

OVERVIEW

THE AUDITOR
STATE OF HAWAII

Sunset Evaluation Update: Osteopathy

Summary

We evaluated the regulation of osteopathic physicians and surgeons under Chapter 460, Hawaii Revised Statutes, and conclude that the public interest is best served by reenactment of the statute.

Osteopathic physicians (D.O.'s) are medical practitioners who emphasize the relationship of the neuro-musculoskeletal system to other body systems. Their education and training is similar to that of medical doctors (M.D.'s). In Hawaii, the regulatory program is placed under a five-member Board of Osteopathic Examiners administratively attached to the Department of Commerce and Consumer Affairs. The department's Professional and Vocational Licensing Division provides administrative services and the Regulated Industries Complaints Office (RICO) handles consumer complaints and pursues legal action when appropriate.

Because of the significant potential for harm in the practice of osteopathic medicine, we found that regulation should continue. Like M.D.'s, osteopathic physicians have unlimited rights to practice medicine and surgery. Regulation would require applicants to meet standards of competency that would protect the public. Complaints to RICO about osteopathic physicians and enforcement actions taken evidence the need for public protection. But a separate Board of Osteopathic Examiners is not necessary. They could be regulated by the Board of Medical Examiners.

We found that one of the grounds for disciplining osteopathic physicians—"wilfully betraying a professional secret"—is unclear and unnecessary. In addition, the law does not clearly give the board the option of accepting the Federation Licensing Examination (FLEX). The law incorrectly refers to the National Board of Osteopathic Medical Examiners (NBOME) by its former name.

We found that the administrative rules do not conform with the statute. They authorize avenues of licensing which do not correspond with the statute and which are not clearly differentiated from each other. The rules also go beyond the statute in requiring applicants to verify their specialty training and submit certificates of their competency.

Finally, we found two problems in program operations: (1) the licensing division does not require applicants to have national test scores forwarded

directly to the department from the testing organization, and (2) the board has not always stated precisely the reasons for going into executive session or kept executive-session minutes as required by the state's Sunshine Law.

Recommendations and Responses

We recommend that the Legislature reenact Chapter 460, HRS, to continue the regulation of osteopathic medicine. The Legislature should consider amending it to terminate the Board of Osteopathic Examiners and assigning its regulatory responsibilities to the Board of Medical Examiners. If this is done, an osteopathic physician should be added to the Board of Medical Examiners. The Legislature should also consider amending Chapter 460 to delete "wilfully betraying a professional secret" as a ground for discipline, to clarify that the board may accept the FLEX, and to correctly refer to the NBOME.

In addition, we recommend that the board amend its rules on licensure by examination, endorsement, and reciprocity to conform with the statute, and delete the rules on specialty certification and certificates of competency. The board should accurately state the reasons for going into executive session and keep minutes of these sessions. The licensing division should require applicants to submit original test score reports directly from testing organizations.

The Board of Osteopathic Examiners agrees that Chapter 460, HRS should be reenacted but disagrees that the Board of Medical Examiners should regulate osteopathic physicians. The board agrees that "wilfully betraying a professional secret" should be deleted; that the FLEX should be clearly accepted; that the NBOME is the correct designation; and that the rules on examination, endorsement, reciprocity, specialty certification, and certificates of competency should be reviewed.

The Department of Commerce and Consumer Affairs sees merit in our recommendation that it require submission of test scores directly from testing organizations. It disagrees that the board violated the Sunshine Law.

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