient, the attending physician has the responsibility for final decisions, consistent with any applicable hospital rules or regulations.

Section 12. Any fee charged by a physician shall compensate the physician for services actually rendered. There shall be no division of professional fees for referrals of patients.

Section 13. A physician shall respect the law. When necessary a physician shall attempt to help to formulate the law by all proper means in order to improve patient care and public health.

Section 14. In addition to adhering to the foregoing ethical standards, a physician shall recognize a responsibility to participate in community activities and services.

Section 15. It is considered sexual misconduct for a physician to have sexual contact with any current patient whom the physician has interviewed and/or upon whom a medical or surgical procedure has been performed.

Section 16. Sexual harassment by a physician is considered unethical. Sexual harassment is defined as physical or verbal intimidation of a sexual nature involving a colleague or subordinate in the workplace or academic setting, when such conduct creates an unreasonable, intimidating, hostile or offensive workplace or academic setting.

Section 17. From time to time, industry may provide some AOA members with gifts as an inducement to use their products or services. Members who use these products and services as a result of these gifts, rather than simply for the betterment of their patients and the improvement of the care rendered in their practices, shall be considered to have acted in an unethical manner.

SECTION 18. A physician shall not intentionally misrepresent himself/herself or his/her research work in any way.

SECTION 19. When participating in research, a physician shall follow the current laws,

regulations and standards of the United States or, if the research is conducted outside the United States, the laws, regulations and standards applicable to research in the nation where the research is conducted. This standard shall apply for physician involvement in research at any level and degree of responsibility, including, but not limited to, research, design, funding, participation either as examining and/or treating provider, supervision of other staff in their research, analysis of data and publication of results in any form for any purpose.

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VII. What if I don't like...



A Rule as promulgated by the Board of Osteopathic Medicine?

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



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.flboardofmedicine.gov/ Board of 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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