

sexual activity with his or her physician.

(m) Making deceptive, untrue, or fraudulent representations in or related to the practice of osteopathic medicine or employing a trick or scheme in the practice of osteopathic medicine.

(n) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or forms of overreaching or vexatious conduct. A solicitation is any communication which directly or implicitly requests an immediate oral response from the recipient.

(o) Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed osteopathic physician or the osteopathic physician extender and supervising osteopathic physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

(p) Fraudulently altering or destroying records relating to patient care or treatment, including, but not limited to, patient histories, examination results, and test results.

(q) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which shall include, but not be limited to, the promotion or sale of services, goods, appliances, or drugs.

(r) Promoting or advertising on any prescription form of a community pharmacy, unless the form shall also state "This prescription may be filled at any pharmacy of your choice."

(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](#).

(t) Prescribing, dispensing, administering, supplying, selling, giving, mixing, or otherwise preparing a legend drug, including all controlled substances, other than in the course of the osteopathic physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, supplying, selling, giving, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the osteopathic physician's professional practice, without regard to his or her intent.

(u) Prescribing or dispensing any medicinal drug appearing on any schedule set forth in chapter 893 by the osteopathic physician for himself or herself or administering any such drug by the osteopathic physician to himself or herself unless such drug is prescribed for the osteopathic physician by another practitioner authorized to prescribe medicinal drugs.

(v) Prescribing, ordering, dispensing, administering, supplying, selling, or giving amygdalin (laetrile) to any person.

(w) Being unable to practice osteopathic medicine 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 any mental or physical condition. In enforcing this paragraph, the department shall, upon a finding of the State Surgeon General or the State Surgeon General's designee that probable cause exists to believe that the licensee is unable to practice medicine because of the reasons stated in this paragraph, have the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. [51.011](#). A licensee or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of medicine with reasonable skill and safety to patients.

(x) Notwithstanding s. [456.072](#)(2) but as specified in s. [456.50](#)(2):

1. Committing medical malpractice as defined in s. [456.50](#). The board shall give great weight to the provisions of s. [766.102](#) when enforcing this paragraph. Medical malpractice shall not be construed to

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licensed by this state to provide health care services as a medical doctor in this state.

Nothing in this paragraph shall be construed to require that an osteopathic physician be incompetent to practice osteopathic medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed "gross medical malpractice," "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any publication by the board shall so specify.

(y) Performing any procedure or prescribing any therapy which, by the prevailing standards of medical practice in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(z) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform. The board may establish by rule standards of practice and standards of care for particular practice settings, including, but not limited to, education and training, equipment and supplies, medications including anesthetics, assistance of and delegation to other personnel, transfer agreements, sterilization, records, performance of complex or multiple procedures, informed consent, and policy and procedure manuals.

(aa) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(bb) Violating a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the board or department.

(cc) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services.

(dd) Procuring, or aiding or abetting in the procuring of, an unlawful termination of pregnancy.

(ee) Presigning blank prescription forms.

(ff) Prescribing any medicinal drug appearing on Schedule II in chapter 893 by the osteopathic physician for office use.

(gg) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any drug which is a Schedule II amphetamine or Schedule II sympathomimetic amine drug or any compound thereof, pursuant to chapter 893, to or for any person except for:

1. The treatment of narcolepsy; hyperkinesia; behavioral syndrome characterized by the developmentally inappropriate symptoms of moderate to severe distractibility, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction;
2. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities; or
3. The clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, reviewed, and approved by the board before such investigation is begun.

(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.

(ii) Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products listed above may be dispensed by the pharmacist with the presumption that the prescription is for legitimate medical use.

(jj) Misrepresenting or concealing a material fact at any time during any phase of a licensing or disciplinary process or procedure.

(kk) Improperly interfering with an investigation or with any disciplinary proceeding.

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licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the osteopathic physician or physician assistant also provides services.

(mm) Being found by any court in this state to have provided corroborating written medical expert opinion attached to any statutorily required notice of claim or intent or to any statutorily required response rejecting a claim, without reasonable investigation.

(nn) Advertising or holding oneself out as a board-certified specialist in violation of this chapter.

(oo) 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.

(pp) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(qq) Providing deceptive or fraudulent expert witness testimony related to the practice of osteopathic medicine.

(rr) Applicable to a licensee who serves as the designated physician of a pain-management clinic as defined in s. [458.3265](#) or s. [459.0137](#):

1. Registering a pain-management clinic through misrepresentation or fraud;
2. Procuring, or attempting to procure, the registration of a pain-management clinic for any other person by making, or causing to be made, any false representation;
3. Failing to comply with any requirement of chapter 499, the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq., the Drug Abuse Prevention and Control Act; or chapter 893, the Florida Comprehensive Drug Abuse Prevention and Control Act;
4. Being convicted or found guilty of, regardless of adjudication to, a felony or any other crime involving moral turpitude, fraud, dishonesty, or deceit in any jurisdiction of the courts of this state, of any other state, or of the United States;
5. Being convicted of, or disciplined by a regulatory agency of the Federal Government or a regulatory agency of another state for, any offense that would constitute a violation of this chapter;
6. Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction of the courts of this state, of any other state, or of the United States which relates to the practice of, or the ability to practice, a licensed health care profession;
7. Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction of the courts of this state, of any other state, or of the United States which relates to health care fraud;
8. Dispensing any medicinal drug based upon a communication that purports to be a prescription as defined in s. [465.003](#) or s. [893.02](#) if the dispensing practitioner knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship; or
9. Failing to timely notify the board of the date of his or her termination from a pain-management clinic as required by s. [459.0137](#)(3).

(ss) Failing to timely notify the department of the theft of prescription blanks from a pain-management clinic or a breach of an osteopathic physician's electronic prescribing software within 24 hours as required by s. [459.0137](#)(3).

(tt) Promoting or advertising through any communication media the use, sale, or dispensing of any controlled substance appearing on any schedule in chapter 893.

(uu) Dispensing a controlled substance listed in Schedule II or Schedule III in violation of s. [465.0276](#).

(vv) Willfully failing to comply with s. [627.64194](#) or s. [641.513](#) with such frequency as to indicate a general business practice.

<sup>1</sup>(ww) Issuing a physician certification, as defined in s. [381.986](#), in a manner not in compliance with the requirements of that section and rules adopted thereunder.

(xx) Performing a liposuction procedure in which more than 1,000 cubic centimeters of supernatant fat is removed, a Level II office surgery, or a Level III office surgery in an office that is not registered with the department pursuant to s. [458.328](#) or s. [459.0138](#).

(yy) Implanting a patient or causing a patient to be implanted with a human embryo created with the human reproductive material, as defined in s. [784.086](#), of the licensee, or inseminating a patient or causing a patient to be inseminated with the human reproductive material of the licensee.

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