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## A BILL FOR AN ACT

RELATING TO CHAPTER 460, HAWAII REVISED STATUTES, OSTEOPATHY.

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

1           SECTION 1. Chapter 460, Hawaii Revised Statutes, is  
2 amended by adding five new sections to be appropriately  
3 designated and to read as follows:

4           "§460-    Educational teaching license.    (a)   The board may  
5 issue an educational teaching license to an osteopathic physician  
6 who is not licensed in this State and who is invited by the chief  
7 of service of a clinical department of a hospital to provide and  
8 promote professional education for students, interns, residents,  
9 fellows, and doctors of medicine in this State. In no case shall  
10 an educational teaching license issued hereunder be valid for more  
11 than a period of twelve months from the date of issuance of the  
12 license.

13           (b)   To receive an educational teaching license, the  
14 applicant shall:

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



1       (2) Provide proof that the applicant is licensed as an  
2       osteopathic physician in another state or country and  
3       the license is current and in good standing;

4       (3) Submit a letter with the application signed by the  
5       chief of service of a clinical department of a  
6       hospital attesting that the chief of service is a  
7       licensed osteopathic physician of this State and is  
8       requesting to sponsor and monitor the applicant while  
9       the person is engaged in educational or teaching  
10       activities for the hospital under an educational  
11       teaching license; and

12       (4) Pay all applicable fees.

13       (c) The holder of an educational teaching license shall not  
14       open or appoint a place to meet patients, or receive calls from  
15       patients relating to the practice of osteopathic medicine, beyond  
16       the parameters of the hospital that is sponsoring and monitoring  
17       the licensee's activities.

18       (d) The holder of an educational teaching license shall  
19       obey all laws and rules of this State.

20       §460- Training replacement temporary license. (a) The  
21       board may issue a limited and temporary license to an osteopathic  
22       physician to maintain patient services for the purpose of



1 substituting for another physician licensed in this State who is  
2 participating in specialized training at an out-of-state fully  
3 accredited medical teaching institution; provided that the out-of-  
4 state osteopathic physician seeking the limited and temporary  
5 license:

- 6       (1) Is board certified by the American Board of Medical  
7       Specialties or the Bureau of Osteopathic Specialties  
8       in the subspecialty in which the Hawaii physician is  
9       seeking training;
- 10       (2) Is a member of the teaching faculty of the accredited  
11       medical teaching institution;
- 12       (3) Has an unrestricted license in another state;
- 13       (4) Has been invited by the chief of a clinical department  
14       of a hospital; and
- 15       (5) Has been examined and approved by the hospital's  
16       credential process.

17       (b) The chief of the clinical department in which the out-  
18 of-state osteopathic physician will practice shall submit a letter  
19 to the board which shall include, without limitation, the  
20 following:



- 1        (1) Identification and documentation of unrestricted
- 2        license for the applicant for the specialty training
- 3        license;
- 4        (2) A statement that the hospital is sponsoring the
- 5        applicant, and shall be responsible for monitoring the
- 6        individual osteopathic physician during the period of
- 7        the temporary license;
- 8        (3) Verification of the start and end dates for the
- 9        requested temporary license; and
- 10       (4) Verification that the chief of the clinical department
- 11       is a licensed physician of this State.

12       (c) The limited and temporary license issued under this  
 13 section shall expire upon notification to the board by the Hawaii-  
 14 licensed physician that physician has resumed the physician's  
 15 practice in this State. Licenses and extensions of licenses  
 16 issued under this section to an individual shall not be valid for  
 17 more than nine months during any consecutive twenty-four month  
 18 period.

19       (d) The holder of a specialty training license shall obey  
 20 and be subject to all laws and rules of this State.

21       §460- Duty of osteopathic physician, hospital, clinic,  
 22 etc., to report wounds. (a) Every osteopathic physician



1 attending or treating a case of knife wound, bullet wound, gunshot  
2 wound, powder burn, or any injury that would seriously maim,  
3 produce death, or has rendered the injured person unconscious,  
4 caused by the use of violence or sustained in a suspicious or  
5 unusual manner or in a motor vehicle collision resulting in  
6 serious injury or death, or, whenever the case is treated in a  
7 hospital, clinic, or other institution, the manager,  
8 superintendent, or person in charge thereof, shall report the case  
9 or provide requested information to the chief of police of the  
10 county within which the person was attended or treated, giving the  
11 name of the injured person, description of the nature, type, and  
12 extent of the injury, together with other pertinent information  
13 that may be of use to the chief of police. As used herein, the  
14 term "chief of police" means the chief of police of each county  
15 and any of the chief's authorized subordinates.

16 (b) This section shall not apply to wounds, burns, or  
17 injuries received by a member of the armed forces of the United  
18 States or of the State while engaged in the actual performance of  
19 duty.

20 (c) Any person who fails to make the report required by this  
21 section within twenty-four hours after the attendance or treatment  
22 shall be fined not less than \$50 nor more than \$500.



1 §460- Who shall give consent to a postmortem examination.

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

16 §460- Intentional termination of pregnancy; penalties;  
17 refusal to perform. (a) No abortion shall be performed in this  
18 State unless:

- 19 (1) The abortion is performed by a licensed physician or  
20 surgeon, or by a licensed osteopathic physician; and  
21 (2) The abortion is performed in a hospital licensed by  
22 the department of health or operated by the federal



1 government or an agency thereof, or in a clinic,  
2 physician's office, or osteopathic physician's office.

3 (b) Abortion means an operation to intentionally terminate  
4 the pregnancy of a nonviable fetus. The termination of a  
5 pregnancy of a viable fetus is not included in this section.

6 (c) The State shall not deny or interfere with a female's  
7 right to choose or obtain an abortion of a nonviable fetus or an  
8 abortion that is necessary to protect the life or health of the  
9 female.

10 (d) Any person who knowingly violates subsection (a) shall  
11 be fined not more than \$1,000 or imprisoned not more than five  
12 years, or both.

13 (e) Nothing in this section shall require any hospital or  
14 any person to participate in an abortion nor shall any hospital or  
15 any person be liable for a refusal."

16 SECTION 2. Section 460-1, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "§460-1 License to practice. (a) No person shall practice  
19 as an osteopathic physician either gratuitously or for pay, or  
20 shall offer to so practice, or shall advertise or announce, either  
21 publicly or privately, that the person is prepared or qualified to  
22 so practice, or shall append the letters "Dr." or the letters



1 "D.O." to the person's name, with the intent thereby to imply that  
2 the person is a practitioner as an osteopathic physician, without  
3 having a valid unrevoked license, obtained from the board of  
4 medical examiners, in form and manner substantially as hereinafter  
5 set forth.

6 (b) Nothing herein shall:

7 (1) Apply to any osteopathic physician from another state  
8 who is in actual consultation, including but not  
9 limited to, in-person, mail, electronic, telephonic,  
10 fiber optic, or other telemedicine consultation, with  
11 a licensed physician of this State if the physician  
12 from another state is licensed to practice in the  
13 state in which the physician resides, provided that  
14 ~~the~~ :

15 (A) The physician from another state shall not open  
16 an office, or administer treatment to any patient  
17 except in [an] actual temporary consultation with  
18 a resident licensed physician of this State; or

19 (B) The licensed physician of this State retains  
20 control and remains responsible for the provision  
21 of care for the patient; and provided further





1                   that the laws and rules relating to contagious  
2                   diseases are not violated;

3           (2)   ~~[Prohibit]~~ Except for final refraction resulting in a  
4                   prescription for spectacles, contact lenses, or visual  
5                   training as performed by an oculist or optometrist duly  
6                   licensed by the State, prohibit services rendered by any  
7                   osteopathic physician's assistant when the services are  
8                   rendered under the supervision, direction, and control  
9                   of an osteopathic physician licensed in this State, as  
10                  may be specified by rule or statute. The board of  
11                  medical examiners shall adopt rules to define the type  
12                  of supervision, direction, and control that must be  
13                  maintained and the extent that the personal presence of  
14                  the osteopathic physician will be required. Any  
15                  osteopathic physician who employs or directs an  
16                  osteopathic physician's assistant shall retain full  
17                  professional and personal responsibility for any act  
18                  which constitutes the practice of osteopathic medicine  
19                  ~~[and surgery]~~ when performed by an osteopathic  
20                  physician's assistant ~~[+]~~;

21           (3) Prohibit services rendered by any person certified under  
22                  chapter 453 to provide emergency medical services when



1 the services are rendered under the direction and  
2 control of an osteopathic physician licensed in this  
3 State, as may be specified by rule or statute. Any  
4 osteopathic physician who employs or directs a person  
5 certified under chapter 453 shall retain full  
6 professional and personal responsibility for any act  
7 which constitutes the practice of osteopathic medicine  
8 and surgery when performed by that person;

9 (4) Apply to any commissioned medical officer in the United  
10 States armed forces or public health service engaged in  
11 the discharge of one's official duty;

12 (5) Apply to so-called Christian Scientists so long as they  
13 merely practice the religious tenets of their church  
14 without pretending a knowledge of osteopathic medicine;

15 (6) Prohibit service in the case of emergency or the  
16 domestic administration of family remedies;

17 (7) Prohibit automatic external defibrillation by:

18 (A) Any first responder personnel certified by the  
19 department of health to provide automatic  
20 external defibrillation when it is rendered under  
21 the medical oversight of an osteopathic physician  
22 licensed in this State; or



1           (B) Any person who successfully completes training  
 2           under an automated external defibrillator program  
 3           administered by an osteopathic physician. An  
 4           "automated external defibrillator program" means  
 5           an appropriate training course that includes  
 6           cardiopulmonary resuscitation and proficiency in  
 7           the use of an automated external defibrillator.

8           (c) Nothing in this chapter shall prohibit healing practices  
 9           by traditional Hawaiian healers engaged in traditional Native  
 10           Hawaiian healing practices, both as recognized and certified as  
 11           such by any kupuna council convened by Papa Ola Lokahi. No person  
 12           or organization involved with the selection of kupuna council  
 13           members, the convening of a kupuna council, or the certification  
 14           process of healers under this subsection shall be sued or held  
 15           liable for any cause of action that may arise out of their  
 16           participation in the selection, convening, or certification  
 17           process. Nothing in this chapter shall limit, alter, or otherwise  
 18           adversely affect any rights of practice of traditional Native  
 19           Hawaiian healing pursuant to the Constitution of the State of  
 20           Hawaii."

21           SECTION 3. Section 460-1.6, Hawaii Revised Statutes, is  
 22           amended to read as follows:

1 " ~~[§]~~460-1.6 ~~[§]~~ Limited and temporary licenses. The board  
2 may issue a limited and temporary license to an applicant ~~[who]~~  
3 against whom no disciplinary actions or proceedings are pending in  
4 any state or territory, if the applicant is otherwise qualified to  
5 be examined, and upon determination that ~~[the]~~:

6 (1) The applicant has been appointed to an internship that  
7 meets the requirements of section 460-6(2) ~~[, provided~~  
8 ~~that no disciplinary actions or proceedings are pending~~  
9 ~~against the applicant in any state or territory.] or~~  
10 accepted for specialty training in a health care  
11 facility or organized ambulatory health care facility as  
12 defined in section 323D-2 or a hospital approved by the  
13 board. The applicant's practice shall be limited to  
14 duties as a resident or as directed by the program of  
15 training while at the health care facility, organized  
16 ambulatory health care facility, or hospital. The  
17 license shall be valid for one year and may be renewed  
18 from year to year during the period of residency~~[-]~~;

19 (2) There is an absence or shortage of licensed physicians  
20 and osteopathic physicians in a particular locality and  
21 that the applicant has been duly licensed as an  
22 osteopathic physician by written examination under the



1 laws of another state or territory of the United States.  
2 A limited and temporary license issued under this  
3 paragraph shall permit the practice of osteopathic  
4 medicine by the applicant only in the particular  
5 locality, and no other, as shall be set forth in the  
6 license issued to the applicant. The license shall be  
7 valid only for a period of eighteen months from the date  
8 of issuance. The board shall establish guidelines to  
9 determine a locality with an absence or shortage of  
10 physicians and osteopathic physicians. For this  
11 purpose, the board may consider a locality to have an  
12 absence or shortage of physicians and osteopathic  
13 physicians if the absence or shortage results from the  
14 temporary loss of a physician or osteopathic physician.  
15 In designating a locality with an absence or shortage of  
16 physicians and osteopathic physicians, the board shall  
17 not delegate its authority to a private organization;  
18 (3) The applicant is to be employed by an agency or  
19 department of the state or county government, and the  
20 applicant has been duly licensed as an osteopathic  
21 physician by written examination under the laws of  
22 another state or territory of the United States. A



1 limited and temporary license issued under this  
2 paragraph shall only be valid for the practice of  
3 osteopathic medicine while the applicant is in the  
4 employ of such governmental agency or department and in  
5 no case shall be used to provide private patient care  
6 for a fee. A license issued under this paragraph may be  
7 renewed from year to year;

- 8 (4) The applicant would practice osteopathic medicine only  
9 while under the direction of a physician or osteopathic  
10 physician regularly licensed in the State other than as  
11 permitted by this section, and the applicant intends to  
12 take the regular licensing examination within the next  
13 eighteen months. A limited and temporary license issued  
14 under this paragraph shall be valid for no more than  
15 eighteen months from the date of issuance, unless  
16 otherwise extended at the discretion of the board;  
17 provided that this discretionary extension shall not  
18 exceed a period of six months beyond the original  
19 expiration date of the limited and temporary license; or  
20 (5) A public emergency exists, and the applicant has been  
21 duly licensed as an osteopathic physician by written  
22 examination under the laws of another state or territory



1           of the United States. A limited and temporary license  
2           issued under this paragraph shall only be valid for the  
3           period of such public emergency."

4           SECTION 4. Section 460-5, Hawaii Revised Statutes, is  
5 amended to read as follows:

6           "§460-5 Fees[-]; continuing education. (a) No applicant  
7 for a license to practice as an osteopathic physician [~~and~~  
8 ~~surgeon~~] shall be examined until the applicant has paid to the  
9 board application and examination fees.

10           (b) Section 460-2 and any other provisions of this chapter  
11 to the contrary notwithstanding, [~~there shall be paid to the board~~  
12 ~~by~~] every person licensed to practice as an osteopathic physician  
13 [~~and surgeon,~~] shall renew the license with the board biennially  
14 in each even-numbered year on or before June 30, pay a renewal  
15 fee[-], and comply with the continuing medical education  
16 requirements provided in rules adopted by the board.

17           (c) At the start of the June, 2010, license renewal period,  
18 an osteopathic physician shall meet the continuing medical  
19 education requirements by obtaining credit hours in a category 1A  
20 continuing medical education program approved by the American  
21 Osteopathic Association, in a continuing medical education  
22 activity designated for category 1 by an American Medical



1 Association accredited provider, or in other approved continuing  
2 medical education as provided in the board's rules. To determine  
3 compliance, the board may conduct a random audit. An osteopathic  
4 physician selected for audit shall be notified by the board.  
5 Within sixty days of notification, the osteopathic physician shall  
6 provide to the board documentation to verify compliance with the  
7 category 1 continuing medical education requirements.

8 (d) Failure of any licensee to pay [any] the renewal fee,  
9 and in the case of audited osteopathic physicians, provide  
10 documentation of compliance, shall [work] constitute a forfeiture  
11 of the license[. Licenses forfeited by this section shall be  
12 restored upon payment of a penalty fee and all fees which the  
13 licensee would have paid if the licensee had continuously renewed  
14 the license.], which may be restored only upon the submission of  
15 written application, payment to the board of a restoration fee,  
16 and, in the case of audited osteopathic physicians, providing  
17 documentation of compliance with continuing medical education  
18 requirements.

19 (e) A license that has been forfeited for one renewal term  
20 shall be automatically terminated and cannot be restored, and a  
21 new application for licensure shall be required."





1 SECTION 5. Section 460-6, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§460-6 Application and licensure. Before any applicant  
4 shall be eligible for licensure, the applicant shall be found to  
5 possess the necessary qualifications and submit evidence  
6 satisfactory to the board that:

- 7 (1) The applicant is a graduate of a school or college of  
8 osteopathy which is approved by the American Osteopathic  
9 Association;
- 10 (2) The applicant has served an internship of at least one  
11 year in a [~~hospital~~] training program approved by the  
12 American Osteopathic Association and the American  
13 College of Osteopathic Surgeons, or in a [~~hospital~~  
14 ~~approved by the American Medical Association,~~] program  
15 that has been accredited for the training of resident  
16 physicians by the Accreditation Council for Graduate  
17 Medical Education, or the equivalent of the requirement  
18 as determined by the board if the applicant graduated  
19 prior to 1943; and
- 20 (3) The applicant has passed the:  
21 (A) National Board of Osteopathic Medical Examiners  
22 examination (NBOME), or the Federation Licensing



1 Examination (FLEX), or the United States Medical  
2 Licensing Examination (USMLE), or a combination of  
3 parts of the [~~Federation Licensing Examination~~]  
4 FLEX and [~~United States Medical Licensing~~  
5 ~~Examination~~] USMLE as approved by the board, with  
6 scores deemed satisfactory by the board[-];

7 (B) The Comprehensive Osteopathic Medical Variable-  
8 Purpose Examination - USA (COMVEX - USA); provided  
9 that the applicant is or was licensed in another  
10 state by virtue of having passed a state-produced  
11 examination with scores deemed satisfactory by the  
12 board; or

13 (C) Special Purpose Examination (SPEX); provided that  
14 the applicant is or was licensed in another state  
15 by virtue of having passed a state-produced  
16 examination with scores deemed satisfactory by the  
17 board."

18 SECTION 6. Section 460-12, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "§460-12 Refusal, suspension, and revocation of license.

21 (a) In addition to any other grounds for denial of license or  
22 disciplinary action authorized by law, the board may refuse to



1 issue a license, or may suspend or revoke any license at any time  
2 in a proceeding before the board for any cause authorized by law,  
3 including but not limited to the following:

4 (1) Procuring or aiding or abetting in procuring a  
5 criminal abortion;

6 (2) Employing any person to solicit patients for one's  
7 self;

8 (3) Engaging in false, fraudulent, or deceptive  
9 advertising, including, but not limited to:

10 (A) Making excessive claims of expertise in one or  
11 more medical specialty fields;

12 (B) Assuring a permanent cure for an incurable  
13 disease; or

14 (C) Making any untruthful and improbable statement in  
15 advertising one's osteopathic practice or  
16 business;

17 (4) Being habituated to the excessive use of drugs or  
18 alcohol; or being addicted to, dependent on, or [an] a  
19 habitual user of a narcotic, barbiturate, amphetamine,  
20 hallucinogen, or other drug having similar effects;



- 1 (5) Practicing medicine while the ability to practice is  
2 impaired by alcohol, drugs, physical disability, or  
3 mental instability;
- 4 (6) Procuring a license through fraud, misrepresentation,  
5 or deceit or knowingly permitting an unlicensed person  
6 to perform activities requiring a license;
- 7 (7) Professional misconduct, gross carelessness, or  
8 manifest incapacity in the practice of osteopathy;
- 9 (8) Negligence or incompetence, including, but not limited  
10 to, the consistent use of medical service in  
11 osteopathy which is inappropriate or unnecessary;
- 12 (9) Conduct or practice contrary to recognized standards  
13 of ethics of the osteopathic profession as adopted by  
14 the American Osteopathic Association;
- 15 (10) Revocation, suspension, or other disciplinary action  
16 by another state of a license or certificate for  
17 reasons as provided in this section;
- 18 (11) Conviction, whether by nolo contendere or otherwise,  
19 of a penal offense substantially related to the  
20 qualifications, functions, or duties of an osteopathic  
21 physician [~~and surgeon~~], notwithstanding any statutory  
22 provision to the contrary;



- 1 (12) Violation of chapter 329, the uniform controlled  
2 substances law, or any rule adopted thereunder; [øæ]
- 3 (13) Failure to report to the board by a licensee, in  
4 writing, any disciplinary decision issued in another  
5 jurisdiction against the licensee within thirty days  
6 after the disciplinary decision is issued, or failure  
7 to report to the board by an applicant, in writing,  
8 any disciplinary decision issued in another  
9 jurisdiction against the applicant prior to the  
10 application or during the pendency of the  
11 application[-];
- 12 (14) Violation of the conditions or limitations upon which  
13 a limited and temporary license is issued; or
- 14 (15) Submitting to or filing with the board any notice,  
15 statement, or other document, required under this  
16 chapter, that is false or untrue or contains any  
17 material misstatement or omission of fact.
- 18 (b) If disciplinary action related to the practice of  
19 osteopathic medicine has been taken against the applicant in any  
20 jurisdiction that would constitute a violation under this section,  
21 or if the applicant reveals a physical or mental condition that



1 would constitute a violation under this section, then the board  
2 may impose one or more of the actions set forth in section  
3 460-14.5 as a condition for licensure and:

4 (1) Physical and mental evaluation of the applicant by a  
5 licensed physician or osteopathic physician approved by  
6 the board;

7 (2) Probation, including such conditions of probation as  
8 requiring observation of the licensee by an appropriate  
9 group of society of licensed physicians, surgeons, or  
10 osteopathic physicians and surgeons;

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

13 (4) Further education or training or proof of performance  
14 competency; and

15 (5) Limitation of the osteopathic medical practice of the  
16 licensee in any reasonable manner to assure the safety  
17 and welfare of the consuming public."

18 SECTION 7. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 8. This Act shall take effect upon its approval;  
21 provided that the continuing medical education requirements in



1 section 460-5, Hawaii Revised Statutes, shall take effect at the  
2 start of the June 2010, license renewal period.



**Report Title:**

Osteopathy Doctors; Licensing

**Description:**

Makes the application requirements for doctors of osteopathy consistent with those for doctors of medicine. Clarifies the osteopathic residency program, and allows the board to accept national osteopathic exams. Makes the requirements for a limited and temporary DO license consistent with that for a limited and temporary MD License. (SD1)

