

ACT 94

S.B. NO. 122

A Bill for an Act Relating to Osteopathy.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The following chapters and sections are hereby repealed effective December 31, 1993:

- (1) Chapter 452 (Board of Massage)
- (2) Chapter 453 (Board of Medical Examiners)
- [(3) Chapter 460 (Board of Osteopathic Examiners)]
- (4) ~~(3)~~ Chapter 461J (Board of Physical Therapy)
- [(5) ~~(4)~~ Chapter 463E (Podiatry)]
- [(6) ~~(5)~~ Chapter 514E (Time Sharing Plans)]
- [(7) ~~(6)~~ Sections 804-61 and 804-62”

SECTION 2. Section 26H-4, Hawaii Revised Statutes, is amended by amending subsection (i) to read as follows:

“(i) The following chapters are hereby repealed effective December 31, 1999:

- (1) Chapter 436E (Board of Acupuncture)
- (2) Chapter 442 (Board of Chiropractic Examiners)
- (3) Chapter 444 (Contractors License Board)
- (4) Chapter 448E (Board of Electricians and Plumbers)
- ~~(5) Chapter 460 (Board of Osteopathic Examiners)~~
- [(5) ~~(6)~~ Chapter 464 (Professional Engineers, Architects, Surveyors and Landscape Architects)]

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[(6)] (7) Chapter 465 (Board of Psychology)

[(7)] (8) Chapter 468E (Speech Pathology and Audiology)''

SECTION 3. Section 460-4, Hawaii Revised Statutes, is amended to read as follows:

“**§460-4 Board; appointment, powers, and duties.** The governor shall appoint a board of osteopathic examiners, consisting of five persons, three of whom shall be osteopathic physicians and surgeons licensed under the laws of this State and two of whom shall be public members. As used in this chapter, “board” means the board of osteopathic examiners.

The board shall examine all applicants for licenses to practice as osteopathic physicians and surgeons. In lieu of the board’s written examination, the board will accept the [national board of examiners for osteopathic physicians and surgeons (NBEOPS)] examination of the National Board of Osteopathic Medical Examiners with scores deemed satisfactory by the board and who otherwise meets the requirements of the laws of this State. The board, in its discretion, may accept the federation licensing examination (FLEX) in lieu of its own examination. Subject to chapter 91 and with the approval of the governor and the director of commerce and consumer affairs, the board may adopt, amend, and repeal all necessary rules relating to the enforcement of this chapter and not inconsistent therewith.”

SECTION 4. Section 460-9, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The board, in its discretion, may accept the examination of the [national board of examiners for osteopathic physicians and surgeons] National Board of Osteopathic Medical Examiners in lieu of its own examination and may issue a license to an applicant presenting a certificate from the [national board of examiners for osteopathic physicians and surgeons] National Board of Osteopathic Medical Examiners upon the basis of the examination of the national board; provided the applicant otherwise meets the requirements of the laws of this State.”

SECTION 5. Section 460-12, Hawaii Revised Statutes, is amended to read as follows:

“**§460-12 Refusal, suspension, and revocation of license.** In addition to any other grounds for denial of license or disciplinary action authorized by law, the board may refuse to issue a license, or may suspend or revoke any license at any time in a proceeding before the board for any cause authorized by law, including but not limited to the following:

- (1) Procuring or aiding or abetting in procuring a criminal abortion;
- (2) Employing any person to solicit patients for one’s self;
- [(3)] Wilfully betraying a professional secret;
- (4) (3) Engaging in false, fraudulent, or deceptive advertising, including, but not limited to:
 - (A) Making excessive claims of expertise in one or more medical specialty fields;
 - (B) Assuring a permanent cure for an incurable disease; or
 - (C) Making any untruthful and improbable statement in advertising one’s osteopathic practice or business;
- [(5)] (4) Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or an habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;

- [(6)] (5) Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;
- [(7)] (6) Procuring a license through fraud, misrepresentation, or deceit or knowingly permitting an unlicensed person to perform activities requiring a license;
- [(8)] (7) Professional misconduct, gross carelessness, or manifest incapacity in the practice of osteopathy;
- [(9)] (8) Negligence or incompetence, including, but not limited to, the consistent use of medical service in osteopathy which is inappropriate or unnecessary;
- [(10)] (9) Conduct or practice contrary to recognized standards of ethics of the osteopathic profession as adopted by the American Osteopathic Association;
- [(11)] (10) Revocation, suspension, or other disciplinary action by another state of a license or certificate for reasons as provided in this section;
- [(12)] (11) Conviction, whether by nolo contendere or otherwise, of a penal offense substantially related to the qualifications, functions, or duties of an osteopathic physician and surgeon, notwithstanding any statutory provision to the contrary;
- [(13)] (12) Violation of chapter 329, the uniform controlled substances law, or any rule adopted thereunder; or
- [(14)] (13) Failure to report to the board by a licensee, in writing, any disciplinary decision issued in another jurisdiction against the licensee within thirty days after the disciplinary decision is issued, or failure to report to the board by an applicant, in writing, any disciplinary decision issued in another jurisdiction against the applicant prior to the application or during the pendency of the application.”

SECTION 5.¹ Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6.¹ This Act shall take effect upon its approval.

(Approved May 7, 1993.)

Note

1. So in original.