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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 2. HEALING ARTS [500 - 4999.129] (*Division 2 enacted by Stats. 1937, Ch. 399.*)

CHAPTER 5. Medicine [2000 - 2529.8.1] (*Chapter 5 repealed and added by Stats. 1980, Ch. 1313, Sec. 2.*)

ARTICLE 21. Provisions Applicable to Osteopathic Physicians and Surgeons [2450 - 2459.7] (*Article 21 added by Stats. 1980, Ch. 1313, Sec. 2.*)

2450. There is a Board of Osteopathic Examiners of the State of California, established by the Osteopathic Act, which shall be known as the Osteopathic Medical Board of California which enforces this chapter relating to persons holding or applying for physician's and surgeon's certificates issued by the Osteopathic Medical Board of California under the Osteopathic Act.

Persons who elect to practice using the term of suffix "M.D.," as provided in Section 2275, shall not be subject to this article, and the Medical Board of California shall enforce the provisions of this chapter relating to persons who made the election.

Notwithstanding any other law, the powers and duties of the Osteopathic Medical Board of California, as set forth in this article and under the Osteopathic Act, shall be subject to review by the appropriate policy committees of the Legislature. The review shall be performed as if this article were scheduled to be repealed as of January 1, 2028.

(Amended by Stats. 2023, Ch. 294, Sec. 25. (SB 815) Effective January 1, 2024.)

2450.1. Protection of the public shall be the highest priority for the Osteopathic Medical Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

(Added by Stats. 2002, Ch. 107, Sec. 5. Effective January 1, 2003.)

2451. The words "Medical Board of California," the term "board," or any reference to a division of the Medical Board of California as used in this chapter shall be deemed to mean the Osteopathic Medical Board of California, where that board exercises the functions granted to it by the Osteopathic Act.

(Amended by Stats. 1991, Ch. 359, Sec. 18.)

2452. This chapter applies to the Osteopathic Medical Board of California so far as consistent with the Osteopathic Act. Unless otherwise provided, this article is administered by the board.

(Amended by Stats. 1991, Ch. 359, Sec. 19.)

2453. (a) It is the policy of this state that holders of M.D. degrees and D.O. degrees shall be accorded equal professional status and privileges as licensed physicians and surgeons.

(b) Notwithstanding any other provision of law, no health facility subject to licensure under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, no health care service plan, nonprofit hospital service plan, policy of disability insurance, self-insured employer welfare benefit plan, and no agency of the state or of any city, county, city and county, district, or other political subdivision of the state shall discriminate with respect to employment, staff privileges, or the provision of, or contracts for, professional services against a licensed physician and surgeon on the basis of whether the physician and surgeon holds an M.D. or D.O. degree. This section shall not be construed to require a disability insurer health care service plan or hospital service plan to employ, offer staff privileges, or contract for professional services with a class of physician who holds an M.D. or D.O. degree. However, this subdivision shall not prohibit a school of allopathic medicine or a school of osteopathic medicine from employing a physician and surgeon as an instructor on the basis of whether the physician and surgeon holds an M.D. or D.O. degree, where the subject matter to be taught specifically requires allopathic or osteopathic training and experience.

(c) Whenever the health facility staffing requirements for staff or department privileges mandate that the physician who has been granted privileges be certified or eligible for certification by an appropriate American medical board, that position must be made

available on an equal basis to an osteopathic physician who is certified or eligible for certification by the appropriate American osteopathic board.

(d) Whenever an entity that contracts with physicians and surgeons or osteopathic physicians to provide managed care or risk-based care requires that the physician who is responsible for the contract be certified or eligible for certification by an appropriate American medical board, the contract reference to American medical board shall be construed to mean American Osteopathic Board when the contracting physician is an osteopathic physician.

(e) Staff self-government, involving M.D. and D.O. physicians and surgeons, with respect to the professional work performed in the health facility, shall be accomplished by holding periodic meetings of the staff to review and analyze at regular intervals their clinical experience. Patient medical records shall be the basis for such review and analysis.

(f) The physician and surgeon staff shall be required to establish controls that are designed to ensure the achievement and maintenance of high standards of professional and ethical practices including a provision that all members of the physician and surgeon staff be required to demonstrate their ability to perform surgical and other procedures competently and to the satisfaction of an appropriate committee or committees of the staff at the time of original application for appointment to the staff and at least every two years thereafter.

(g) No health facility may adopt written bylaws in accordance with legal requirements that in any way are construed to circumvent the intent of the Legislature or any other nondiscriminatory provisions contained in either the Medical Practice Act or in any provisions applicable to osteopathic physicians.

(h) No entity that contracts with physicians and surgeons to provide managed care or risk-based care may adopt written bylaws in accordance with legal requirements that in any way are construed to circumvent the intent of the Legislature or any other nondiscriminatory provisions contained in either the Medical Practice Act or in any provisions applicable to osteopathic physicians.

(i) For the purposes of this section, no professional medical or osteopathic association may mandate membership in their respective organizations as a prerequisite for a physician to obtain staff privileges, employment, or in the offering of a contract for services.

(j) Any violation of subdivisions (b), (c), (d), (e), (f), (g), (h), and (i) may be enjoined in an action brought in the name of the people of the State of California by the district attorney of the county in which the violation occurs, upon receipt of a complaint by an aggrieved physician and surgeon.

(Amended by Stats. 1992, Ch. 619, Sec. 1. Effective January 1, 1993.)

2453.5. Individuals possessing physician's and surgeon's certificates issued by the Osteopathic Medical Board of California shall not hold themselves out to be board certified unless the board certification has been granted by the appropriate certifying board, as authorized by the American Osteopathic Association or the American Board of Medical Specialties, or is the result of a postgraduate training program approved by the Accreditation Council for Graduate Medical Education.

(Added by Stats. 1993, Ch. 226, Sec. 2. Effective January 1, 1994.)

2454.5. In order to ensure the continuing competence of licensed osteopathic physicians and surgeons, the board shall adopt and administer standards for the continuing education of those licensees. The board shall require each licensed osteopathic physician and surgeon to demonstrate satisfaction of the continuing education requirements as a condition for the renewal of a license at intervals of not less than one year nor more than two years. The board shall require each licensed osteopathic physician and surgeon to complete a minimum of 50 hours of American Osteopathic Association continuing education hours during each two-year cycle, of which 20 hours shall be completed in American Osteopathic Association Category 1 continuing education hours and the remaining 30 hours shall be either American Osteopathic Association or American Medical Association accredited as a condition for renewal of an active license. Licensed osteopathic physicians and surgeons shall complete a course on the risks of addiction associated with the use of Schedule II drugs.

For purposes of this section, "American Osteopathic Association Category 1" means continuing education activities and programs approved for Category 1 credit by the Committee on Continuing Medical Education of the American Osteopathic Association.

(Amended by Stats. 2021, Ch. 649, Sec. 25. (SB 806) Effective January 1, 2022.)

2454.6. In determining its continuing education requirements, the board shall consider including a course in infection-associated chronic conditions, including, but not limited to, long COVID, as defined by the United States Department of Health and Human Services, myalgic encephalomyelitis, and dysautonomia.

(Added by Stats. 2024, Ch. 433, Sec. 2. (AB 3119) Effective January 1, 2025.)

2455. The amount of fees and refunds is that established by the following schedule for any certificate issued by the Osteopathic Medical Board of California. All other fees and refunds for any certificate issued by the Osteopathic Medical Board of California which are not prescribed in this schedule, are prescribed in Sections 2455.1 and 2456. Any and all fees received by the Osteopathic

Medical Board of California shall be for the sole purpose of the operation of the board and shall not be used for any other purpose, except as specified in Section 2455.1.

(a) Each applicant for an original or reciprocity Physicians and Surgeons Certificate shall pay an application fee in a sum not to exceed four hundred dollars (\$400) at the time his or her application is filed.

(b) The biennial license fee, unless otherwise provided, shall be set by the board on or before November 1 of each year for the ensuing calendar year at a sum as the board determines necessary to defray the expenses of administering this chapter, under the Osteopathic Act, relating to the issuance of certificates to those applicants, which sum, however, shall not exceed four hundred dollars (\$400) nor be less than twenty-five dollars (\$25).

(c) The board shall set a biennial license fee in an amount less than that levied pursuant to subdivision (b) that shall be paid by any applicant who indicates to the board in writing that he or she does not intend to practice under the Osteopathic Act during the current renewal period.

(d) The fee for failure to pay the biennial license fee shall be 50 percent of the renewal fee but not more than two hundred dollars (\$200).

(Amended by Stats. 2009, Ch. 600, Sec. 2. (SB 606) Effective January 1, 2010.)

2455.1. (a) In addition to the fees charged pursuant to Section 2455, and at the time those fees are charged, the board shall charge each applicant for an original or reciprocity certificate or for a biennial license an additional twenty-five-dollar (\$25) fee for the purposes of this section. This twenty-five-dollar (\$25) fee shall be due and payable along with the fee for the original or reciprocity certificate or the biennial license.

(b) On or before July 1, 2015, the board shall develop a mechanism for an osteopathic physician and surgeon to pay a voluntary contribution, at the time of initial application for licensure or biennial renewal, for the purposes of this section.

(c) The board shall transfer all funds collected pursuant to this section, on a monthly basis, to the Medically Underserved Account for Physicians created by Section 128555 of the Health and Safety Code for the purposes of the Steven M. Thompson Physician Corps Loan Repayment Program. Notwithstanding Section 128555 of the Health and Safety Code, these funds shall not be used to provide funding for the Physician Volunteer Program.

(Amended by Stats. 2014, Ch. 439, Sec. 2. (SB 1116) Effective January 1, 2015.)

2455.2. (a) A licensed osteopathic physician and surgeon shall report to the Osteopathic Medical Board of California, at the time of initial licensure, any specialty board certification that he or she holds that is issued by a member board of the American Board of Medical Specialties or approved by the Osteopathic Medical Board of California.

(b) A licensed osteopathic physician and surgeon shall also report to the board, at the time of license renewal, his or her practice status, designated as one of the following:

(1) Full-time practice in California.

(2) Full-time practice outside of California.

(3) Part-time practice in California.

(4) Medical administrative employment that does not include direct patient care.

(5) Retired.

(6) Other practice status, as may be further defined by the board.

(c) A licensed osteopathic physician and surgeon may report to the board, at the time of initial licensure and license renewal, and the board shall collect, information regarding his or her cultural background and foreign language proficiency.

(d) The information collected pursuant to this section may be placed on the board's Internet Web site.

(e) This section shall become operative on July 1, 2010.

(Added by Stats. 2009, Ch. 602, Sec. 1. (SB 620) Effective January 1, 2010. Section operative July 1, 2010, by its own provisions.)

2456. (a) Each person holding a certificate issued by the Osteopathic Medical Board of California residing in or out of California shall pay the board a biennial license fee.

(b) Fictitious name permits issued by the Osteopathic Medical Board of California as provided in Section 2415 shall expire on December 31 of each year. The initial permit fee shall not exceed one hundred dollars (\$100) and the renewal permit fee shall not

exceed one hundred dollars (\$100).

(Amended by Stats. 2004, Ch. 691, Sec. 2. Effective January 1, 2005.)

2456.1. All osteopathic physician's and surgeon's certificates shall be issued for two years and shall expire at midnight on the last day of the month in which the license was issued during the second year of the two-year term if not renewed on or before that day.

To renew an unexpired license, the licensee shall, on or before the dates on which it would otherwise expire, apply for renewal on a form prescribed by the board and pay the prescribed renewal fee.

(Amended by Stats. 2022, Ch. 625, Sec. 4. (SB 1443) Effective January 1, 2023.)

2456.2. (a) The board shall notify in writing by certified mail, return receipt requested, any physician and surgeon who does not renew his or her license within 60 days from its date of expiration.

(b) Any licensee who does not renew his or her expired license on or before its date of expiration shall pay all the following fees:

(1) The renewal fee in effect at the time of renewal.

(2) The delinquency fee required by Section 2455.

(c) Notwithstanding any other provision of law, the renewal of any expired physician's and surgeon's license within six months from its date of expiration shall be retroactive to the date of expiration of that license.

(Added by Stats. 1987, Ch. 934, Sec. 3.)

2456.3. Except as provided in Section 2429, a license which has expired may be renewed at any time within five years after its expiration by filing an application for renewal on a form prescribed by the board and payment of all accrued renewal fees and any other fees required by Section 2455. Except as provided in Section 2456.2, renewal under this section shall be effective on the date on which the renewal application is filed, on the date on which the renewal fee or accrued renewal fees are paid, or on the date on which the delinquency fee or the delinquency fee and penalty fee, if any, are paid, whichever last occurs. If so renewed, the license shall continue in effect through the expiration date set forth in Section 2456.1 which next occurs after the effective date of the renewal.

(Added by Stats. 1987, Ch. 934, Sec. 4.)

2457. The failure of any person holding a certificate issued by the Osteopathic Medical Board of California to pay the biennial license fee during the time his or her certificate remains in force shall automatically work a forfeiture of his or her certificate after a period of 60 days from the date of expiration.

The certificate shall not be restored except upon written application and the payment to the Osteopathic Medical Board of California of the fee provided by this article. No examination shall be required for the reissuance of a certificate that was forfeited under the provisions of this section.

(Amended by Stats. 2004, Ch. 691, Sec. 3. Effective January 1, 2005.)

2457.5. (a) In addition to Article 12 (commencing with Section 2220), the charging, or obtaining of an unconscionable fee for professional services rendered to a patient by an osteopathic physician and surgeon constitutes unprofessional conduct and is grounds for disciplinary action.

(b) A fee is unconscionable within the meaning of this section when it is so exorbitant and wholly disproportionate to the services performed as to shock the conscience of physicians of ordinary prudence practicing in the same community. Factors to be considered, where appropriate, in determining the reasonableness of a fee, are based on the circumstances existing at the time of the service and shall include, but not be limited to, the following:

(1) The time and effort required.

(2) The novelty and difficulty of the procedure and treatment.

(3) The skill required to perform the procedure or treatment properly.

(4) The likelihood, if apparent to the patient, that the proper treatment of the patient will preclude the physician from remuneration from other sources.

(5) Any requirements or conditions imposed by the patient or by the circumstances.

- (6) The nature and length of the professional relationship with the patient.
- (7) The experience, reputation, and ability of the physician performing the services.
- (8) The results obtained.
- (9) The existence of full fee disclosure and knowing patient consent.

(Added by Stats. 1988, Ch. 325, Sec. 1.)

2458. When the prosecution for a violation of this chapter is initiated by the Osteopathic Medical Board of California, 75 percent of all fines and forfeitures of bail shall be paid upon the collection by the proper officer of the court to the board to be deposited by it to the credit of the contingent fund of the Osteopathic Medical Board of California.

The payment to the board shall be made without placing the fine or forfeiture of bail in any special, contingent, or general fund in any city, county, or city and county.

(Amended by Stats. 1991, Ch. 359, Sec. 24.)

2459. The Osteopathic Medical Board of California shall not issue any drugless practitioner's certificates under this chapter or any other law.

All persons holding drugless practitioner's certificates may continue to practice under the authorization of their certificates and may renew them, subject to this chapter.

(Amended by Stats. 1991, Ch. 359, Sec. 25.)

2459.4. (a) On and after July 1, 2019, except as otherwise provided in subdivision (c), the board shall require a licensee to provide a separate disclosure that includes the licensee's probation status, the length of the probation, the probation end date, all practice restrictions placed on the licensee by the board, the board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the licensee's profile page on the board's online license information Internet Web site, to a patient or the patient's guardian or health care surrogate before the patient's first visit following the probationary order while the licensee is on probation pursuant to a probationary order made on and after July 1, 2019, in any of the following circumstances:

(1) A final adjudication by the board following an administrative hearing or admitted findings or prima facie showing in a stipulated settlement establishing any of the following:

(A) The commission of any act of sexual abuse, misconduct, or relations with a patient or client as defined in Section 726 or 729.

(B) Drug or alcohol abuse directly resulting in harm to patients or the extent that such use impairs the ability of the licensee to practice safely.

(C) Criminal conviction directly involving harm to patient health.

(D) Inappropriate prescribing resulting in harm to patients and a probationary period of five years or more.

(2) An accusation or statement of issues alleged that the licensee committed any of the acts described in subparagraphs (A) to (D), inclusive, of paragraph (1), and a stipulated settlement based upon a nolo contendere or other similar compromise that does not include any prima facie showing or admission of guilt or fact but does include an express acknowledgment that the disclosure requirements of this section would serve to protect the public interest.

(b) A licensee required to provide a disclosure pursuant to subdivision (a) shall obtain from the patient, or the patient's guardian or health care surrogate, a separate, signed copy of that disclosure.

(c) A licensee shall not be required to provide a disclosure pursuant to subdivision (a) if any of the following applies:

(1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy.

(2) The visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities.

(3) The licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.

(4) The licensee does not have a direct treatment relationship with the patient.

(d) On and after July 1, 2019, the board shall provide the following information, with respect to licensees on probation and licensees practicing under probationary licenses, in plain view on the licensee's profile page on the board's online license information Internet Web site.

(1) For probation imposed pursuant to a stipulated settlement, the causes alleged in the operative accusation along with a designation identifying those causes by which the licensee has expressly admitted guilt and a statement that acceptance of the settlement is not an admission of guilt.

(2) For probation imposed by an adjudicated decision of the board, the causes for probation stated in the final probationary order.

(3) For a licensee granted a probationary license, the causes by which the probationary license was imposed.

(4) The length of the probation and end date.

(5) All practice restrictions placed on the license by the board.

(e) A violation of this section shall not be punishable as a crime.

(f) For purposes of this section:

(1) "Board" means the Osteopathic Medical Board of California.

(2) "Licensee" means a person licensed by the Osteopathic Medical Board of California.

(Added by Stats. 2018, Ch. 570, Sec. 5. (SB 1448) Effective January 1, 2019.)

2459.5. An osteopathic physician and surgeon licensed pursuant to the Osteopathic Initiative Act may utilize the services of an aide to assist the osteopathic physician and surgeon in the rendering of osteopathic manipulative treatment. The aide shall at all times be under the orders, direction, and immediate supervision of the osteopathic physician and surgeon. Nothing in this section shall authorize an aide to function independently of the osteopathic physician and surgeon or shall be construed as authorizing an osteopathic aide to practice medicine, surgery, or any other form of healing art.

(Added by Stats. 1990, Ch. 873, Sec. 2.)

2459.6. (a) For the purposes of Section 2459.5 and this section:

(1) "Osteopathic physician and surgeon" means a person defined in the Osteopathic Initiative Act.

(2) "Osteopathic manipulative treatment" means the therapeutic application of manually guided forces by an osteopathic physician and surgeon to alleviate somatic dysfunction.

(3) "Somatic dysfunction" means an impaired or altered function of related components of the somatic system.

(4) An "osteopathic aide" means an unlicensed person who assists an osteopathic physician and surgeon in the provision of osteopathic manipulative treatment provided that assistance is rendered under the supervision of an osteopathic physician and surgeon licensed pursuant to the Osteopathic Initiative Act. An aide is not authorized to perform osteopathic manipulative procedures.

(5) "Under the orders, direction and immediate supervision" means the evaluation of the patient by the osteopathic physician prior to the performing of an osteopathic manipulative treatment patient-related task by the aide, the formulation and recording in the patient's record by the osteopathic physician and surgeon of an osteopathic manipulative treatment program based upon the evaluation, and any other information available to the osteopathic physician and surgeon prior to any delegation of a task to an aide. The osteopathic physician and surgeon shall assign only those patient-related tasks that can be safely and effectively performed by the aide. The supervising osteopathic physician and surgeon shall be responsible at all times for the conduct of the aide while he or she is on duty and shall provide continuous and immediate supervision of the aide. The osteopathic physician and surgeon shall be in the same facility as, and in proximity to, the location where the aide is performing patient-related tasks and shall be readily available at all times to provide advice or instructions to the aide.

(6) A "patient-related task" is restricted to assisting the osteopathic physician and surgeon in the rendering of osteopathic manipulative treatment.

(b) Osteopathic aides may not use roentgen rays and radioactive materials.

(c) The board shall require the supervising osteopathic physician and surgeon to conduct orientation of the aide regarding patient-related tasks.

(d) No osteopathic physician and surgeon shall supervise more than two osteopathic aides at any one time.

(Added by Stats. 1990, Ch. 873, Sec. 3.)

2459.7. Notwithstanding any other provision of law, no osteopathic physician and surgeon shall utilize an osteopathic aide to perform services other than those specified in Sections 2459.5 and 2459.6. A violation of this section constitutes unprofessional conduct and is grounds for disciplinary action.

(Added by Stats. 1990, Ch. 873, Sec. 4.)