# H.B. NO. 3105

# A BILL FOR AN ACT

RELATING TO OSTEOPATHY.

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

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

"**§453-1 Practice of medicine defined.** For the purposes of this chapter the practice of medicine by a physician or an osteopathic physician includes the use of drugs and medicines, water, electricity, hypnotism, osteopathic medicine, or any means or method, or any agent, either tangible or intangible, for the treatment of disease in the human subject; provided that when a duly licensed physician or osteopathic physician pronounces a person affected with any disease hopeless and beyond recovery and gives a written certificate to that effect to the person affected or the person's attendant nothing herein shall forbid any person from giving or furnishing any remedial agent or measure when so requested by or on behalf of the affected person.

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

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

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

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

"(a) Except as otherwise provided by law, no person shall practice medicine or surgery in the State, either gratuitously or for pay, or offer to practice medicine or surgery in the State, or advertise or announce one's self, either publicly or privately, as prepared or qualified to practice medicine or 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 is a practitioner of medicine or surgery, without having a valid unrevoked license or a limited and temporary license obtained from the board of medical examiners.

(b) Nothing herein shall:

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

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

(3) Apply to any commissioned medical officer in the United States armed forces or public health service engaged in the discharge of one's official duty, nor to any practitioner of medicine and surgery from another state when in actual consultation, including in-person, mail, electronic, telephonic, fiber-optic, or other telemedicine consultation with a licensed physician or osteopathic physician of this State, if the physician or osteopathic physician from another state at the time of such consultation is licensed to practice in the state in which the physician or osteopathic physician resides; provided that:

(A) The physician or osteopathic physician from another state shall not open an office, or appoint a place to meet patients in this State, or receive calls

within the limits of the State for the provision of care for a patient who is located in this State;

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

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

(4) Prohibit services rendered by any person certified under part II of this chapter to provide emergency medical services, or any physician assistant, when the services are rendered under the direction and control of a physician or osteopathic physician licensed in this State except for final refraction resulting in a prescription for spectacles, contact lenses, or visual training as performed by an oculist or optometrist duly licensed by the State. The direction and control shall not be construed in every case to require the personal presence of the supervising and controlling physician[~~.~~] or osteopathic physician. Any physician or osteopathic physician who employs or directs a person certified under part II of this chapter to provide emergency

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

(5) Prohibit automated external defibrillation by:

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

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

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

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

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

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

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

(1) There is an absence or a shortage of licensed physicians <u>or osteopathic physicians</u> in a particular locality, and that the applicant has been duly licensed as a physician

or osteopathic physician by written examination under the laws of another state or territory of the United States. A limited and temporary license issued hereunder shall permit the practice of medicine and surgery by the applicant only in the particular locality, and no other, as shall be set forth in the license issued to the applicant. The license shall be valid only for a period of eighteen months from the date of issuance. The board shall establish guidelines to determine a locality with an absence or shortage of physicians[.] or osteopathic physicians. For this purpose, the board may consider a locality to have an absence or shortage of physicians or osteopathic physicians if the absence or shortage results from the temporary loss of a physician[.] or osteopathic physician. In designating a locality with an absence or shortage of physicians[,] or osteopathic physicians, the board shall not delegate its authority to a private organization;

(2) The applicant is to be employed by an agency or department of the state or county government, and that 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

original expiration date of the limited and temporary license;

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

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

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

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

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

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

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

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

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

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

(4) Pay all applicable fees."

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

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

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

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

(3) Has an unrestricted license in another state;

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

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

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

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

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

(2) A statement that the hospital is sponsoring the applicant, and shall be responsible for monitoring the individual physician or osteopathic physician during the period of the temporary license;

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

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

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

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

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

(2) The applicant is a graduate of:

(A) A medical school or college whose program leading to the M.D. degree is accredited by the Liaison Committee on Medical Education[,] or whose program leading to the D.O. degree is approved by the 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[,] 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[,] 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:

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

(ii) Holds the certificate of the Fifth Pathway Program of the American Medical Association;

provided that for a period of two years after June 26, 2004, the requirements of subsection (b)(2)(B)(i) and (ii) shall not apply to any applicant who has had four years of residency in a program accredited by the Accreditation Council for Graduate Medical Education <u>or the American Osteopathic Association</u> and who has passed, with scores deemed satisfactory by the board, the Special Purpose Examination (SPEX).

(c) Applicants who have passed, with scores deemed satisfactory by the board, the National Board of Medical Examiners 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

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

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

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

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

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

(d) The board shall approve temporary licensure of an applicant under this section. The applicant shall have graduated from a board approved training program within twelve months of the date of application and never taken a national certifying examination approved by the board but otherwise [~~meet~~] meets the requirements of this section. The applicant shall file a complete application with the board and pay all required fees. If the applicant fails to apply for, or to take, the first examination scheduled by the board following the issuance of the temporary license, fails to pass the examination, or fails to 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 only once to each person.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) Making any untruthful and improbable statement in advertising one's medical or surgical practice or business;

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

(5) Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;

(6) Procuring a license through fraud, misrepresentation, or deceit, or knowingly permitting an unlicensed person to perform activities requiring a license;

(7) Professional misconduct, hazardous negligence causing bodily injury to another, or manifest incapacity in the practice of medicine or surgery;

(8) Incompetence or multiple instances of negligence, including but not limited to the consistent use of medical service which is inappropriate or unnecessary;

(9) Conduct or practice contrary to recognized standards of ethics of the medical profession as adopted by the Hawaii Medical Association [~~or~~] , the American Medical

Association[;] , the Hawaii Association of Osteopathic Physicians and Surgeons, or the American Osteopathic Association;

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

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

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

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

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

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

(b) If disciplinary action related to the practice of medicine has been taken against the applicant in any 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, then the board may impose one or more of the following requirements as a condition for licensure:

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

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

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

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

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

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

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

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

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

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

(2) Suspend the license;

(3) Revoke the license;

(4) Limit the license by restricting the fields of practice in which the licensee may engage;

(5) Fine the licensee, including assessment against the licensee of the costs of the disciplinary proceedings. Any fine imposed by the board after a hearing in accordance with chapter 91 shall be not less than $500 and not more than $5,000 for each violation, exclusive of the costs of the disciplinary proceedings;

(6) Require further education or training or require proof of performance competency; or

(7) Censure or reprimand."

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

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

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

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

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

SECTION 15. Section 453-10, Hawaii Revised Statutes, is 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

INTRODUCED BY: Calvin K.Y. Say

BY REQUEST

JAN 22 2008

H.B. NO. 3105

**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).

HB 3105

# 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

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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.