

JAN 22 2008

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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  
5 osteopathic physician includes the use of drugs and medicines,  
6 water, electricity, hypnotism, osteopathic medicine, or any means  
7 or method, or any agent, either tangible or intangible, for the  
8 treatment of disease in the human subject; provided that when a  
9 duly licensed physician or osteopathic physician pronounces a  
10 person affected with any disease hopeless and beyond recovery and  
11 gives a written certificate to that effect to the person affected  
12 or the person's attendant nothing herein shall forbid any person  
13 from giving or furnishing any remedial agent or measure when so  
14 requested by or on behalf of the affected person.

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

17

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

3 "[~~§~~453-1.5] **Pain management guidelines.** The board of  
4 medical examiners may establish guidelines for physicians or  
5 osteopathic physicians with respect to patients' pain management.  
6 The guidelines shall apply to all patients with severe acute pain  
7 or severe chronic pain, regardless of the patient's prior or  
8 current chemical dependency or addiction, and may include  
9 standards and procedures for chemically dependent individuals."

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

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

22 (b) Nothing herein shall:

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- 1           (1) Apply to so-called Christian Scientists; provided that  
2           the Christian Scientists practice the religious tenets  
3           of their church without pretending a knowledge of  
4           medicine or surgery;
- 5           (2) Prohibit service in the case of emergency or the  
6           domestic administration of family remedies;
- 7           (3) Apply to any commissioned medical officer in the United  
8           States armed forces or public health service engaged in  
9           the discharge of one's official duty, nor to any  
10          practitioner of medicine and surgery from another state  
11          when in actual consultation, including in-person, mail,  
12          electronic, telephonic, fiber-optic, or other  
13          telemedicine consultation with a licensed physician or  
14          osteopathic physician of this State, if the physician or  
15          osteopathic physician from another state at the time of  
16          such consultation is licensed to practice in the state  
17          in which the physician or osteopathic physician resides;  
18          provided that:
- 19          (A) The physician or osteopathic physician from another  
20          state shall not open an office, or appoint a place  
21          to meet patients in this State, or receive calls

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1                   within the limits of the State for the provision of  
2                   care for a patient who is located in this State;  
3           (B)   The licensed physician or osteopathic physician of  
4                   this State retains control and remains responsible  
5                   for the provision of care for the patient who is  
6                   located in this State; and  
7           (C)   The laws and [~~regulations~~] rules relating to  
8                   contagious diseases are not violated;  
9           (4)   Prohibit services rendered by any person certified under  
10                  part II of this chapter to provide emergency medical  
11                  services, or any physician assistant, when the services  
12                  are rendered under the direction and control of a  
13                  physician or osteopathic physician licensed in this  
14                  State except for final refraction resulting in a  
15                  prescription for spectacles, contact lenses, or visual  
16                  training as performed by an oculist or optometrist duly  
17                  licensed by the State. The direction and control shall  
18                  not be construed in every case to require the personal  
19                  presence of the supervising and controlling physician[~~-~~]  
20                  or osteopathic physician. Any physician or osteopathic  
21                  physician who employs or directs a person certified  
22                  under part II of this chapter to provide emergency

1 medical services, or a physician assistant, shall retain  
2 full professional and personal responsibility for any  
3 act which constitutes the practice of medicine when  
4 performed by such person or physician assistant;

5 (5) Prohibit automated external defibrillation by:

6 (A) Any first responder personnel certified by the  
7 department of health to provide automated external  
8 defibrillation when it is rendered under the  
9 medical oversight of a physician or osteopathic  
10 physician licensed in this State; or

11 (B) Any person acting in accordance with section 663-  
12 1.5(e); or

13 (6) Prohibit a radiologist duly licensed to practice  
14 medicine and provide radiology services in another state  
15 from using telemedicine while located in this State to  
16 provide radiology services to a patient who is located  
17 in the state in which the radiologist is licensed. For  
18 the purposes of this paragraph:

19 "Radiologist" means a doctor of medicine or a  
20 doctor of osteopathy certified in radiology by the  
21 American Board of Radiology or the American Board of  
22 Osteopathy.

1                   "Telemedicine" means the use of  
2                   telecommunications services, as that term is defined  
3                   in section 269-1, including real-time video  
4                   conferencing-based communication, secure interactive  
5                   and non-interactive web-based communication, and  
6                   secure asynchronous information exchange, to transmit  
7                   patient medical information, such as diagnostic-  
8                   quality digital images and laboratory results for  
9                   medical interpretation and diagnosis, and deliver  
10                  health care services and information to parties  
11                  separated by distance."

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

14                "**§453-3 Limited and temporary licenses.** The board of  
15                medical examiners shall issue a limited and temporary license to  
16                an applicant who has not been examined as required by section  
17                453-4, and against whom no disciplinary proceedings are pending in  
18                any state or territory, if the applicant is otherwise qualified to  
19                be examined, and upon determination that:

20                (1) There is an absence or a shortage of licensed physicians  
21                or osteopathic physicians in a particular locality, and  
22                that the applicant has been duly licensed as a physician

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

- 20          (2) The applicant is to be employed by an agency or  
21          department of the state or county government, and that  
22          the applicant has been duly licensed as a physician or

1           osteopathic physician by written examination under the  
2           laws of another state or territory of the United States.  
3           A limited and temporary license issued hereunder shall  
4           only be valid for the practice of medicine and surgery  
5           while the applicant is in the employ of such  
6           governmental agency or department and in no case shall  
7           be used to provide private patient care for a fee. A  
8           license issued under this paragraph may be renewed from  
9           year to year;

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



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1 original expiration date of the limited and temporary  
2 license;

3 (4) The applicant has been appointed as a resident or  
4 accepted for specialty training in a health care  
5 facility or organized ambulatory health care facility as  
6 defined in section 323D-2 or a hospital approved by the  
7 board, and that the applicant shall be limited in the  
8 practice of medicine and surgery to the extent required  
9 by the duties of the applicant's position or by the  
10 program of training while at the health care facility,  
11 organized ambulatory health care facility, or hospital.  
12 The license shall be valid during the period in which  
13 the applicant remains as a resident in training, and may  
14 be renewed from year to year during the period; or

15 (5) A public emergency exists, and that the applicant has  
16 been duly licensed as a physician or osteopathic  
17 physician by written examination under the laws of  
18 another state or territory of the United States. A  
19 limited and temporary license issued hereunder shall  
20 only be valid for the period of such public emergency.

21 Nothing herein requires the registration or licensing  
22 hereunder of nurses, or other similar persons, acting under the

1 direction and control of a licensed physician[~~-~~] or osteopathic  
2 physician."

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

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

15 (b) To receive an educational teaching license, the  
16 applicant shall:

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

20 (2) Provide proof that the applicant is licensed as a  
21 physician or osteopathic physician in another state or  
22 country and the license is current and in good standing;

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

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

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

- 19           (1) Is board certified by the American Board of Medical  
20           Specialties or Bureau of Osteopathic Specialties in the  
21           subspecialty in which the Hawaii physician or  
22           osteopathic physician is seeking training;

- 1           (2) Is a member of the teaching faculty of the accredited
- 2           medical teaching institution;
- 3           (3) Has an unrestricted license in another state;
- 4           (4) Has been invited by the chief of a clinical department
- 5           of a hospital; and
- 6           (5) Has been examined and approved by the hospital's
- 7           credential process.

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

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

- 20           (1) Identification and documentation of unrestricted license
- 21           for the applicant for the specialty training license;

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

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

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

- 15           (1) The applicant is of demonstrated competence and  
16           professional knowledge; and
- 17           (2) The applicant is a graduate of:
- 18           (A) A medical school or college whose program leading  
19           to the M.D. degree is accredited by the Liaison  
20           Committee on Medical Education[7] or whose program  
21           leading to the D.O. degree is approved by the  
22           American Osteopathic Association Commission on

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

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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 Canada,  
5 has passed with scores deemed satisfactory by  
6 the board, the Medical Council of Canada  
7 Evaluating Examination, or its successor; or  
8 (ii) Holds the certificate of the Fifth  
9 Pathway Program of the American Medical  
10 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 a  
15 program accredited by the Accreditation Council for  
16 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 Examiners  
22 examination (NBME), the Federation Licensing Examination (FLEX),

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

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



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

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

9 "**§453-5.3 Physician assistant; licensure required.** (a) The  
10 board of medical examiners shall require each person practicing  
11 medicine under the supervision of a physician~~[r]~~ or osteopathic  
12 physician, other than a person licensed under section 453-3, to be  
13 licensed as a physician assistant. A person who is trained to do  
14 only a very limited number of diagnostic or therapeutic procedures  
15 under the direction of a physician or osteopathic physician shall  
16 not be deemed a practitioner of medicine and therefore does not  
17 require licensure under this section.

18 (b) The board shall establish medical educational and  
19 training standards with which a person applying for licensure as a  
20 physician assistant shall comply. The standards shall be at least  
21 equal to recognized national education and training standards for  
22 physician assistants.

1 (c) Upon satisfactory proof of compliance with the required  
2 medical educational and training standards, the board may grant  
3 state licensure to a person who has been granted certification  
4 based upon passage of a national certifying examination and who  
5 holds a current certificate from the national certifying entity  
6 approved by the board.

7 (d) The board shall approve temporary licensure of an  
8 applicant under this section. The applicant shall have graduated  
9 from a board approved training program within twelve months of the  
10 date of application and never taken a national certifying  
11 examination approved by the board but otherwise [~~meet~~] meets the  
12 requirements of this section. The applicant shall file a complete  
13 application with the board and pay all required fees. If the  
14 applicant fails to apply for, or to take, the first examination  
15 scheduled by the board following the issuance of the temporary  
16 license, fails to pass the examination, or fails to receive  
17 licensure, all privileges under this section shall automatically  
18 cease upon written notification sent to the applicant by the  
19 board. A temporary license shall be issued only once to each  
20 person.

21 (e) Prior to practicing under temporary licensure, holders  
22 of temporary licenses shall notify the board in writing of any and

1 all supervising physicians or osteopathic physicians under whom  
2 they will be performing services.

3 (f) The board shall establish the degree of supervision  
4 required by the supervising physician or osteopathic physician  
5 when a physician assistant performs a service within the practice  
6 of medicine. A physician or osteopathic physician who does not  
7 supervise a physician assistant's services at the degree required  
8 by the board shall be deemed to have engaged in professional  
9 misconduct.

10 (g) Any license of a physician assistant may be denied, not  
11 renewed, revoked, limited, or suspended under section 453-8.

12 (h) The board shall establish the application procedure,  
13 medical educational and training standards, examination  
14 requirement, if any, and degrees of supervision by rule.

15 (i) Every person holding a license under this section shall  
16 apply for renewal with the board no later than January 31 of each  
17 even-numbered year and pay a renewal fee. Failure to apply for  
18 renewal shall constitute a forfeiture of the license that may only  
19 be restored upon written application for restoration and payment  
20 to the board of a restoration fee.

1 (j) A license that has been forfeited for one renewal term  
2 shall be automatically terminated and cannot be restored. A new  
3 application for licensure shall be required."

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

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

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

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

1 If the department determines that the physician or osteopathic  
2 physician has violated this chapter, the department shall present  
3 the results of its investigation to the board of medical examiners  
4 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**  
8 **licenses.** (a) In addition to any other actions authorized by law,  
9 any license to practice medicine and surgery may be revoked,  
10 limited, or suspended by the board at any time in a proceeding  
11 before the board, or may be denied, for any cause authorized by  
12 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 self;
- 16 (3) Engaging in false, fraudulent, or deceptive advertising,  
17 including but not limited to:
  - 18 (A) Making excessive claims of expertise in one or more  
19 medical specialty fields;
  - 20 (B) Assuring a permanent cure for an incurable disease;
  - 21 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, or  
12          deceit, or knowingly permitting an unlicensed person to  
13          perform activities requiring a license;
- 14          (7) Professional misconduct, hazardous negligence causing  
15          bodily injury to another, or manifest incapacity in the  
16          practice of medicine 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 unnecessary;
- 20          (9) Conduct or practice contrary to recognized standards of  
21          ethics of the medical profession as adopted by the  
22          Hawaii Medical Association [~~or~~]    the American Medical

- 1            Association[7] , the Hawaii Association of Osteopathic  
2            Physicians and Surgeons, or the American Osteopathic  
3            Association;
- 4            (10) Violation of the conditions or limitations upon which a  
5            limited or temporary license is issued;
- 6            (11) Revocation, suspension, or other disciplinary action by  
7            another state or federal agency of a license,  
8            certificate, or medical privilege for reasons as  
9            provided in this section;
- 10           (12) Conviction, whether by nolo contendere or otherwise, of  
11           a penal offense substantially related to the  
12           qualifications, functions, or duties of a physician[7]  
13           or osteopathic physician, notwithstanding any statutory  
14           provision to the contrary;
- 15           (13) Violation of chapter 329, the uniform controlled  
16           substance act, or any rule adopted thereunder except as  
17           provided in section 329-122;
- 18           (14) Failure to report to the board, in writing, any  
19           disciplinary decision issued against the licensee or the  
20           applicant in another jurisdiction within thirty days  
21           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 jurisdiction  
7 that would constitute a violation under this section, or if the  
8 applicant reveals a physical or mental condition that would  
9 constitute a violation under this section, then the board may  
10 impose one or more of the following requirements as a condition  
11 for licensure:

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

15           (2) Probation, including such conditions of probation as  
16                   requiring observation of the licensee by an appropriate  
17                   group of society of licensed physicians, osteopathic  
18                   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,  
7 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  
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:

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

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

- 1 (2) Suspend the license;
- 2 (3) Revoke the license;
- 3 (4) Limit the license by restricting the fields of practice
- 4 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
- 10 of the costs of the disciplinary proceedings;
- 11 (6) Require further education or training or require proof
- 12 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 agreement  
3 has been reduced to writing and signed by all the parties thereto  
4 or thirty days after service of the arbitration award on the  
5 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 offense,  
9 \$250 to \$500 for the second offense, and \$500 to \$1,000 for  
10 subsequent offenses.

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

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

1           "**§453-10 Witnesses in such proceeding.** In any such  
2 proceeding the board may subpoena, administer oaths to, and  
3 examine witnesses on any relevant matter in such proceeding. The  
4 board may subpoena physicians, osteopathic physicians, or surgeons  
5 as specialists, on the recommendation of the appropriate  
6 specialist society. The board may order a mental, physical, or  
7 medical competency examination to determine the capacity or  
8 ability of a licensee to continue to practice medicine or surgery  
9 and order appropriate specialist societies to conduct such  
10 examinations. The person whose license is sought in such  
11 proceeding to be revoked, limited, or suspended shall be entitled  
12 to require the board or any member thereof to subpoena and to  
13 administer oaths to any witness or witnesses who may be able to  
14 present evidence relevant in such proceeding, and shall be  
15 entitled to examine any such witness and any other witness in such  
16 proceeding. The circuit court of the circuit in which the  
17 proceeding is held may enforce by proper proceeding the attendance  
18 and testimony of witnesses in such proceeding."

19           SECTION 16. Section 453-14, Hawaii Revised Statutes, is  
20 amended by amending the title and subsection (a) to read as  
21 follows:

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

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

20           "§453-15 Who shall give consent to a postmortem examination.  
21 A pathologist or any licensed physician, osteopathic physician, or  
22 surgeon may conduct a postmortem examination when written consent

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

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

16 "(a) No abortion shall be performed in this state unless:

17 (1) The abortion is performed by a licensed physician or  
18 surgeon, or by a licensed osteopathic physician and  
19 surgeon; and

20 (2) The abortion is performed in a hospital licensed by the  
21 department of health or operated by the federal

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

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

5 **"§453-31 Emergency ambulance service personnel.** The  
6 practice of any emergency medical services by any individual  
7 employed by an emergency ambulance service who is not licensed  
8 under this chapter or under chapter 457 shall be subject to  
9 certification under this part. In the event of any conflict  
10 between this part and any rules adopted under section 453-2, the  
11 provisions of this part shall control with regard to emergency  
12 ambulance service personnel.

13 The board of medical examiners shall define the scope of the  
14 practice of emergency medical services, different levels of the  
15 practice, and degree of supervision required of a supervising  
16 physician or osteopathic physician when a person certified under  
17 this part provides services within the practice of medicine."

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

20 **"[+]§453-32.6[+] Delegation to committee of practicing**  
21 **emergency physicians or osteopathic physicians and emergency**  
22 **ambulance personnel.** The board of medical examiners shall



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1 establish a committee consisting of practicing emergency  
2 physicians or osteopathic physicians and emergency ambulance  
3 personnel to assist the board in the performance of duties under  
4 this part.

5 The board, by written order, may delegate to the committee  
6 any of its powers and duties for administration of this part,  
7 except that the board shall not delegate any authority to adopt,  
8 amend, or repeal rules, take disciplinary action against a  
9 certificate holder, or restore a certificate which has been  
10 revoked."

11 SECTION 21. Chapter 460, Hawaii Revised Statutes, is  
12 repealed.

13 SECTION 22. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

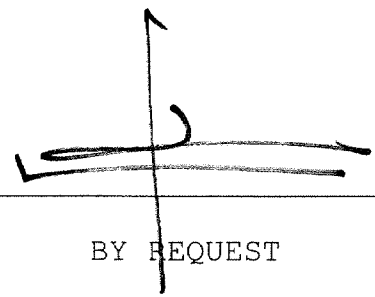
15 SECTION 23. This Act shall take effect upon its approval,  
16 provided that the continuing medical education requirements for  
17 osteopathic physicians shall take effect with the June 2010  
18 license renewal period.

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INTRODUCED BY: \_\_\_\_\_



BY REQUEST

**Report Title:**

Osteopathy

**Description:**

Includes doctors of osteopathy in the medical doctors chapter (chapter 453) so that the Board of Medical Examiners may treat medical doctors and doctors of osteopathy in the same manner; repeals osteopathy chapter (chapter 460).

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO OSTEOPATHY.

PURPOSE: To provide uniformity for osteopathic physicians by including them in chapter 453, Hawaii Revised Statutes (HRS), relating to Medicine and Surgery.

MEANS: Amend sections 453-1, 453-1.5, 453-2(a) and (b), 453-3, 453-3.2(a) and (b), 453-3.5(a) and (b), 453-4(b), (c), and (d), 453-5.3, 453-6(b), (c), and (d), 453-7.5(a), 453-8, 453-8.1, 453-8.2(a), 453-8.7(a), (b), and (c), 453-10, 453-14(a), 453-15, 453-16(a), 453-31, and 453-32.6, HRS, and repeal chapter 460, HRS.

JUSTIFICATION: The Board of Medical Examiners ("Board") regulates doctors of medicine ("MDs") through chapter 453, HRS, and doctors of osteopathy ("DOs") through chapter 453 and 460, HRS. Because the Board considers MDs and DOs to be similar, it attempts to regulate the two in as uniform a manner as possible.

However, it has not been able to do this to the fullest extent possible due to the lack of consistency between chapter 453, HRS, and chapter 460, HRS. The inconsistency is because chapter 460, HRS, does not contain many of the provisions that are in chapter 453, HRS. In 2007, the Board submitted a bill which amended chapter 460, HRS, by including such provisions. While the bill was heard in some legislative committees, it did not pass.

Since then, the Board has reconsidered the approach it took with the 2007 legislative proposal and believes that regulating both professions through chapter 453, HRS, would be more fitting. This would allow it to treat MDs and DOs in a uniform manner

without having to ensure that corresponding amendments are made to chapter 460, HRS, each time chapter 453 is revised.

Thus, this proposal revises chapter 453, HRS, by adding:

- "osteopathic physician" throughout the chapter whenever reference is made to physician;
- "osteopathic medicine" to section 453-1
- "D.O." to section 453-2(a), thereby allowing only those licensed as DOs to use those letters;
- "doctors of osteopathic medicine" to section 453-3.2(a);
- "Bureau of Osteopathic Specialties" to section 453-3.5(a) to provide for DO specialties;
- "D.O. degree" to section 453-4(b) to provide for osteopathic licensing requirements;
- "American Osteopathic Association Commission on Osteopathic College Accreditation" to section 453-4(b) as that is the agency that approves osteopathic medical programs and residency training programs;
- "American Osteopathic Association" to section 453-4(b) as that is the agency that approves residency training programs;
- "National Board of Osteopathic Medical Examiners examination" and "Comprehensive Osteopathic Medical Licensing Examination-USA" to section 453-4(c) to provide osteopaths with licensing examinations;
- "Comprehensive Osteopathic Medical Variable-Purpose Examination-USA" to section 453-4(d) to provide an examination for DOs who have been in practice a number of years and never took the National Board of Medical Examiners examination;
- "Hawaii Association of Osteopathic Physicians and Surgeons" and "American Osteopathic Association" to section 453-8(a), thereby making it a ground for disciplinary action if a licensee were to

engage in conduct or practice contrary to these associations' standards of ethics.

This bill will also:

- Require DOs, like MDs, to obtain continuing medical education ("CME") as a requirement for license renewal and provide for Category 1A CME in section 453-6(b) and (c); and
- Repeal chapter 460, HRS, relating to osteopathy.

Impact on the public: There will be minimal impact on the public; however, the CME requirement will impact DOs. It will require an investment of their professional time as well as their financial resources. Despite this, CME requirements are beneficial in maintaining the competency of licensees and protecting the public.

Impact on the department and other agencies: There will be minimal impact on the department. While there will be an increase in workload to accommodate additional licenses that can be issued to DOs (limited and temporary) and to ensure DOs are complying with CME requirements, we do not anticipate a significant strain on operations.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: CCA-105

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval, provided that the continuing medical education requirements for DOs shall take effect with the June 2010 license renewal period.