



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;

Citation (continued)

- ▣ 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