

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 723 Maintenance of Certification
SPONSOR(S): Health Quality Subcommittee, Gonzalez
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	11 Y, 4 N, As CS	Langston	McElroy
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

The Division of Medical Quality Assurance (MQA), within the Department of Health (DOH), has general regulatory authority over health care practitioners. The MQA works in conjunction with 22 boards and six councils to license and regulate seven types of health care facilities and more than 40 health care professions, including Medical Doctors (allopathic physicians) and Doctors of Osteopathic Medicine (osteopathic physicians). Chapter 458, F.S., provides for the licensure and regulation of the practice of medicine by allopathic physicians, governed by the Florida Board of Medicine (allopathic board), and chapter 459, F.S., provides for the licensure and regulation of the practice of medicine by osteopathic physicians, governed by the Florida Board of Osteopathic Medicine (osteopathic board).

DOH does not license a physician's specialty or sub-specialty based upon board certification; however, ch. 458 and ch. 459, F.S., limit which physicians may hold themselves out as board-certified specialists. An allopathic physician licensed under ch. 458, F.S., may not hold himself or herself out as a board-certified specialist unless he or she has received formal recognition as a specialist from a specialty board of the American Board of Medical Specialties (ABMS). Similarly, an osteopathic physician licensed under ch. 459, F.S., may not hold himself or herself out as a board-certified specialist unless he or she has successfully completed the requirements for certification by the American Osteopathic Association or ABMS.

CS/HB 723 prohibits the allopathic board, osteopathic board, DOH, health care facilities, and insurers from requiring physicians to maintain board certification in a subspecialty as conditions of licensure, reimbursement or admitting privileges. The bill specifies that this prohibition does not impact the boards' ability to require continuing medical education.

The bill allows a physician whose board certification has lapsed to hold himself or herself out as initially board certified.

The bill does not have a fiscal impact on state or local government.

The bill provides an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Licensure and Regulation of Physicians

The Division of Medical Quality Assurance (MQA), within the Department of Health (DOH), has general regulatory authority over health care practitioners.¹ The MQA works in conjunction with 22 boards and six councils to license and regulate seven types of health care facilities and more than 40 health care professions, including Medical Doctors (allopathic physicians) and Doctors of Osteopathic Medicine (osteopathic physicians).² Each profession is regulated by an individual practice act and by ch. 456, F.S., which provides general regulatory and licensure authority for the MQA.

Allopathic Physician Licensure

Chapter 458, F.S., governs licensure and regulation of the practice of medicine by the Florida Board of Medicine (allopathic board) in conjunction the Department of Health (DOH). The chapter imposes requirements for licensure examination and licensure by endorsement.

Allopathic Education and Training Requirements

An individual seeking to be licensed by examination as an allopathic physician must, among other things:

- Complete 2 years of post-secondary education which includes, at a minimum, courses in fields such as anatomy, biology, and chemistry prior to entering medical school;
- Meet one of the following medical education and postgraduate training requirements:
 - Graduate from an allopathic medical school recognized and approved by an accrediting agency recognized by the U.S. Office of Education or recognized by an appropriate governmental body of a U.S. territorial jurisdiction, and have completed at least one year of approved residency training;
 - Graduate from an allopathic foreign medical school registered with the World Health Organization and certified pursuant to statute as meeting the standards required to accredit U.S. medical schools, and have completed at least one year of approved residency training; or
 - Graduate from an allopathic foreign medical school that has not been certified pursuant to statute; have an active, valid certificate issued by the Educational Commission for Foreign Medical Graduates (ECFMG),³ have passed that commission's examination; and have completed an approved residency or fellowship of at least 2 years in one specialty area; and
- Obtain a passing score on:

¹ Pursuant to s. 456.001(4), F.S., health care practitioners are defined to include acupuncturists, physicians, physician assistants, chiropractors, podiatrists, naturopaths, dentists, dental hygienists, optometrists, nurses, nursing assistants, pharmacists, midwives, speech language pathologists, nursing home administrators, occupational therapists, respiratory therapists, dietitians, athletic trainers, orthotists, prosthetists, electrologists, massage therapists, clinical laboratory personnel, medical physicists, dispensers of optical devices or hearing aids, physical therapists, psychologists, social workers, counselors, and psychotherapists, among others.

² Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2014-2015*, 3, available at <http://mqawebteam.com/annualreports/1415/#6> (last visited March 13, 2017).

³ A graduate of a foreign medical school does not need to present an ECFMG certification or pass its exam if the graduate received his or bachelor's degree from an accredited U.S. college or university, studied at a medical school recognized by the World Health Organization, and has completed all but the internship or social service requirements, has passed parts I and II of the National Board Medical Examiners licensing examination or the ECFMG equivalent examination. Section 458.311, F.S.

- The United States Medical Licensing Examination (USMLE);
- A combination of the USMLE, the examination of the Federation of State Medical Boards of the United States, Inc. (FLEX), or the examination of the National Board of Medical Examiners up to the year 2000; or
- The Special Purpose Examination of the Federation of State Medical Boards of the United States (SPEX), if the applicant was licensed on the basis of a state board examination, is currently licensed in at least one other jurisdiction of the United States or Canada, and has practiced for a period of at least 10 years.⁴

An individual who holds an active license to practice medicine in another jurisdiction may seek licensure by endorsement to practice medicine in Florida.⁵ The applicant must meet the same requirements for licensure by examination. To qualify for licensure by endorsement, the applicant must also submit evidence of the licensed active practice of medicine in another jurisdiction for at least 2 of the preceding 4 years, or evidence of successful completion of either a board-approved postgraduate training program within 2 years preceding filing of an application or a board-approved clinical competency examination within the year preceding the filing of an application for licensure.

Allopathic Continuing Medical Education (CME)

Physician licenses are renewed biennially.⁶ Within each biennial licensure renewal period, a physician must complete 40 hours of continuing medical education (CME) courses approved by the allopathic board. As a part of the 40 hours of CME, a licensee must also complete the following:

- A two-hour course regarding domestic violence every third biennial;⁷
- A one-hour course addressing the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome no later than upon the first biennial licensure renewal;⁸ and
- Two hours of CME relating to the prevention of medical errors.⁹

DOH may not renew a license until a licensee complies with all CME requirements.¹⁰ The allopathic board may also take action against a license for failure to comply with CME requirements.

Osteopathic Physician Licensure

Chapter 459, F.S., provides for the licensure and regulation of the practice of medicine by the Florida Board of Osteopathic Medicine (osteopathic board) in conjunction the Department of Health (DOH). The chapter imposes requirements for licensure by examination and licensure by endorsement.

Osteopathic Education and Training Requirements

An individual seeking to be licensed as an osteopathic physician must, among other things:¹¹

- Graduate from a medical college recognized and approved by the American Osteopathic Association;
- Successfully complete a resident internship of at least 12 months in a hospital approved by the Board of Trustees of the American Osteopathic Association or any other internship approved by the osteopathic board; and

⁴ Section 458.311(1), F.S.

⁵ Section 458.313, F.S.

⁶ Rule 64B8-3.003, F.A.C. If a practitioner dispenses medicinal drugs, an additional fee of \$100 must be paid at the time of renewal.

⁷ Section 456.031, F.S.

⁸ Section 456.033, F.S.

⁹ Section 456.013(7), F.S.

¹⁰ Section 456.031, F.S.

¹¹ Section 459.0055(1), F.S.

- Obtain a passing score, as established by rule of the osteopathic board, on the examination conducted by the National Board of Osteopathic Medical Examiners or other examination approved by the osteopathic board, no more than five years prior to applying for licensure.¹²

If an applicant for a license to practice osteopathic medicine is licensed in another state, the applicant must have actively practiced osteopathic medicine within the two years prior to applying for licensure in this state.

Osteopathic CME

Osteopathic physician licenses are renewed biennially. Within each biennial licensure renewal period, an osteopathic physician must complete 40 hours of continuing medical education (CME) courses approved by the osteopathic board. As a part of the 40 hours of CME, a licensee must also complete the following:

- A two-hour course regarding domestic violence every third biennial;¹³
- A one-hour course addressing the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome no later than upon the first biennial licensure renewal;¹⁴
- Two hours of CME relating to the prevention of medical errors;¹⁵
- A one-hour course on profession and medical ethics education; and
- A one-hour course on the federal and state laws related to the prescribing of controlled substances.¹⁶

DOH may not renew a license until a licensee complies with all CME requirements.¹⁷ The osteopathic board may also take action against a license for failure to comply with CME requirements.

Board Certification of Physicians

Medical licensure of physicians sets the minimum competency requirements to diagnose and treat patients; it is not specialty specific.¹⁸ Medical specialty certification is a voluntary process that gives a physician a way to develop and demonstrate expertise in a particular specialty or subspecialty.¹⁹

Board Certification by the Specialty Boards of the ABMS

When a physician or surgeon is board certified by an ABMS specialty board, it means he or she has met the standards²⁰ and requirements for certification in a specialty or subspecialty of one or more of the 24 ABMS Member Boards.²¹

¹² However, if an applicant has been actively licensed in another state, the initial licensure in the other state must have occurred no more than five years after the applicant obtained the passing score on the licensure examination.

¹³ Section 456.031, F.S.

¹⁴ Section 456.033, F.S.

¹⁵ Section 456.013(7), F.S.

¹⁶ Rule 64B15-13.001, F.A.C.

¹⁷ Section 456.031, F.S.

¹⁸ AMERICAN BOARD OF FAMILY MEDICINE, *What does board-certified mean?*, <https://www.theabfm.org/diplomate/certified.aspx> (last visited March 13, 2017).

¹⁹ *Id.*

²⁰ See, AMERICAN BOARD OF MEDICAL SPECIALTIES, *A Trusted Credential*, <http://www.abms.org/board-certification/a-trusted-credential/> (last visited March 12, 2017).

²¹ AMERICAN BOARD OF MEDICAL SPECIALTIES, *Standards for Initial certification*, 2016, available at, <http://www.abms.org/media/119927/abms-standards-for-initial-certification.pdf> (last visited March 12, 2017).

Board Certifications Offered by ABMS Member Boards:²²

Member Board	General Certification(s)	Subspecialty Certification(s)
American Board of Allergy and Immunology	Allergy and Immunology	No Subspecialties
American Board of Anesthesiology	Anesthesiology	Critical Care Medicine Hospice and Palliative Medicine Pain Medicine Pediatric Anesthesiology Sleep Medicine
American Board of Colon and Rectal Surgery	Colon and Rectal Surgery	No Subspecialties
American Board of Dermatology	Dermatology	Dermatopathology Pediatric Dermatology
American Board of Emergency Medicine	Emergency Medicine	Anesthesiology Critical Care Medicine Emergency Medical Services Hospice and Palliative Medicine Internal Medicine-Critical Care Medicine Medical Toxicology Pain Medicine Pediatric Emergency Medicine Sports Medicine Undersea and Hyperbaric Medicine
American Board of Family Medicine	Family Medicine	Adolescent Medicine Geriatric Medicine Hospice and Palliative Medicine Pain Medicine Sleep Medicine Sports Medicine
American Board of Internal Medicine	Internal Medicine	Adolescent Medicine Adult Congenital Heart Disease Advanced Heart Failure and Transplant Cardiology Cardiovascular Disease Clinical Cardiac Electrophysiology Critical Care Medicine Endocrinology, Diabetes and Metabolism Gastroenterology Geriatric Medicine Hematology Hospice and Palliative Medicine Infectious Disease Interventional Cardiology Medical Oncology Nephrology Pulmonary Disease Rheumatology Sleep Medicine Sports Medicine Transplant Hepatology
American Board of Medical Genetics and Genomics	Clinical Biochemical Genetics Clinical Cytogenetics and Genomics Clinical Genetics and Genomics Clinical Molecular Genetics and Genomics	Medical Biochemical Genetics Molecular Genetic Pathology
American Board of Neurological Surgery	Neurological Surgery	No Subspecialties
American Board of Nuclear Medicine	Nuclear Medicine	No Subspecialties

²² AMERICAN BOARD OF MEDICAL SPECIALTIES, *Specialty and Subspecialty Certificates*, <http://www.abms.org/member-boards/specialty-subspecialty-certificates/> (last visited March 12, 2017)

Member Board	General Certification(s)	Subspecialty Certification(s)
American Board of Obstetrics and Gynecology	Obstetrics and Gynecology	Critical Care Medicine Female Pelvic Medicine and Reconstructive Surgery Gynecologic Oncology Hospice and Palliative Medicine Maternal and Fetal Medicine Reproductive Endocrinology/Infertility
American Board of Ophthalmology	Ophthalmology	No Subspecialties
American Board of Orthopaedic Surgery	Orthopaedic Surgery	Orthopaedic Sports Medicine Surgery of the Hand
American Board of Otolaryngology	Otolaryngology	Neurotology Pediatric Otolaryngology ²³ Plastic Surgery Within the Head and Neck ²⁴ Sleep Medicine
American Board of Pathology	Pathology- Anatomic/Pathology- Clinical Pathology – Anatomic Pathology - Clinical	Blood Banking/Transfusion Medicine Clinical Informatics Cytopathology Dermatopathology Hematopathology Neuropathology Pathology – Chemical Pathology – Forensic Pathology – Medical Microbiology Pathology – Molecular Genetic Pathology – Pediatric
American Board of Pediatrics	Pediatrics	Adolescent Medicine Child Abuse Pediatrics Developmental-Behavioral Pediatrics Hospice and Palliative Medicine Medical Toxicology Neonatal-Perinatal Medicine Pediatric Cardiology Pediatric Critical Care Medicine Pediatric Emergency Medicine Pediatric Endocrinology Pediatric Gastroenterology Pediatric Hematology-Oncology Pediatric Hospital Medicine ²⁵ Pediatric Infectious Diseases Pediatric Nephrology Pediatric Pulmonology Pediatric Rheumatology Pediatric Transplant Hepatology Sleep Medicine Sports Medicine
American Board of Physical Medicine and Rehabilitation	Physical Medicine and Rehabilitation	Brain Injury Medicine Hospice and Palliative Medicine Neuromuscular Medicine Pain Medicine Pediatric Rehabilitation Medicine Spinal Cord Injury Medicine Sports Medicine
American Board of Plastic Surgery	Plastic Surgery	Plastic Surgery Within the Head and Neck ²⁶ Surgery of the Hand
American Board of Preventive Medicine	Aerospace Medicine Occupational Medicine Public Health and General Preventive Medicine	Addiction Medicine ²⁷ Clinical Informatics Medical Toxicology Undersea and Hyperbaric Medicine

²³ Subspecialty has been approved by the American Board of Otolaryngology but not yet issued.

²⁴ Id.

²⁵ Subspecialty has been approved by the American Board of Pediatrics, but not yet issued.

²⁶ Subspecialty has been approved by the American Board of Plastic Surgery, but not yet issued.

²⁷ Subspecialty has been approved by the American Board of Preventative Medicine, but not yet issued.

Member Board	General Certification(s)	Subspecialty Certification(s)
American Board of Psychiatry and Neurology	Psychiatry Neurology Neurology with Special Qualification in Child Neurology	Addiction Psychiatry Brain Injury Medicine Child and Adolescent Psychiatry Clinical Neurophysiology Epilepsy Forensic Psychiatry Geriatric Psychiatry Hospice and Palliative Medicine Neurodevelopmental Disabilities Neuromuscular Medicine Pain Medicine Psychosomatic Medicine Sleep Medicine Vascular Neurology
American Board of Radiology	Diagnostic Radiology Interventional Radiology and Diagnostic Radiology Radiation Oncology Medical Physics	Hospice and Palliative Medicine Neuroradiology Nuclear Radiology Pain Medicine ²⁸ Pediatric Radiology Vascular and Interventional Radiology
American Board of Surgery	Surgery Vascular Surgery	Complex General Surgical Oncology Hospice and Palliative Medicine Pediatric Surgery Surgery of the Hand Surgical Critical Care
American Board of Thoracic Surgery	Thoracic and Cardiac Surgery	Congenital Cardiac Surgery
American Board of Urology	Urology	Female Pelvic Medicine and Reconstructive Surgery Pediatric Urology

Initial certification

Initial certification occurs soon after completion of residency training.²⁹ To receive initial board certification in a specialty from one of the ABMS boards, the physician must first:

- Finish four years of premedical education in a college or university;
- Earn a medical degree (MD, DO or other credential approved by an ABMS Member Board) from a qualified medical school;
- Complete three to five years of full-time experience in a residency training program accredited by the ACGME;
- Provide letters of attestation from their program director and/or faculty;
- Obtain an unrestricted medical license to practice medicine in the United States or Canada; and
- Pass a written and, in some cases, an oral examination created and administered by an ABMS Member Board.³⁰

The standards for initial certification consist of four general standards:

- Each ABMS Member Board's Standards for Initial certification will incorporate all six ABMS/ACGME Core Competencies:
 - Practice-Based Learning and Improvement;³¹
 - Patient Care and Procedural Skills;³²

²⁸ Subspecialty has been approved by the American Board of Radiology, but not yet issued.

²⁹ AMERICAN BOARD OF MEDICAL SPECIALTIES, *ABMS Guide to Medical Specialties*, 2017, p. 7, available at http://www.abms.org/media/114634/guide-to-medicalspecialties_04_2016.pdf (last visited March 12, 2017).

³⁰ AMERICAN BOARD OF MEDICAL SPECIALTIES, *Steps Toward Initial certification and MOC*, <http://www.abms.org/board-certification/steps-toward-initial-certification-and-moc/> (last visited March 12, 2017).

³¹ *Supra*, note 21 at 3. This refers to the candidate's ability to investigate and evaluate patient care practices, appraise and assimilate scientific evidence, and improve the candidate's own practice of medicine, the collaborative practice of medicine, or both.

- Systems-based Practice;³³
- Medical Knowledge;³⁴
- Interpersonal and Communication Skills;³⁵ and
- Professionalism;³⁶
- The Member Board and the training programs in a specialty have a shared responsibility for assessing a candidate's suitability for certification;
- Each ABMS Member Board will determine criteria for eligibility, including the expiration date for the "Board Eligible" period;³⁷ and
- Each ABMS Member Board will work to maintain the value of Initial certification to the Public and profession through systematic efforts to evaluate and improve the initial certification program to reflect advances in medical practice and assessment methodology.³⁸

The standards for initial certification also includes standards that address professionalism;³⁹ education and training;⁴⁰ and assessment of knowledge, judgment, and skills.⁴¹

Candidates for certification must pass an exam created and administered by the relevant Member Board.⁴² Candidates who have passed the exam and completed all other requirements are considered certified as a specialist and a diplomate of their specialty board.⁴³

Subspecialty Board Certification

A similar eligibility process to the initial certification is followed for certified specialists seeking subspecialty certification. In order to obtain a subspecialty board certification, the physician must have an initial certification in the overarching specialty from the ABMS Member Board.⁴⁴ Subspecialty board certification involves additional training or completion of a fellowship program and passing an exam given by the ABMS Member Board.⁴⁵

³² Id. This refers to the candidate's use of clinical skills and ability to provide care and promote health in an appropriate manner that incorporates evidence-based medical practice, demonstrates good clinical judgment, and fosters patient-centered decision-making.

³³ Id. This refers to the candidate's awareness of, and responsibility to, population health and systems of health care. The candidate should be able to use system resources responsibly in providing patient care (e.g., good resource stewardship, coordination of care).

³⁴ Id. This refers to the candidate's demonstration of knowledge about established and evolving biomedical, clinical, and cognate sciences, as well as the application of these sciences in patient care.

³⁵ Id. This refers to the candidate's demonstration of skills that result in effective information exchange and partnering with patients, their families, and professional associates (e.g., fostering a therapeutic relationship that is ethically sound; using effective listening skills with nonverbal and verbal communication; being mindful of health literacy; and working effectively in a team both as a team member and as a team leader).

³⁶ Id. This refers to the candidate's demonstration of a commitment to carrying out professional responsibilities; adhering to ethical principles; applying the skills and values to deliver compassionate, patient-centered care; demonstrating humanism; being sensitive to diverse patient populations and workforce; and practicing wellness and self-care.

³⁷ Id. at 4. "Board Eligibility" only applies to the period of time between a physician's completion of training and achievement of Initial certification in a specialty. The expiration date must be no fewer than three and no more than seven years following the successful completion of accredited training, and in accordance with the corresponding Member Board requirements, plus time (if any) in practice required by the Member Board for admission to the certifying examination.

³⁸ Id.

³⁹ Id. at 5. Each ABMS Member Board identifies and conveys its professionalism expectations to its candidates for Initial certification and has a process in place to consider the circumstances of an action taken against a candidate's license by a state medical board or other determination of unprofessional conduct by an appropriate authority and to respond appropriately.

⁴⁰ Id. Each ABMS Member Board establishes requirements for training and documents that candidates have met these requirements prior to awarding initial general or subspecialty certification. ABMS Member Boards' training requirements address duration and quality of education and training by specifically requiring the total training time for general certification be a minimum of three years, training for subspecialty certification be a minimum of one year, and training programs be accredited by the ACGME. Member Boards may choose to recognize alternate pathways to Initial certification for candidates who have not completed residency training programs accredited by the ACGME.

⁴¹ Id. at 6-7. Initial certification by an ABMS Member Board is intended to provide patients, health care organizations, and the profession with a dependable mechanism for identifying specialists who have met standards for the specialty. Examination procedures should reflect accepted educational standards for test design, development, administration, reliability, validity, fidelity, scoring, and reporting.

⁴² *Supra*, note 29 at p. 7.

⁴³ Id.

⁴⁴ Id. at 11.

⁴⁵ Id.

Maintenance of Certification (MOC)

Once Board Certified, physicians maintain their certification by participating in a professional development program called the ABMS Program for MOC.⁴⁶ The MOC program provides physicians a structured approach for enhancing patient care and improving patient outcomes through focused assessment and improvement activities. The ABMS Program for MOC involves ongoing measurement of six core competencies defined by ABMS and ACGME:

- **Practice-based Learning and Improvement:** The board certified physician must demonstrate an ability to investigate and evaluate patient care practices, appraise and assimilate scientific evidence, and improve the practice of medicine.
- **Patient Care and Procedural Skills:** The board certified physician must provide care that is compassionate, appropriate, and effective treatment.
- **Systems-based Practice:** The board certified physician must demonstrate awareness of and responsibility to the larger context and systems of health care.
- **Medical Knowledge:** The board certified physician must demonstrate knowledge about established and evolving biomedical, clinical, and cognate sciences and their application in patient care.
- **Interpersonal and Communication Skills:** The board certified physician must demonstrate skills that result in effective information exchange and teaming with patients, their families and professional associates.
- **Professionalism:** The board certified physician must demonstrate a commitment to carrying out professional responsibilities, adherence to ethical principles and sensitivity to diverse patient populations.⁴⁷

These competencies, which are the same ones used in the ACGME's Next Accreditation System, are measured in the ABMS Program for MOC within a four-part framework:

- **Professionalism and Professional Standing.** The physician must behave in a professional manner, act in the patients' best interest, and hold a valid, unrestricted medical license.
- **Lifelong Learning and Self-Assessment.** The physician must participate in high quality, unbiased educational and self-assessment activities determined by each Member Board.
- **Assessment of Knowledge, Judgment, and Skills.** The physician must pass a written examination and other evaluations.
- **Improvement in Medical Practice.** The physician must engage in ongoing assessment and improvement activities to improve patient outcomes and demonstrate use of evidence and best practices compared to peers and national benchmarks.⁴⁸

All Programs for MOC implemented by the Member Boards measure the same six competencies within the same four-part framework.⁴⁹ While these elements are consistent across all Member Boards, the specific activities used to measure these competencies may vary according to the specialty.⁵⁰

Board Certification by the AOA

The AOA's Department of Certifying Board Services administers board certification for osteopathic physicians in 29 primary specialties and 77 subspecialties.⁵¹

⁴⁶ *Supra*, note 30.

⁴⁷ AMERICAN BOARD OF MEDICAL SPECIALTIES, *Based on Core Competencies*, <http://www.abms.org/board-certification/a-trusted-credential/based-on-core-competencies/> (last visited March 12, 2017).

⁴⁸ AMERICAN BOARD OF MEDICAL SPECIALTIES, *Assessed Through a Four-Part Framework*, <http://www.abms.org/board-certification/a-trusted-credential/assessed-through-a-four-part-framework/> (last visited March 12, 2017).

⁴⁹ *Supra*, note 30.

⁵⁰ *Id.*

⁵¹ AMERICAN OSTEOPATHIC ASSOCIATION, *AOA Specialty Certifying Boards and Conjoint Examination Committees*, <https://www.osteopathic.org/inside-aoa/development/aoa-board-certification/Pages/aoa-specialty-boards.aspx>

Board Certifications Offered by AOA Boards⁵²

Specialty Board	Primary Certification(s)	Subspecialty Certification(s)
American Osteopathic Board of Anesthesiology	Anesthesiology	Critical Care Pain Management Pediatric Anesthesiology
American Osteopathic Board of Dermatology	Dermatology	Dermatopathology MOHS Micrographic Surgery Pediatric Dermatology
American Osteopathic Board of Emergency Medicine	Emergency Medicine	Emergency Medical Services Medical Toxicology Sports Medicine Undersea and Hyperbaric Medicine
American Osteopathic Board of Family Physicians ⁵³	Family Practice and Osteopathic Manipulative Treatment ⁵⁴ Family Practice and Osteopathic Manipulative Treatment with OCC Special Emphasis in Hospital Medicine	Geriatric Medicine Hospice and Palliative Medicine Pain Medicine Sleep Medicine Sports Medicine Undersea and Hyperbaric Medicine
American Osteopathic Board of Internal Medicine	Internal Medicine Internal Medicine with OCC Special Emphasis in Hospital Medicine	Addiction Medicine Adult and Pediatric Allergy and Immunology Clinical Cardiac Electrophysiology Cardiology Correctional Medicine Critical Care Medicine ⁵⁵ Endocrinology Gastroenterology Geriatric Medicine Hematology Hospice and Palliative Medicine Infectious Diseases Interventional Cardiology Nephrology Oncology Pain Medicine Pulmonary Diseases Rheumatology Sleep Medicine Sports Medicine Undersea and Hyperbaric Medicine
American Osteopathic Board of Neurology and Psychiatry	Neurology Psychiatry	Addiction Medicine Child Neurology Child Psychiatry Geriatric Psychiatry Hospice and Palliative Medicine Neurology & Psychiatry* Neurophysiology Pain Medicine Sleep Medicine

⁵² AMERICAN OSTEOPATHIC ASSOCIATION, *AOA Specialties & Subspecialties*, <http://www.osteopathic.org/inside-aoa/development/aoa-board-certification/Pages/specialty-subspecialty-certification.aspx> (last visited March 12, 2017).

⁵³) The American Osteopathic Board of Family Physicians uses the term "Certification of Added Qualifications" to describe a subspecialty certification obtained under its jurisdiction.

⁵⁴ Effective after July 1, 1999, general certification issued from AOBFP will be "Family Practice and Osteopathic Manipulative Treatment." Physicians who have general certification in family practice and whose certificates are dated before July 1, 1999 have the option of requesting reissuance of their certificates with the new nomenclature. In July 2011, the Board of Trustees of the AOA approved a change in the name of general certification in family practice from the American Osteopathic Board of Family Practice (AOBFP) to "Family Medicine and Osteopathic Manipulative Treatment."

⁵⁵ Available to diplomates of other AOA boards.

Specialty Board	Primary Certification(s)	Subspecialty Certification(s)
American Osteopathic Board of Neuromusculoskeletal Medicine	Neuromusculoskeletal Medicine and OMM	Pain Medicine Sports Medicine
American Osteopathic Board of Nuclear Medicine	No longer offered	
American Osteopathic Board of Obstetrics and Gynecology	Obstetrics and Gynecology	Female Pelvic Medicine/ Reconstructive Surgery Gynecologic Oncology Maternal and Fetal Medicine Reproductive Endocrinology
American Osteopathic Board of Ophthalmology and Otolaryngology-HNS	Ophthalmology Otolaryngology and Facial Plastic Surgery	Otolaryngic Allergy Sleep Medicine
American Osteopathic Board of Orthopedic Surgery	Orthopedic Surgery	Hand Surgery
American Osteopathic Board of Pathology	Anatomic Pathology Laboratory Medicine	Dermatopathology Forensic Pathology
American Osteopathic Board of Pediatrics	Pediatrics	Adolescent Medicine Adult and Pediatric Allergy and Immunology Neonatology Pediatric Endocrinology Pediatric Pulmonology* Sports Medicine
American Osteopathic Board of Physical Medicine and Rehabilitation	Physical Medicine and Rehabilitation	Hospice and Palliative Medicine Pain Medicine Sports Medicine
American Osteopathic Board of Preventive Medicine	Preventive Medicine-Aerospace Medicine Preventive Medicine-Occupational/Environmental Medicine Preventive Medicine-Public Health	Correctional Medicine Occupational Medicine ⁵⁶ Sports Medicine* Undersea and Hyperbaric Medicine
American Osteopathic Board of Proctology	Proctology	None offered
American Osteopathic Board of Radiology	Diagnostic Radiology Radiation Oncology	Neuroradiology Pediatric Radiology Vascular and Interventional Radiology
American Osteopathic Board of Surgery	Cardiothoracic Surgery General Vascular Surgery Neurological Surgery Plastic and Reconstructive Surgery Surgery (general)	Surgical Critical Care ⁵⁷

Primary Certification

Primary certification is conferred on diplomates who meet the requirements in a specified field of medical practice under the jurisdiction of a certifying board.⁵⁸ Primary certification represents a distinct

⁵⁶ Available to diplomates of other AOA boards.

⁵⁷ Available to diplomates of other AOA boards.

⁵⁸ AMERICAN OSTEOPATHIC ASSOCIATION, *Definitions of Certifications*, <http://www.osteopathic.org/inside-aoa/development/aoa-board-certification/Pages/certification-definitions.aspx> (last visited March 12, 2017).

and well-defined field of osteopathic medical practice.⁵⁹ Unlike the Member Boards of the AMBS, which are all subject to the same basic criteria for board certification, each of the certifying specialty boards of the AOA have their own eligibility for board certification.

Regardless of specialty board, there are certain requirements that apply to all osteopathic physicians seeking board certification; the physician must

- Be a graduate of an AOA-accredited college of osteopathic medicine;
- Hold an unrestricted license to practice in a state or territory;
- Be a member in good standing of the AOA for a set time prior to the date of certification;
- Have satisfactorily completed residency training in the relevant specialty; and
- Pass written, oral, and clinical examinations.⁶⁰

Subspecialty Certification

Subspecialty certification is conferred by a certifying board in a specific subspecialty area of the field to which that AOA specialty board certifies.⁶¹ A subspecialty certification requires prior attainment of general certification; however, there are certain subspecialty certifications that are considered specialized enough to not require maintenance of the primary board certification after a physician has become subspecialty certified.⁶² Such subspecialty certifications, which require longer than the standard one year of additional training, indicate the possession of knowledge, skill, training and successful examination in a subspecialty field over and above that required for primary certification.⁶³ For example, Cardiology is a limited area within the field of Internal Medicine for which physicians may earn a subspecialty certification that does not require them to maintain their primary certification in Internal Medicine, after they have become subspecialty certified in Cardiology.⁶⁴

Osteopathic Continuous Certification (OCC)

Each specialty certifying board developed OCC requirements implemented as of Jan. 1, 2013.⁶⁵ A physician with a time-limited⁶⁶ board certification is required to participate in the five components of the OCC process to maintain osteopathic board certification.⁶⁷ The five components of OCC are:

- **Active Licensure.** Physicians who are board-certified by the AOA hold a valid, active license to practice medicine in one of the 50 states and must adhere to the AOA's Code of Ethics.
- **Lifelong Learning/Continuing Medical Education.** All recertifying physicians must fulfill a minimum of 120 hours of CME credit during each three-year CME cycle; a minimum of 50 credit hours must be in the specialty area of certification.
- **Cognitive Assessment.** The physician must complete one or more psychometrically valid and proctored examinations that assess a physician's specialty medical knowledge, as well as core competencies in the provision of health care.

⁵⁹ Id.

⁶⁰ See, e.g., AMERICAN OSTEOPATHIC BOARD OF ANESTHESIOLOGY, *Primary Certification in Anesthesiology*, <http://www.aobanes.com/services.html> (last visited March, 12, 2017); AMERICAN OSTEOPATHIC BOARD OF INTERNAL MEDICINE, *Regulations, Requirements and Procedures*, October 2016, available at http://www.aobim.org/WebPageStatic/PDF/IM_Regs_Req_Proced.pdf (last visited March 13, 2017); and American Osteopathic Board of Orthopedic Surgery, 2017 Handbook for Candidates for Board Certification, Feb. 2017, available at <http://www.aobos.org/mm/files/Candidate-Handbook-Master.pdf> (last visited March 13, 2017).

⁶¹ *Supra*, note 58.

⁶² Id.

⁶³ Id.

⁶⁴ Id.

⁶⁵ AMERICAN OSTEOPATHIC ASSOCIATION, *Osteopathic Continuous Certification*, <http://www.osteopathic.org/inside-aoa/development/aoa-board-certification/Pages/osteopathic-continuous-certification.aspx> (last visited March 12, 2017).

⁶⁶ Certificates issued prior to 1993 are not time-limited and therefore are valid for life.

⁶⁷ *Supra*, note 65.

- **Practice Performance Assessment and Improvement.** The physician must engage in continuous quality improvement through comparison of personal practice performance measured against national standards for his or her medical specialty.
- **Continuous AOA Membership.** The physician must maintain membership in good standing through the AOA, and must participate in relevant specialty-specific educational activities.⁶⁸

Credentialing

Credentialing is the process of collecting and verifying a provider's professional qualifications, including academic background, relevant training and experience, licensure, and certification or registration to practice in a particular health care field.⁶⁹ Health plans and insurers use credentialing to determine whether to include a provider in the plan's or insurer's network; that is, to contract with the provider to provide services to enrollees and policyholders. Credentialing is a required element for health plan accreditation by the National Commission for Quality Assurance.⁷⁰ Health plans and insurers may require board-certified physicians to maintain board certification as a condition of participating in the network.

Admitting Privileges

Health care facilities also use the credentialing process to confer admitting privileges. An admitting privilege is the right of a physician to admit patients to a particular hospital, and to provide specific services in that facility.⁷¹ Admitting privileges are different than clinical privileges, which are the privileges granted to a physician or other licensed health care practitioner to render patient care services in a hospital, but which do not include the privilege of admitting patients.⁷²

Board Certification and Florida Licensure

DOH does not license physician by specialty or subspecialty based upon board certification; however, ch. 458 and ch. 459, F.S., limit which physicians may hold themselves out as board-certified specialists. An allopathic physician licensed under ch. 458, F.S., may not hold himself or herself out as a board-certified specialist unless he or she has received formal recognition as a specialist from a specialty board of the American Board of Medical Specialties (ABMS) or other recognizing agency⁷³ approved by the allopathic board.⁷⁴ Additionally, an allopathic physician may not hold himself or herself out as a board-certified specialist in dermatology unless the recognizing agency, whether authorized in statute or by rule, is triennially reviewed and reauthorized by the allopathic board.⁷⁵ Similarly, an osteopathic physician licensed under ch. 459, F.S., may not hold himself or herself out as a board-certified specialist unless he or she has successfully completed the requirements for certification by the American Osteopathic Association (AOA) or the Accreditation Council on Graduate Medical Education (ACGME) and is certified as a specialist by a certifying agency⁷⁶ approved by the board.⁷⁷ These

⁶⁸ Id.

⁶⁹ See, e.g., AETNA, *Health care professionals: Joining the Network FAQs*, <https://www.aetna.com/faqs-health-insurance/health-care-professionals-join-network.html> (last visited Jan. 24, 2016); FLORIDA BLUE, *Manual for Physicians and Providers*, (2015), at 14, available at <https://www.floridablue.com/providers/tools-resources/provider-manual> (last visited March 12, 2017); UNITEDHEALTHCARE, *Physician Credentialing and Recredentialing Frequently Asked Questions*, available at https://www.uhcommunityplan.com/content/dam/communityplan/healthcareprofessionals/providerinformation/KS-Provider-Information/KS_Credentialing_FAQ.pdf (last visited March 12, 2017).

⁷⁰ NCQA, *CR Standards & Guidelines*, <http://www.ncqa.org/tabid/404/Default.aspx> (last visited March 13, 2017).

⁷¹ In order for a physician to be granted privileges, a hospital generally checks the individual's medical credentials, license and malpractice history. Many hospitals also require physicians to admit a minimum number of patients to the hospital each year before they will grant or renew privileges. Others require the doctor to live within a minimum distance of the hospital.

⁷² Section 395.002(5), F.S.

⁷³ The allopathic board has approved the specialty boards of the ABMS as recognizing agencies. Rule 64B8-11.001(1)(f), F.A.C.

⁷⁴ Section 458.3312, F.S.

⁷⁵ Id.

⁷⁶ The osteopathic board has approved the specialty boards of the ABMS and AOA as recognizing agencies. Rule 64B15-14.001(h), F.A.C.

⁷⁷ Section 459.0152, F.S.

limitations on advertising are set out in rule 64B8-11.001, F.A.C. for allopathic physicians and rule 64B15-14.001, F.A.C., for osteopathic physicians

Effect of Proposed Changes

CS/HB 723 creates s. 458.3113, F.S., for allopathic physicians, and s. 459.0056, F.S., for osteopathic physicians, titled “conditions of licensure, reimbursement, employment, or admitting privileges.” The bill prohibits the allopathic board, osteopathic board, DOH, health care facilities licensed under chapter 395, F.S.,⁷⁸ and insurers as defined in s. 624.03, F.S.,⁷⁹ from requiring maintenance of certification or recertification as a condition of licensure, reimbursement, or admitting privileges for a physician who practices medicine and has achieved initial board certification in a subspecialty. The bill does not address specialty board certifications; only subspecialty certifications.

For allopathic physicians, the bill defines maintenance of certification as a periodic testing regimen, proprietary self-assessment requirement, peer evaluation, or other requirement imposed by the maintenance of certification program of the ABMS and its member boards, or by a recognizing agency approved by the allopathic board, for any board-certified specialty or subspecialty.

For allopathic physicians, the bill defines recertification as a subsequent recognition or certification of educational or scholarly achievement beyond initial board certification imposed by the maintenance of certification program of the ABMS and its member boards, or by a recognizing agency approved by the allopathic board, for any board-certified specialty or subspecialty.

For osteopathic physicians, the bill defines osteopathic continuing certification as a periodic testing regimen, proprietary self-assessment requirement, peer evaluation, or other requirement imposed by the osteopathic continuing certification program of the AOA and its specialty boards, or by any recognizing agency approved by the osteopathic board pursuant to rule for any board-certified specialty or subspecialty.

For osteopathic physicians, the bill defines recertification as a subsequent recognition or certification of educational or scholarly achievement beyond initial board certification imposed by the AOA and its specialty boards, or by any recognizing agency approved by the osteopathic board, for any board-certified specialty or subspecialty.

These definitions apply to MOC requirements under the ABMS and OCC requirements under the AOA for maintaining board certification. As a result, the allopathic or osteopathic board, DOH, health care facilities, or insurers cannot penalize a physician whose subspecialty board certification lapses by denying licensure, reimbursement, or admitting privileges.

Because DOH does not license a physician’s specialty or subspecialty based upon board certification, the bill has no impact on licensure if a physician’s board certification for a specialty or subspecialty lapses. However, physicians who let their subspecialty certification lapse will no longer be able to hold themselves out as board certified in that particular subspecialty. The bill allows a physician whose board certification has lapsed to hold himself or herself out as initially board certified.

The bill specifically states that it does not prohibit the board from requiring CME under allopathic and osteopathic board rules. The current CME rules remain in effect for all physicians.

The bill provides an effective date of July 1, 2017.

⁷⁸ These facilities are a hospitals, ambulatory surgical centers, and mobile surgical facilities.

⁷⁹ “Insurer” includes every person engaged as indemnitor, surety, or contractor in the business of entering into contracts of insurance or of annuity. This includes insurance contracts under ch. 627, F.S., prepaid limited health service organizations and discount medical plans under ch. 636, F.S., health maintenance organizations under ch. 641, F.S., and state group health insurance under ch. 110, F.S.

B. SECTION DIRECTORY:

Section 1: Creates s. 458.3113, F.S., relating to conditions of licensure, reimbursement, employment, or admitting privileges.

Section 2: Creates s. 459.0056, F.S., relating to conditions of licensure, reimbursement, employment, or admitting privileges.

Section 3: Amends s. 458.3312, F.S., relating to specialties.

Section 4: Amends s. 459.0152, F.S., relating to specialties.

Section 5: Provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 15, 2017, the Health Quality Subcommittee adopted two amendments to the bill, which:

- For allopathic physicians, revised definitions for “maintenance of certification” and “recertification” to make technical changes and clarify that the provisions apply to both specialty and subspecialty board certifications;
- For osteopathic physicians replaced the definition of “maintenance of certification” with one for “osteopathic continuing certification” to reflect the correct process and revises the definition of “recertification” to clarify that the provisions apply to both specialty and subspecialty board certifications;
- Deleted a bill provision that prohibits employers from conditioning employment on maintaining board certification;
- Allowed physicians who were board-certified in a specialty, but whose board certifications have lapsed, to hold themselves out as initially board certified.

The bill was reported favorably as a committee substitute. The analysis is drafted to the committee substitute.