

# THE FLORIDA BOARD OF MEDICINE

## ANNUAL REGULATORY PLAN 2019-20

This Annual Regulatory Plan is being filed and published pursuant to section 120.74, *Florida Statutes*. The Plan covers the period beginning October 1, 2019 and ending September 30, 2020.

### PART ONE LAWS ENACTED OR AMENDED

Part One of the Plan addresses each law enacted or amended during the 2019 Legislative Session which creates or modifies the duties or authority of the Board of Medicine. §120.74(1)(a), Fla. Stat.

| Law Enacted or Modified on or after Oct. 1, 2017                 | Florida Statute (modified or created)              | Rule (impacted)  | Must Agency Adopt Rules? | If Rulemaking Necessary, Notice of Development Published in Florida Administrative Register? | Expected Publication Date for Notice of Proposed Rulemaking | If Rulemaking Not Necessary, Explain |
|--|--|--|--------------------------|--|---|--------------------------------------|
| Ch. 2019-001, Laws of Fla. Eff. March 18, 2019 (CS/CS/CS/SB 182) | Modified §381.986, F.S. (Medical Use of Marijuana) | 64B8-9.018, F.A.C. (Mandatory Standardized Informed Consent for Medical Marijuana, etc.) | Yes                      | April 22, 2019   | May 9, 2019, Rule effective August 4, 2019                  | N/A                                  |

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| Ch. 2019-112,<br>Laws of Fla.,<br>Eff. Jan. 1, 2020<br>(CS/ HB 831)   | Modified §§456.42;<br>456.43; and 456.0392<br>(Electronic Prescribing)  | <u>64B8-8.001</u> , F.A.C.<br>(Disciplinary<br>Guidelines)  | Yes            | Expected<br>October 2019                                 | Expected<br>November 2019                                     | N/A  |
| Ch. 2019-123,<br>Laws of Fla.,<br>Eff. July 1, 2019<br>(CS/CS/HB 451) | Modified §456.44, Fla.<br>Stat. (Nonopioid<br>Alternatives)   | N/A   | No             | N/A  | N/A   | The Board already has in place a disciplinary guideline for violation of a statutory obligation. Therefore, mandatory rulemaking pursuant to §456.079)(1), Fla. Stat. is not required.   |
| Ch. 2019-130<br>Laws of Fla.,<br>Eff. Jan. 1, 2020<br>(CS/CS/SB 732)  | Modified §§ 456.074,<br>458.309, 458.331, Fla.<br>Stat. and created<br>§458.328, Fla. Stat.<br>(Office Surgery) | <u>64B8-9.009</u> , F.A.C.<br>(Standard of Care for<br>Office Surgery)<br><br><u>64B8-8.001</u> , F.A.C<br>(Disciplinary<br>Guidelines) | Yes<br><br>Yes | Expected<br>October 2019<br><br>Expected<br>October 2019 | Depends on<br>review of rule<br><br>Expected<br>November 2019 | A Joint Committee of the Board of Medicine and the Board of Osteopathic Medicine has convened and continues to meet to address standard of care issues of critical importance to the health, safety, and welfare of patients in office surgery settings. The Board of Medicine adopted an Emergency Rule on June 28, 2019, (64B8ER19-1), to address the standard of care for gluteal fat transfers, and Rule 64B8-9.009, F.A.C., incorporated those changes effective September 3, 2019. The Joint Committee will meet on October 2, 2019, to continue its review of their existing office surgery rules and update, if necessary. |
| Ch. 2019-137,<br>Laws of Fla.,<br>Eff. July 1, 2019<br>(CS/CS/HB 23)  | Created §456.47, F.S.<br>(Use of telehealth to<br>provide services).  | <u>64B8-8.001</u> , F.A.C.<br>(Disciplinary<br>Guidelines)  | No.            | N/A  | N/A   | The statute is self-executing and does not require any mandated rulemaking; however, the Board will review its disciplinary guidelines.  |

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| Ch. 2019-152,<br>Laws of Fla.<br>Eff., July 1, 2019<br>(CS/CS/CS HB<br>851) | Created §456.0341, Fla.<br>Stat. (Human<br>Trafficking) | N/A | No | N/A | N/A | This provision of the statute is self-executing and does not mandate rulemaking. Further, a failure to comply with continuing education provisions is addressed upon attempted renewal of the license by the Department of Health. |
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**PART TWO**  
**LAWS EXPECTED TO BE IMPLEMENTED THROUGH RULEMAKING**

Part Two of this plan addresses those laws which the Board of Medicine intends to implement through rulemaking by July 1, 2019, that are otherwise not covered pursuant to Part One of this Plan. This Part does not include emergency rulemaking or any other rulemaking that may become necessary that was not evident to the Board at the time of the submission of this plan. Additionally, the listing of a law to be implemented does not mean the rule will necessarily be adopted or effective by July 1, 2020. §120.74(1)(b), Fla. Stat.

| <b>Rule Number<br/>And Title</b>   | <b>Law Expected to Be Implemented<br/>Through Rulemaking</b>   | <b>Intent of Rulemaking</b>                             |
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| <u>64B8-4.009</u> , F.A.C.<br>(Applications)   | §§456.013, 458.311, 458.313,<br>458.3137, 458.3145, 458.315,<br>458.3151, 458.317, and 458.345, F.S.   | Clarify, Simplify, Increase Efficiency                  |
| <u>64B8-8.002</u> , F.A.C.<br>(Time for Payment of Civil Penalties<br>or Administrative Fines. | §456.072, F.S.   | Clarify, Simplify, Increase Efficiency                  |
| <u>64B8-30.003</u> , F.A.C., (PA licensure)  | §§456.013, and 458.347, F.S.   | Clarify, Simplify, Increase<br>Efficiency               |
| <u>64B8-31.003</u> , F.A.C., (AA licensure)  | §§456.013, and 458.3475, F.S.  | Clarify, Simplify, Increase<br>Efficiency               |
| <u>64B8-51.001</u> , F.A.C.<br>(Manner of Application)   | §456.013, F.S., (Department; general<br>licensing provisions)<br>§456.0635, F.S., (Health care fraud;<br>disqualification for license, certificate,<br>or registration.) | Clarify, Increase Efficiency; Streamline<br>Application |

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|  | <p>§478.45, F.S., (Requirements for licensure)</p> <p>§478.46, F.S., (Temporary permits)</p> <p>§478.47, F.S., (Licensure by endorsement)</p> <p>§478.55, F.S., (Fees; facility; disposition)</p>  |                                     |
| <p><u>64B8-51.006</u>, F.A.C.<br/>(Rule Governing Licensure and Inspection of Electrology Facilities)</p>    | <p>§456.037, F.S., (Business establishments; requirements for active status licenses; delinquency; discipline; applicability)</p> <p>§456.0635, F.S., (Health care fraud; disqualification for license, certificate, or registration)</p> <p>§478.43, F.S., (Board of Medicine; powers and duties)</p> <p>§478.49, F.S., (License required)</p> <p>§478.51, F.S., (Electrology facilities; requisites; facility licensure; inspection)</p> <p>§478.55, F.S., (Fees; facility; disposition)</p> | <p>Clarify; Increase Efficiency</p> |
| <p><u>64B8-52.003</u>, F.A.C.<br/>(Procedure for Approval of Attendance at Continuing Education Courses)</p> | <p>§456.013, F.S., (Department; general licensing provisions)</p> <p>§456.033, F.S., (Requirement for instruction for certain licensees on HIV and AIDS)</p> <p>§478.43(4), F.S., (Board of Medicine; powers and duties)</p> <p>§478.50(2), (4)(a), (b), F.S., (Renewal of license; delinquent status; address notification; continuing education)</p>   | <p>Update, Clarify</p>              |

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|  | requirements)  |                                 |
| <u>64B8-55.001</u> , F.A.C, (Disciplinary Guidelines)  | §456.072, F.S., (Grounds for discipline; penalties; enforcement);<br>§456.073, F.S., (Disciplinary proceedings);<br>§456.079, F.S., (Disciplinary guidelines);<br>§478.52, F.S., (Disciplinary proceedings)  | Clarify disciplinary guidelines |
| <u>64B8-55.002</u> , F.A.C. (Citations)  | §456.072(3), (4), F.S., (Grounds for discipline; penalties; enforcement)<br>§456.077(1), (2), F.S., (Authority to issue citations)<br>§478.51, F.S., (Electrology facilities; requisites; facility licensure; inspection)<br>§478.52, F.S., (Disciplinary proceedings)                               | Update, Clarify                 |
| <u>64B8-56.002</u> , F.A.C. (Equipment and Devices; Protocols for Laser and Light-Based Devices) | §458.331, F.S., (Grounds for Disciplinary Action; action by the board and department.)<br>§458.348, F.S., (Formal supervisory relationships, standing orders, and established protocols; notice; standards)<br>§478.42, F.S., (Definitions)<br>§478.43, F.S., (Board of Medicine; powers and duties) | Clarify                         |

**PART THREE**  
**UPDATES TO PRIOR YEAR'S PLAN**

Part Three of the Plan addresses whether there are any updates to the prior year's regulatory plan. §120.74(c), Fla. Stat.

- There are not any updates to the prior year's annual regulatory plan.

**PART FOUR**  
**CERTIFICATION PURSUANT TO §120.74(1)(d), Fla. Stat.**

The undersigned hereby certify that they have reviewed this Annual Regulatory Plan and that the Board of Medicine regularly reviews all of its rules to determine if the rules remain consistent with the Board's rulemaking authority and the laws being implemented, with the most comprehensive enhanced review having been completed on the 30th day of June, 2015, with continuing board review through August, 2019.

/S/ Steven Rosenberg, M.D.  
Electronic Signature  
Steven Rosenberg, M.D.  
Chair of the Board of Medicine

September 6, 2019  
Date Signed

/S/ Donna McNulty, Esq.  
Electronic Signature  
Donna McNulty  
Special Counsel  
Counsel to the Board of Medicine

September 6, 2019  
Date Signed