

**[CHAPTER 463E]
PODIATRISTS**

SECTION

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§463E-1 Definitions. As used in this chapter:

"Board" means board of medical examiners.

"Department" means department of commerce and consumer affairs.

"Foot appliance" means any artificial apparatus used as a replacement for, an addition to, or in the treatment of the human foot whether it is medical, surgical, mechanical, manipulative, or electrical in nature.

"Podiatric medicine" means the medical, surgical, mechanical, manipulative, and electrical diagnosis and treatment of the human foot, malleoli, and ankle, including the surgical treatment of the muscles and tendons of the leg governing the functions of the foot, but does not include amputation above the ankle, treatment of systemic conditions, or the use of any anesthetic except local anesthetic.

"Podiatrist" means a person in the professional practice of podiatric medicine.

§463E-2 License required. Except as otherwise provided by law, no person shall practice, offer to practice, advertise, or announce oneself, either publicly or privately, as prepared or qualified to practice podiatric medicine either gratuitously or for pay, or use any sign or advertisement or otherwise use the title "podiatrist", "D.P.M." or "doctor of podiatric medicine", "foot specialist", or any other term or terms indicating or implying that the person is practicing podiatric medicine,

without having a valid unrevoked license obtained from the board of medical examiners, as prescribed in this chapter.

§463E-3 Qualification for licensure. No person shall be licensed to practice podiatric medicine unless the person has passed the examinations described in section 463E-4 and has been found to possess the necessary qualifications as required by the board.

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

- (1) The applicant is a graduate in podiatric medicine of a college approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association and by the board of medical examiners; and
- (2) The applicant has completed at least twenty-four months in an accredited podiatric residency, as approved by the Council on Podiatric Medical Education, prior to applying for licensure; provided that an applicant who has graduated from an approved college before January 1, 2004, shall:
 - (A) Have completed at least twelve months in an accredited podiatric residency;
 - (B) Have at least ten years of active licensed experience in podiatric medicine in another state; and
 - (C) Hold a current, unencumbered license in podiatric medicine in another state; provided further that the residency and active licensed experience requirements in this paragraph shall not apply to podiatrists with current, active licenses to practice podiatric medicine in Hawaii.

§463E-4 Examinations. (a) The board shall require each applicant to furnish satisfactory evidence that the applicant has passed written examinations covering basic sciences, clinical sciences, and clinical competency as administered by the National Board of Podiatric Medical Examiners or its successor organization.

(b) The examinations shall be held in Honolulu twice a year at a time and day which is convenient for the board.

(c) The examinations shall be secured from and corrected by the National Board of Podiatric Medical Examiners or its successor organization.

§463E-5 Fees; expenses. (a) No applicant shall be examined under this chapter until the applicant has paid to the board application, examination, and license fees. The board may provide separate fees for licensure by endorsement and for limited and temporary licenses.

(b) Every person holding a license under this chapter shall renew the license with the board no later than January 31 of each even-numbered year, pay a renewal fee, and comply with the continuing education requirements provided in rules adopted by the board.

(c) To determine compliance, the board may conduct a random audit. A licensee selected for audit shall be notified by the board. Within sixty days of notification, the licensee shall

provide to the board documentation to verify compliance with the continuing education requirements.

(d) Failure to renew, pay the renewal fee, and in the case of audited licensees, provide documentation of compliance shall constitute a forfeiture of the 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 licensees, documentation of compliance.

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

§463E-6 Revocation, suspension, or denial of license; sanctions. (a) Any license to practice podiatric medicine may be revoked or suspended by the board of medical examiners at any time in a proceeding before the board, or may be denied, for any one or more of the following acts or conditions on the part of the holder of the license or the applicant therefor:

- (1) Employing what is popularly known as a "capper" or "steerer";
- (2) Obtaining any fee on the assurance that a manifestly incurable disease can be permanently cured;
- (3) Wilfully betraying a professional secret;
- (4) Advertising one's podiatrist business with any untruthful and improbable statement;
- (5) False or fraudulent advertising;
- (6) Procuring a license through fraud, misrepresentation, or deceit, or knowingly permitting an unlicensed person to perform activities requiring a license;
- (7) Violation of section 453-2;
- (8) Professional misconduct or gross negligence or manifest incapacity in the practice of podiatric medicine;
- (9) Engaging in the practice of podiatric medicine other than as defined in section 463E-1;
- (10) 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 effect;
- (11) Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;
- (12) Incompetence or multiple instances of negligence, including, but not limited to, the consistent use of medical service which is inappropriate or unnecessary;
- (13) Revocation, suspension, or other disciplinary action by another state or federal agency of a license or practice privilege for reasons as provided in this section;
- (14) Conviction, whether by nolo contendere or otherwise, of a penal offense substantially related to the qualifications, functions, or duties of a podiatrist, notwithstanding any statutory provision to the contrary;
- (15) Violation of chapter 329, uniform controlled substances act, or any rule adopted thereunder;
- (16) Failure to report to the board, in writing, any disciplinary action taken against the licensee in another jurisdiction within thirty days after the disciplinary action becomes final; or

- (17) 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) In addition to or in lieu of revoking or suspending a license to practice podiatric medicine, the board may impose one or more of the following actions:
 - (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 podiatrists;
 - (2) Limit the license by restricting the field of practice in which the licensee may engage;
 - (3) Fine the licensee, including assessment against the licensee of the cost of the disciplinary proceedings. Any fine imposed by the board shall be no less than \$500 and no more than \$5,000 for each violation, exclusive of the costs of the disciplinary proceedings; or
 - (4) Require further education or training or require proof of performance competency.
- (c) If disciplinary action related to the practice of podiatric medicine taken against the applicant in any jurisdiction that would constitute a violation of 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 of licensure:
 - (1) Physical and mental evaluation of the applicant by a licensed physician approved by the board;
 - (2) Probation, including such conditions of probation as requiring observation of the licensee by an appropriate group or society of licensed podiatrists;
 - (3) Limitation of the license by restricting the field of practice in which the licensee may engage;
 - (4) Further education or training or proof of performance competency; and
 - (5) Limitation of the podiatric practice of the licensee in any reasonable manner to assure the safety and welfare of the consuming public.

[§463E-6.5] Reporting requirements. (a) Every podiatrist 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 podiatrist 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 podiatrist is liable criminally or civilly for any death or personal injury caused by the podiatrist's professional negligence, error, or omission in the practice of the podiatrist'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.

(d) The department shall prescribe forms for the submission of reports required by this section.

§463E-7 REPEALED.

[§463E-8] Witnesses in such proceeding. In any proceeding related to revocation or suspension of a license issued under this chapter, the board and each member of the board may subpoena, administer oaths to, and examine witnesses on any relevant matter in the proceeding. The person whose license is sought in the proceeding to be revoked or suspended shall be entitled to require the board or any member of the board to subpoena and to administer oaths to any witness or witnesses who presents evidence relevant in the proceeding, and shall be entitled to examine any such witness and any other witness in the proceeding. The circuit court of the circuit in which the proceeding is held may enforce by proper proceeding the attendance and testimony of witnesses in the proceeding.

[§463E-9] Recalcitrant witnesses; contempt. If any person called before the board as a witness in any proceeding involving the revocation or suspension of a license, whether under subpoena or otherwise, except as privileged by law, refuses to answer any question which is relevant to the proceeding and is put to the person by the board, a member of the board, or the person whose license is sought to be revoked or suspended in the proceeding, or disobeys any order of the circuit court relating to the proceeding, the board shall report the matter in writing to any judge of the circuit court of the circuit in which the proceeding is held and the person shall be cited to appear before the circuit judge to show cause why the person should not be punished for contempt of court.

[§463E-10] Perjury. Any person who wilfully and knowingly makes under oath any false statement in connection with any proceeding before the board shall be guilty of perjury and shall be subject to the penalty prescribed by law for perjury. Whenever the board is satisfied that the witness has committed perjury in any proceeding before the board, it shall report the same to the prosecuting officer of the county in which the perjury took place, who shall prosecute the witness for perjury.

§463E-11 Penalty. Any person who violates this chapter shall be guilty of a misdemeanor. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State.

[§463E-12] Rules. The board of medical examiners shall adopt rules in accordance with chapter 91 for the administration of this chapter.

[§463E-12.5] Delegation of duties. Except for proceedings under section 463E-6 and the adoption of rules under section 463E-12, the board may delegate its duties under this chapter to a committee of not less than three podiatrists licensed under this chapter appointed by the board; provided that the board shall ratify any action taken by the committee.

§463E-13 REPEALED.

[§463E-14] Discrimination prohibited. No department, office, or agency of the state or county government, or any subdivision thereof, or any clinic, medical service, insurance carrier, or any board administering relief or foundations under the law of the State shall deny to the recipient or beneficiary of podiatric aid or services the freedom to choose podiatric care or services which are within the scope of activities of a podiatrist licensed under this chapter.

[§463E-15] Use of podiatrist; public programs. Whenever medical or surgical services within the scope of activities of a podiatrist licensed under this chapter are included in any program financed by public funds or administered by any public agency for aid to the indigent, the aged, the legally blind, or any other group or class, the recipient of such aid shall be entitled to choose whether the services are to be performed by a duly licensed physician or by a duly licensed podiatrist.

§463E- Qualifications; ankle fracture surgery, A podiatric physician may perform ankle fracture surgery if the podiatric physician is board qualified or board certified in reconstructive rearfoot ankle surgery by the American Board of Podiatric Surgery and has completed a thirty-six-month podiatric surgical residency.