Overview of Florida Licensure and Discipline Laws

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Daniel J. Schulte
Kerr, Russell and Weber, PLC
500 Woodward, Suite 2500
Detroit, MI 48226
(313) 961-0200
dschulte@kerr-russell.com
Board of Osteopathic Medicine

- The Florida Board of Osteopathic Medicine is charged with the responsibility of ensuring that every osteopathic physician practicing in Florida meets minimum requirements for safe and effective practice.

- The goal is to identify osteopathic physicians who do not meet minimum competency, present a danger to the public or who commit statutory violations so they may be prohibited from practicing or be otherwise disciplined.
Grounds

- Fraudulent misrepresentation – licensure & renewal process.
- **Action against license in another jurisdiction.**
- Conviction in any jurisdiction for crime relating to practice.
- False, deceptive or misleading advertising.
- **Failure to report any person known to be in violation of Grounds for Discipline.**
- Aiding, assisting or advising someone to practice without a license.
- **Giving false testimony regarding the practice of medicine or the delivery of health care services.**
- Filing a false report or negligently failing to file a required report.
- **Paying or receiving kickbacks and the like.**
- **Refusal to provide care based on patient participation in pending or past litigation (except if it involves you).**
- Exercising influence for purpose of engaging patient in sexual activity.
Grounds (continued)

- Deceptive, untrue or fraudulent representation while practicing osteopathic medicine.
- Use of fraud, intimidation, undue influence or overreaching in solicitation of patients.
- **Failure to keep legible medical records containing required information.**
- Destroying or fraudulently altering medical records.
- Exploitation of patient for financial gain.
- **Promoting or advertising on Rx pad of community pharmacy without recognizing patient choice.**
Discipline Process Overview

- Triggered by a complaint
- 6 month time requirement for an investigation (most are dismissed)
- Determination of Probable Cause is made or not
- If probable cause is found physician is served with an Administrative Complaint and has 45 days to respond
- Litigation (might include Mediation) follows
Mediation

- Mediator acts to encourage/facilitate resolution of a complaint (similar to Michigan’s compliance conference process)

- Available only for the following violations:
  - False advertising
  - Failure to perform medical director clinic responsibilities
  - Failure to release patient records to patient
  - Improper advertising of pharmacy
  - Failure to meet standard of care (except if harm or surgical procedure involved)
  - Failure to comply with profiling & credentialing requirements
Litigation of Administrative Complaints

- Physicians have due process rights and may resolve the matter through a hearing or by consent agreement.

- The standard of proof varies:
  - Revocation / Suspension matters – clear & convincing
  - All others – Great weight of the evidence
  - The state always has the burden of proof.
Penalties

Each violation corresponds to one of the following penalties:

- Refusal to certify application for license (or certify with conditions)
- Suspension or revocation of license
- Restriction of Practice (hours, setting, procedures)
- Probation
- Administrative Fines up to $10,000 per offense (mandatory if involves fraud or fraudulent misrepresentation)
- Letter of reprimand or concern
- Remedial Education or other corrective action
- Refund of fees billed/collected.
Citation

For the following violations a citation may be issued instead of a penalty (for first offense only and only if violation is not combined with a violation subject to a penalty):

- False certification of CME hours;
- Failure to keep current practice address on file with the Board;
- Failure to register as a dispensing practitioner;
- First time failure to satisfy CME hours;
- Failure to report to the Board conviction of a crime in any jurisdiction;
- Failure to list name of physician in an advertisement;
- Falsely advertising or holding oneself out as board certified;
- Failure to include disclosure statement in advertisements;
- Excessive charges for copying patient records;
Failure to timely provide records to one patient;
Failure to update physician profile;
Failure to provide address and telephone no. for patient complaints or failure to provide summary of patient rights;
Failure to report another licensee;
Allowing a physician in training to practice who has failed to register; and
Failure to comply with guidelines for use of obesity drugs.

IMPORTANT: Citations will be considered aggravating circumstances in future disciplinary actions.
Emergency Orders

- ESO – Emergency Suspension Order
- ERO – Emergency Restriction Order
Public Information

- Information about complaint investigations is confidential, unless the licensee waives confidentiality or probable cause is found.
- When probable cause is found, information about the complaint becomes public 10 days after the determination of probable cause.
- Remember ESOs and EROs are possible.
Your Questions