

GOV. MSG. NO. 620

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

April 3, 2008

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fourth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on April 3, 2008, the following bill was signed into law:

SB3027 SD2

A BILL FOR AN ACT RELATING TO OSTEOPATHY.  
(ACT 005)

Sincerely,



JAMES R. AIONA, JR.  
Acting Governor

Approved by the Governor

on APR 3 2008

THE SENATE  
TWENTY-FOURTH LEGISLATURE, 2008  
STATE OF HAWAII

**ACT 005**

**S.B. NO.** 3027  
S.D. 2

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## A BILL FOR AN ACT

RELATING TO OSTEOPATHY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Section 453-1, Hawaii Revised Statutes, is  
2 amended to read as follows:  
3 **"§453-1 Practice of medicine defined.** For the purposes of  
4 this chapter the practice of medicine by a physician or an  
osteopathic physician includes the use of drugs and medicines,  
6 water, electricity, hypnotism, osteopathic medicine, or any  
7 means or method, or any agent, either tangible or intangible,  
8 for the treatment of disease in the human subject; provided that  
9 when a duly licensed physician or osteopathic physician  
10 pronounces a person affected with any disease hopeless and  
11 beyond recovery and gives a written certificate to that effect  
12 to the person affected or the person's attendant nothing herein  
13 shall forbid any person from giving or furnishing any remedial  
14 agent or measure when so requested by or on behalf of the  
15 affected person.

16 This section shall not amend or repeal the law respecting  
17 the treatment of those affected with Hansen's disease.



1        For purposes of this chapter, "osteopathic medicine" means  
 2 the utilization of full methods of diagnosis and treatment in  
 3 physical and mental health and disease, including the  
 4 prescribing and administration of drugs and biologicals of all  
 5 kinds, operative surgery, obstetrics, radiological, and other  
 6 electromagnetic emissions, and placing special emphasis on the  
 7 interrelation of the neuro-musculoskeletal system to all other  
 8 body systems, and the amelioration of disturbed structure-  
 9 function relationships by the clinical application of the  
 10 osteopathic diagnosis and therapeutic skills for the maintenance  
 11 of health and treatment of disease."

12        SECTION 2. Section 453-1.5, Hawaii Revised Statutes, is  
 13 amended to read as follows:

14        "[+]§453-1.5[+] **Pain management guidelines.** The board of  
 15 medical examiners may establish guidelines for physicians or  
 16 osteopathic physicians with respect to patients' pain  
 17 management. The guidelines shall apply to all patients with  
 18 severe acute pain or severe chronic pain, regardless of the  
 19 patient's prior or current chemical dependency or addiction, and  
 20 may include standards and procedures for chemically dependent  
 21 individuals."



1 SECTION 3. Section 453-2, Hawaii Revised Statutes, is  
2 amended by amending subsections (a) and (b) to read as follows:

3 "(a) Except as otherwise provided by law, no person shall  
4 practice medicine or surgery in the State, either gratuitously  
5 or for pay, or offer to practice medicine or surgery in the  
6 State, or advertise or announce one's self, either publicly or  
7 privately, as prepared or qualified to practice medicine or  
8 surgery in the State, or append the letters "Dr." [~~or~~], "M.D.",  
or "D.O." to one's name with the intent to imply that the person  
10 is a practitioner of medicine or surgery, without having a valid  
11 unrevoked license or a limited and temporary license obtained  
12 from the board of medical examiners.

13 (b) Nothing herein shall:

14 (1) Apply to so-called Christian Scientists; provided that  
15 the Christian Scientists practice the religious tenets  
16 of their church without pretending a knowledge of  
17 medicine or surgery;

18 (2) Prohibit service in the case of emergency or the  
19 domestic administration of family remedies;

20 (3) Apply to any commissioned medical officer in the  
21 United States armed forces or public health service  
22 engaged in the discharge of one's official duty, nor



1 to any practitioner of medicine and surgery from  
2 another state when in actual consultation, including  
3 in-person, mail, electronic, telephonic, fiber-optic,  
4 or other telemedicine consultation with a licensed  
5 physician or osteopathic physician of this State, if  
6 the physician or osteopathic physician from another  
7 state at the time of [~~such~~] consultation is licensed  
8 to practice in the state in which the physician or  
9 osteopathic physician resides; provided that:

10 (A) The physician or osteopathic physician from  
11 another state shall not open an office, or  
12 appoint a place to meet patients in this State,  
13 or receive calls within the limits of the State  
14 for the provision of care for a patient who is  
15 located in this State;

16 (B) The licensed physician or osteopathic physician  
17 of this State retains control and remains  
18 responsible for the provision of care for the  
19 patient who is located in this State; and

20 (C) The laws and [~~regulations~~] rules relating to  
21 contagious diseases are not violated;



- 1 (4) Prohibit services rendered by any person certified  
 2 under part II of this chapter to provide emergency  
 3 medical services, or any physician assistant, when the  
 4 services are rendered under the direction and control  
 5 of a physician or osteopathic physician licensed in  
 6 this State except for final refraction resulting in a  
 7 prescription for spectacles, contact lenses, or visual  
 8 training as performed by an oculist or optometrist  
 9 duly licensed by the State. The direction and control  
 10 shall not be construed in every case to require the  
 11 personal presence of the supervising and controlling  
 12 physician[~~-~~] or osteopathic physician. Any physician  
 13 or osteopathic physician who employs or directs a  
 14 person certified under part II of this chapter to  
 15 provide emergency medical services, or a physician  
 16 assistant, shall retain full professional and personal  
 17 responsibility for any act [~~which~~] that constitutes  
 18 the practice of medicine when performed by [~~such~~] the  
 19 certified person or physician assistant;
- 20 (5) Prohibit automated external defibrillation by:  
 21 (A) Any first responder personnel certified by the  
 22 department of health to provide automated



1 external defibrillation when it is rendered under  
2 the medical oversight of a physician or  
3 osteopathic physician licensed in this State; or

4 (B) Any person acting in accordance with section  
5 663-1.5(e); or

6 (6) Prohibit a radiologist duly licensed to practice  
7 medicine and provide radiology services in another  
8 state from using telemedicine while located in this  
State to provide radiology services to a patient who  
10 is located in the state in which the radiologist is  
11 licensed. For the purposes of this paragraph:

12 "Radiologist" means a doctor of medicine or a  
13 doctor of osteopathy certified in radiology by the  
14 American Board of Radiology or the American Board of  
15 Osteopathy.

16 "Telemedicine" means the use of  
17 telecommunications services, as that term is defined  
18 in section 269-1, including real-time video  
19 conferencing-based communication, secure interactive  
20 and non-interactive web-based communication, and  
21 secure asynchronous information exchange, to transmit  
22 patient medical information, such as diagnostic-



1           quality digital images and laboratory results for  
2           medical interpretation and diagnosis, and deliver  
3           health care services and information to parties  
4           separated by distance."

5           SECTION 4. Section 453-3, Hawaii Revised Statutes, is  
6           amended to read as follows:

7           "**§453-3 Limited and temporary licenses.** The board of  
8           medical examiners shall issue a limited and temporary license to  
9           an applicant who has not been examined as required by section  
10          453-4, and against whom no disciplinary proceedings are pending  
11          in any state or territory, if the applicant is otherwise  
12          qualified to be examined, and upon determination that:

- 13          (1) There is an absence or a shortage of licensed  
14          physicians or osteopathic physicians in a particular  
15          locality, and that the applicant has been duly  
16          licensed as a physician or osteopathic physician by  
17          written examination under the laws of another state or  
18          territory of the United States. A limited and  
19          temporary license issued hereunder shall permit the  
20          practice of medicine and surgery by the applicant only  
21          in the particular locality, and no other, as shall be  
22          set forth in the license issued to the applicant. The



1 license shall be valid only for a period of eighteen  
2 months from the date of issuance. The board shall  
3 establish guidelines to determine a locality with an  
4 absence or shortage of physicians[-] or osteopathic  
5 physicians. For this purpose, the board may consider  
6 a locality to have an absence or shortage of  
7 physicians or osteopathic physicians if the absence or  
8 shortage results from the temporary loss of a  
9 physician[-] or osteopathic physician. In designating  
a locality with an absence or shortage of  
11 physicians[7] or osteopathic physicians, the board  
12 shall not delegate its authority to a private  
13 organization;

- 14 (2) The applicant is to be employed by an agency or  
15 department of the state or county government, and that  
16 the applicant has been duly licensed as a physician or  
17 osteopathic physician by written examination under the  
18 laws of another state or territory of the United  
19 States. A limited and temporary license issued  
20 hereunder shall only be valid for the practice of  
21 medicine and surgery while the applicant is in the  
22 employ of [~~such~~] the governmental agency or department



1 and in no case shall be used to provide private  
2 patient care for a fee. A license issued under this  
3 paragraph may be renewed from year to year;

4 (3) The applicant would practice medicine and surgery only  
5 while under the direction of a physician or  
6 osteopathic physician regularly licensed in the State  
7 other than as permitted by this section, and that the  
8 applicant intends to take the regular licensing  
9 examination conducted by the board within the next  
10 eighteen months. A limited and temporary license  
11 issued under this paragraph shall be valid for no more  
12 than eighteen months from the date of issuance, unless  
13 otherwise extended at the discretion of the board of  
14 medical examiners; provided that this discretionary  
15 extension shall not exceed a period of six months  
16 beyond the original expiration date of the limited and  
17 temporary license;

18 (4) The applicant has been appointed as a resident or  
19 accepted for specialty training in a health care  
20 facility or organized ambulatory health care facility  
21 as defined in section 323D-2 or a hospital approved by  
22 the board, and that the applicant shall be limited in



1 the practice of medicine and surgery to the extent  
 2 required by the duties of the applicant's position or  
 3 by the program of training while at the health care  
 4 facility, organized ambulatory health care facility,  
 5 or hospital. The license shall be valid during the  
 6 period in which the applicant remains as a resident in  
 7 training, and may be renewed from year to year during  
 8 the period; or

9 (5) A public emergency exists, and that the applicant has  
 10 been duly licensed as a physician or osteopathic  
 11 physician by written examination under the laws of  
 12 another state or territory of the United States. A  
 13 limited and temporary license issued hereunder shall  
 14 only be valid for the period of [~~such~~] the public  
 15 emergency.

16 Nothing herein requires the registration or licensing  
 17 hereunder of nurses, or other similar persons, acting under the  
 18 direction and control of a licensed physician[~~-~~] or osteopathic  
 19 physician."

20 SECTION 5. Section 453-3.2, Hawaii Revised Statutes, is  
 21 amended by amending subsections (a) and (b) to read as follows:



1           "(a) The board may issue an educational teaching license  
2 to a physician or osteopathic physician who is not licensed in  
3 this State and who is invited by the chief of service of a  
4 clinical department of a hospital to provide and promote  
5 professional education for students, interns, residents,  
6 fellows, [~~and~~] doctors of medicine, and doctors of osteopathic  
7 medicine in this State. In no case shall an educational  
8 teaching license issued hereunder be valid for more than a  
9 period of twelve months from the date of issuance of the  
10 license.

11           (b) To receive an educational teaching license, the  
12 applicant shall:

13           (1) Complete an application as prescribed by the board,  
14 which shall include a summary of the applicant's  
15 medical, educational, and professional background;

16           (2) Provide proof that the applicant is licensed as a  
17 physician or osteopathic physician in another state or  
18 country and the license is current and in good  
19 standing;

20           (3) Submit a letter with the application signed by the  
21 chief of service of a clinical department of a  
22 hospital attesting that the chief of service is a



1 licensed physician or osteopathic physician of this  
 2 State and is requesting to sponsor and monitor the  
 3 applicant while the person is engaged in educational  
 4 or teaching activities for the hospital under an  
 5 educational teaching license; and

6 (4) Pay all applicable fees."

7 SECTION 6. Section 453-3.5, Hawaii Revised Statutes, is  
 8 amended by amending subsections (a) and (b) to read as follows:

9 "(a) The board may issue a limited and temporary license  
 10 to a physician or osteopathic physician to maintain patient  
 11 services for the purpose of substituting for another physician  
 12 or osteopathic physician licensed in this State to enable  
 13 specialized training at an out-of-state fully accredited medical  
 14 teaching institution; provided that the out-of-state  
 15 physician[+] or osteopathic physician:

16 (1) Is board certified by the American Board of Medical  
 17 Specialties or Bureau of Osteopathic Specialties in  
 18 the subspecialty in which the Hawaii physician or  
 19 osteopathic physician is seeking training;

20 (2) Is a member of the teaching faculty of the accredited  
 21 medical teaching institution;

22 (3) Has an unrestricted license in another state;



1 (4) Has been invited by the chief of a clinical department  
2 of a hospital; and

3 (5) Has been examined and approved by the hospital's  
4 credential process.

5 The limited and temporary license issued under this section  
6 shall expire upon notification of the board by the Hawaii-  
7 licensed physician or osteopathic physician that the physician  
8 or osteopathic physician has resumed the physician's or  
9 osteopathic physician's practice in this State. Licenses and  
10 extensions of licenses issued under this section to an  
11 individual shall not be valid for more than nine months during  
12 any consecutive twenty-four month period.

13 (b) The chief of the clinical department in which the out-  
14 of-state physician or osteopathic physician will practice shall  
15 submit a letter to the board [~~which~~] that shall include, without  
16 limitation, the following:

17 (1) Identification and documentation of unrestricted  
18 license for the applicant for the specialty training  
19 license;

20 (2) A statement that the hospital is sponsoring the  
21 applicant, and shall be responsible for monitoring the



1 individual physician or osteopathic physician during  
2 the period of the temporary license;

3 (3) Verification of the start and end dates for the  
4 requested temporary license; and

5 (4) Verification that the chief of the clinical department  
6 is a licensed physician or osteopathic physician of  
this State."

8 SECTION 7. Section 453-4, Hawaii Revised Statutes, is  
9 amended by amending subsections (b), (c), and (d) to read as  
10 follows:

11 "(b) Before any applicant shall be eligible for licensure,  
12 the applicant shall furnish proof satisfactory to the board  
13 that:

14 (1) The applicant is of demonstrated competence and  
15 professional knowledge; and

16 (2) The applicant is a graduate of:

17 (A) A medical school or college whose program leading  
18 to the M.D. degree is accredited by the Liaison  
19 Committee on Medical Education[7] or whose  
20 program leading to the D.O. degree is approved by  
21 the American Osteopathic Association Commission  
22 on Osteopathic College Accreditation, and has



1 served a residency of at least one year in a  
2 program [~~which~~] that has been accredited for the  
3 training of resident physicians or osteopathic  
4 physicians by the Accreditation Council for  
5 Graduate Medical Education[7] or the American  
6 Osteopathic Association, respectively, or a  
7 residency of at least one year in a program in  
8 Canada [~~which~~] that has been accredited for the  
9 training of resident physicians by the Royal  
10 College of Physicians and Surgeons of Canada, or  
11 the College of Family Physicians of Canada; or

12 (B) A foreign medical school and has had at least two  
13 years of residency in a program accredited by the  
14 Accreditation Council for Graduate Medical  
15 Education[7] or the American Osteopathic  
16 Association, or has had at least two years of  
17 residency in a program in Canada that has been  
18 accredited for the training of resident  
19 physicians by the Royal College of Physicians and  
20 Surgeons of Canada, or by the College of Family  
21 Physicians of Canada; and:





1 (i) Holds the national certificate of the  
2 Educational Commission for Foreign Medical  
3 Graduates, or its successor, or for  
4 applicants with residency training in  
5 Canada, has passed with scores deemed  
6 satisfactory by the board, the Medical  
7 Council of Canada Evaluating Examination, or  
its successor; or

9 (ii) Holds the certificate of the Fifth Pathway  
10 Program of the American Medical Association;  
11 provided that for a period of two years after  
12 June 26, 2004, the requirements of subsection  
13 (b) (2) (B) (i) and (ii) shall not apply to any  
14 applicant who has had four years of residency in  
15 a program accredited by the Accreditation Council  
16 for Graduate Medical Education or the American  
17 Osteopathic Association and who has passed, with  
18 scores deemed satisfactory by the board, the  
19 Special Purpose Examination (SPEX).

20 (c) Applicants who have passed, with scores deemed  
21 satisfactory by the board, the National Board of Medical  
22 Examiners examination (NBME), the Federation Licensing



1 Examination (FLEX), the United States Medical Licensing  
2 Examination (USMLE), or a combination of these examinations as  
3 approved by the board, or the National Board of Osteopathic  
4 Medical Examiners examination (NBOME), the Comprehensive  
5 Osteopathic Medical Licensing Examination (COMLEX-USA), or the  
6 Medical Council of Canada Qualifying Examination (MCCQE), and  
7 who meet the requirements of subsection (b) shall be licensed  
8 without the necessity of any further examination; provided that  
9 with respect to any applicant, the board may require letters of  
10 evaluation, professional evaluation forms, and interviews with  
11 chiefs of service or attending physicians or osteopathic  
12 physicians who have been associated with an applicant, or chief  
13 residents on a service who have been associated with an  
14 applicant during the applicant's training or practice, to be  
15 used by the board in assessing the applicant's qualifications to  
16 practice medicine.

17 (d) Applicants who are licensed in another state by virtue  
18 of having passed a state-produced examination may qualify for  
19 licensure if they have passed the Special Purpose Examination  
20 (SPEX) or the Comprehensive Osteopathic Medical Variable-Purpose  
21 Examination - USA (COMVEX-USA) and meet the requirements of  
22 subsection (b); provided that the board may require letters of



1 evaluation, professional evaluation forms, and interviews with  
2 chiefs of service [~~or~~], attending physicians, or osteopathic  
3 physicians who have been associated with an applicant, or chief  
4 residents on a service who have been associated with an  
5 applicant during the applicant's training or practice, to be  
6 used by the board in assessing the applicant's qualifications to  
7 practice medicine."

8 SECTION 8. Section 453-5.3, Hawaii Revised Statutes, is  
amended as follows:

10 1. By amending subsection (a) to read:

11 "(a) The board of medical examiners shall require each  
12 person practicing medicine under the supervision of a  
13 physician~~[r]~~ or osteopathic physician, other than a person  
14 licensed under section 453-3, to be licensed as a physician  
15 assistant. A person who is trained to do only a very limited  
16 number of diagnostic or therapeutic procedures under the  
17 direction of a physician or osteopathic physician shall not be  
18 deemed a practitioner of medicine or osteopathy and therefore  
19 does not require licensure under this section."

20 2. By amending subsections (d), (e), and (f) to read:

21 "(d) The board shall approve temporary licensure of an  
22 applicant under this section. The applicant shall have graduated



1 from a board approved training program within twelve months of  
2 the date of application and never taken a national certifying  
3 examination approved by the board but otherwise [~~meet~~] meets the  
4 requirements of this section. The applicant shall file a  
5 complete application with the board and pay all required fees.  
6 If the applicant fails to apply for, or to take, the first  
7 examination scheduled by the board following the issuance of the  
8 temporary license, fails to pass the examination, or fails to  
9 receive licensure, all privileges under this section shall  
automatically cease upon written notification sent to the  
applicant by the board. A temporary license shall be issued  
12 only once to each person.

13 (e) Prior to practicing under temporary licensure, holders  
14 of temporary licenses shall notify the board in writing of any  
15 and all supervising physicians or osteopathic physicians under  
16 whom they will be performing services.

17 (f) The board shall establish the degree of supervision  
18 required by the supervising physician or osteopathic physician  
19 when a physician assistant performs a service within the  
20 practice of medicine. A physician or osteopathic physician who  
21 does not supervise a physician assistant's services at the



1 degree required by the board shall be deemed to have engaged in  
2 professional misconduct."

3 SECTION 9. Section 453-6, Hawaii Revised Statutes, is  
4 amended by amending subsections (b), (c), and (d) to read as  
5 follows:

6 "(b) Every physician or surgeon holding a license under  
7 this chapter shall renew the license with the board no later  
8 than January 31[7] of each even numbered year[7]. Every  
9 osteopathic physician or surgeon holding a license previously  
10 issued under chapter 460 and this chapter shall renew the  
11 license with the board no later than June 30 of each even-  
12 numbered year. Every physician, osteopathic physician, or  
13 surgeon shall pay a renewal fee[7] and comply with the category  
14 1 or 1A continuing medical education requirements provided in  
15 rules adopted by the board.

16 (c) A physician, osteopathic physician, or surgeon shall  
17 meet the category 1 or 1A continuing medical education  
18 requirements by obtaining credit hours in a category 1 or 1A  
19 continuing medical education program accredited by the American  
20 Medical Association or the American Osteopathic Association or  
21 in other approved category 1 or 1A continuing medical education  
22 as provided in the board's rules. To determine compliance, the



1 board may conduct a random audit. A physician, osteopathic  
 2 physician, or surgeon selected for audit shall be notified by  
 3 the board. Within sixty days of notification, the physician,  
 4 osteopathic physician, or surgeon shall provide to the board  
 5 documentation to verify compliance with the category 1 or 1A  
 6 continuing medical education requirements.

7 (d) Failure to renew, pay the renewal fee, and, in the  
 8 case of audited physicians [~~or~~], osteopathic physicians, or  
 9 surgeons, provide documentation of compliance shall constitute a  
 10 forfeiture of license, which may be restored only upon the  
 11 submission of written application therefor, payment to the board  
 12 of a restoration fee, and, in the case of audited physicians,  
 13 osteopathic physicians, and surgeons, documentation of  
 14 compliance."

15 SECTION 10. Section 453-7.5, Hawaii Revised Statutes, is  
 16 amended by amending subsection (a) to read as follows:

17 "(a) The department of commerce and consumer affairs shall  
 18 review each complaint and information received under sections  
 19 92-17, 329-44, 453-8.7, 663-1.7, 671-5, and 671-15. The  
 20 department shall investigate the complaint or information if it  
 21 appears that the physician or osteopathic physician who is the  
 22 subject of the complaint or information has violated this



1 chapter. If the department determines that the physician or  
2 osteopathic physician has violated this chapter, the department  
3 shall present the results of its investigation to the board of  
4 medical examiners for appropriate disciplinary proceedings."

5 SECTION 11. Section 453-8, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "§453-8 Revocation, limitation, suspension, or denial of  
licenses. (a) In addition to any other actions authorized by  
8 law, any license to practice medicine and surgery may be  
9 revoked, limited, or suspended by the board at any time in a  
10 proceeding before the board, or may be denied, for any cause  
11 authorized by law, including but not limited to the following:

- 13 (1) Procuring, or aiding or abetting in procuring, a  
14 criminal abortion;
- 15 (2) Employing any person to solicit patients for one's  
16 self;
- 17 (3) Engaging in false, fraudulent, or deceptive  
18 advertising, including but not limited to:
  - 19 (A) Making excessive claims of expertise in one or  
20 more medical specialty fields;
  - 21 (B) Assuring a permanent cure for an incurable  
22 disease; or



- 1 (C) Making any untruthful and improbable statement in
- 2 advertising one's medical or surgical practice or
- 3 business;
- 4 (4) Being habituated to the excessive use of drugs or
- 5 alcohol; or being addicted to, dependent on, or a
- 6 habitual user of a narcotic, barbiturate, amphetamine,
- 7 hallucinogen, or other drug having similar effects;
- 8 (5) Practicing medicine while the ability to practice is
- 9 impaired by alcohol, drugs, physical disability, or
- 10 mental instability;
- 11 (6) Procuring a license through fraud, misrepresentation,
- 12 or deceit, or knowingly permitting an unlicensed
- 13 person to perform activities requiring a license;
- 14 (7) Professional misconduct, hazardous negligence causing
- 15 bodily injury to another, or manifest incapacity in
- 16 the practice of medicine, osteopathy, or surgery;
- 17 (8) Incompetence or multiple instances of negligence,
- 18 including but not limited to the consistent use of
- 19 medical service, which is inappropriate or
- 20 unnecessary;
- 21 (9) Conduct or practice contrary to recognized standards
- 22 of ethics of the medical profession as adopted by the





1 Hawaii Medical Association [~~or~~], the American Medical  
2 Association[~~+~~], the Hawaii Association of Osteopathic  
3 Physicians and Surgeons, or the American Osteopathic  
4 Association;

5 (10) Violation of the conditions or limitations upon which  
6 a limited or temporary license is issued;

7 (11) Revocation, suspension, or other disciplinary action  
8 by another state or federal agency of a license,  
certificate, or medical privilege for reasons as  
10 provided in this section;

11 (12) Conviction, whether by nolo contendere or otherwise,  
12 of a penal offense substantially related to the  
13 qualifications, functions, or duties of a physician[~~+~~]  
14 or osteopathic physician, notwithstanding any  
15 statutory provision to the contrary;

16 (13) Violation of chapter 329, the uniform controlled  
17 substances act, or any rule adopted thereunder except  
18 as provided in section 329-122;

19 (14) Failure to report to the board, in writing, any  
20 disciplinary decision issued against the licensee or  
21 the applicant in another jurisdiction within thirty  
22 days after the disciplinary decision is issued; or



1 (15) Submitting to or filing with the board any notice,  
2 statement, or other document required under this  
3 chapter, which is false or untrue or contains any  
4 material misstatement or omission of fact.

5 (b) If disciplinary action related to the practice of  
6 medicine has been taken against the applicant in any  
7 jurisdiction that would constitute a violation under this  
section, or if the applicant reveals a physical or mental  
condition that would constitute a violation under this section,  
10 then the board may impose one or more of the following  
11 requirements as a condition for licensure:

12 (1) Physical and mental evaluation of the applicant by a  
13 licensed physician or osteopathic physician approved  
14 by the board;

15 (2) Probation, including [~~such~~] conditions of probation as  
16 requiring observation of the licensee by an  
17 appropriate group or society of licensed physicians,  
18 osteopathic physicians, or surgeons;

19 (3) Limitation of the license by restricting the fields of  
20 practice in which the licensee may engage;

21 (4) Further education or training or proof of performance  
22 competency; and



1 (5) Limitation of the medical practice of the licensee in  
2 any reasonable manner to assure the safety and welfare  
3 of the consuming public."

4 SECTION 12. Section 453-8.1, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "§453-8.1 Voluntary limitation of license. A physician,  
osteopathic physician, or surgeon may request, in writing, that  
8 the board limit the individual's license to practice. The board  
9 may grant the request and may impose conditions on the limited  
10 license. The board shall determine whether and when [~~such~~] the  
11 limitation shall be removed."

12 SECTION 13. Section 453-8.2, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

"(a) In addition to any other actions authorized by law,  
15 in disciplining a licensee in a proceeding held in conformity  
16 with chapter 91, the board may impose one or more of the  
17 following sanctions:

18 (1) Place the licensee on probation, including [~~such~~]  
19 conditions of probation as requiring observation of  
20 the licensee by an appropriate group or society of  
21 licensed physicians, osteopathic physicians, or  
22 surgeons;



- 1           (2)   Suspend the license;
- 2           (3)   Revoke the license;
- 3           (4)   Limit the license by restricting the fields of
- 4                    practice in which the licensee may engage;
- 5           (5)   Fine the licensee, including assessment against the
- 6                    licensee of the costs of the disciplinary proceedings.
- 7                    Any fine imposed by the board after a hearing in
- 8                    accordance with chapter 91 shall be not less than \$500
- 9                    and not more than \$5,000 for each violation, exclusive
- of the costs of the disciplinary proceedings;
- 11          (6)   Require further education or training, or require
- 12                    proof of performance competency; or
- 13          (7)   Censure or reprimand."

14           SECTION 14. Section 453-8.7, Hawaii Revised Statutes, is  
 15 amended by amending subsections (a), (b), and (c) to read as  
 16 follows:

17           "(a) Every physician or osteopathic physician licensed  
 18 pursuant to this chapter who does not possess professional  
 19 liability insurance shall report any settlement or arbitration  
 20 award of a claim or action for damages for death or personal  
 21 injury caused by negligence, error, or omission in practice, or  
 22 the unauthorized rendering of professional services. The report



1 shall be submitted to the department of commerce and consumer  
2 affairs within thirty days after any written settlement  
3 agreement has been reduced to writing and signed by all the  
4 parties thereto or thirty days after service of the arbitration  
award on the parties.

6 (b) Failure of a physician or osteopathic physician to  
7 comply with the provisions of this section is an offense  
8 punishable by a fine of not less than \$100 for the first  
9 offense, \$250 to \$500 for the second offense, and \$500 to \$1,000  
for subsequent offenses.

11 (c) The clerks of the respective courts of this State  
12 shall report to the department any judgment or other  
13 determination of the court, which adjudges or finds that a  
physician or osteopathic physician is liable criminally or  
15 civilly for any death or personal injury caused by the  
16 physician's or osteopathic physician's professional negligence,  
17 error, or omission in the practice of the physician's or  
18 osteopathic physician's profession, or rendering of unauthorized  
19 professional services. The report shall be submitted to the  
20 department within ten days after the judgment is entered by the  
21 court."



1 SECTION 15. Section 453-10, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§453-10 Witnesses in such proceeding. In any [such]  
4 proceeding the board may subpoena, administer oaths to, and  
5 examine witnesses on any relevant matter in [such] the  
6 proceeding. The board may subpoena physicians, osteopathic  
7 physicians, or surgeons as specialists, on the recommendation of  
8 the appropriate specialist society. The board may order a  
9 mental, physical, or medical competency examination to determine  
10 the capacity or ability of a licensee to continue to practice  
11 medicine or surgery and order appropriate specialist societies  
12 to conduct [such] examinations. The person whose license is  
13 sought in [such] the proceeding to be revoked, limited, or  
14 suspended shall be entitled to require the board or any member  
15 thereof to subpoena and to administer oaths to any witness [~~or~~  
16 ~~witnesses~~] who may be able to present evidence relevant in  
17 [such] the proceeding, and shall be entitled to examine any  
18 [such] witness [~~and any other witness~~] in [such] the proceeding.  
19 The circuit court of the circuit in which the proceeding is held  
20 may enforce by proper proceeding the attendance and testimony of  
21 witnesses in [such] the proceeding."



1 SECTION 16. Section 453-14, Hawaii Revised Statutes, is  
2 amended by amending the title and subsection (a) to read as  
3 follows:  
4 "§453-14 Duty of physician, osteopathic physician,  
5 surgeon, hospital, clinic, etc., to report wounds. (a) Every  
6 physician, osteopathic physician, and surgeon attending or  
7 treating a case of knife wound, bullet wound, gunshot wound,  
8 powder burn, or any injury that would seriously maim, produce  
9 death, or has rendered the injured person unconscious, caused by  
10 the use of violence or sustained in a suspicious or unusual  
11 manner or in motor vehicle collisions resulting in serious  
12 injury or death, or, whenever the case is treated in a hospital,  
13 clinic, or other institution, the manager, superintendent, or  
14 person in charge thereof, shall report the case or provide  
15 requested information to the chief of police of the county  
16 within which the person was attended or treated, giving the name  
17 of the injured person, description of the nature, type, and  
18 extent of the injury, together with other pertinent information  
19 that may be of use to the chief of police. As used herein, the  
20 term "chief of police" means the chief of police of each county  
21 and any of the chief's authorized subordinates."



1 SECTION 17. Section 453-15, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§453-15 Who shall give consent to a postmortem  
4 examination. A pathologist or any licensed physician,  
5 osteopathic physician, or surgeon may conduct a postmortem  
6 examination when written consent thereto is given by whoever of  
7 the following assumes custody of the body for purposes of  
burial: father, mother, husband, wife, reciprocal beneficiary,  
9 child, guardian, next of kin, or, in the absence of any of the  
10 foregoing, a friend or person, including a governmental agency,  
11 charged by law with the responsibility for the burial. If two  
12 or more [~~such~~] persons assume custody of the body, the consent  
13 of one of them is sufficient. The consent shall include the  
14 consent to the retention by the pathologist or licensed  
15 physician, osteopathic physician, or surgeon who conducts the  
16 postmortem examination of tissues, including fetal material, of  
17 the body removed at the time of the postmortem examination to be  
18 used for necessary or advisable scientific investigation,  
19 including research, teaching, and therapeutic purposes."

20 SECTION 18. Section 453-16, Hawaii Revised Statutes, is  
21 amended by amending subsection (a) to read as follows:

22 "(a) No abortion shall be performed in this State unless:





1 (1) The abortion is performed by a licensed physician or  
2 surgeon, or by a licensed osteopathic physician and  
3 surgeon; and

4 (2) The abortion is performed in a hospital licensed by  
5 the department of health or operated by the federal  
6 government or an agency thereof, or in a clinic or  
7 physician's or osteopathic physician's office."

8 SECTION 19. Section 453-31, Hawaii Revised Statutes, is  
amended to read as follows:

10 **"§453-31 Emergency ambulance service personnel.** The  
11 practice of any emergency medical services by any individual  
12 employed by an emergency ambulance service who is not licensed  
13 under this chapter or under chapter 457 shall be subject to  
14 certification under this part. In the event of any conflict  
15 between this part and any rules adopted under section 453-2,  
16 ~~[the provisions of]~~ this part shall control with regard to  
17 emergency ambulance service personnel.

18 The board of medical examiners shall define the scope of  
19 the practice of emergency medical services, different levels of  
20 the practice, and degree of supervision required of a  
21 supervising physician or osteopathic physician when a person



1 certified under this part provides services within the practice  
2 of medicine."

3 SECTION 20. Section 453-32.6, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[+]§453-32.6[+] Delegation to committee of practicing  
6 emergency physicians or osteopathic physicians and emergency  
7 ambulance personnel. The board of medical examiners shall  
8 establish a committee consisting of practicing emergency  
9 physicians or osteopathic physicians and emergency ambulance  
10 personnel to assist the board in the performance of duties under  
11 this part.

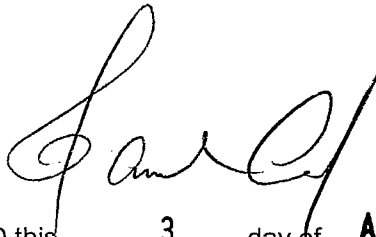
12 The board, by written order, may delegate to the committee  
13 any of its powers and duties for administration of this part,  
14 except that the board shall not delegate any authority to adopt,  
15 amend, or repeal rules, take disciplinary action against a  
16 certificate holder, or restore a certificate which has been  
17 revoked."

18 SECTION 21. Chapter 460, Hawaii Revised Statutes, is  
19 repealed.

20 SECTION 22. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



1 SECTION 23. This Act shall take effect upon its approval;  
2 provided that the continuing medical education requirements for  
3 osteopathic physicians shall take effect with the June 2010  
4 license renewal period.



JAMES R. AIONA JR.  

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ACTING GOVERNOR

APPROVED this 3 day of APR, 2008

GOVERNOR OF THE STATE OF HAWAII

