

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: SB 1354

INTRODUCER: Senators Young and Mayfield

SUBJECT: Maintenance of Certification

DATE: March 31, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Stovall	HP	Pre-meeting
2.	_____	_____	BI	_____
3.	_____	_____	RC	_____

I. Summary:

SB 1354 prohibits the medical board, osteopathic board, the Department of Health (DOH), health care facilities, and insurers from requiring physicians to maintain board certification in a subspecialty as a condition of licensure, reimbursement, employment, or admitting privileges. The bill specifies that this prohibition does not impact the boards' ability to require continuing medical education.

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

II. Present Situation:

Licensure and Regulation of Physicians

The DOH regulates health care practitioners.¹ It works with 22 boards and six councils to license and regulate 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 DOH. Allopathic physicians are regulated by ch. 458, F.S., and Osteopathic Physicians are regulated by ch. 459, F.S.

¹ Section 456.001(4), F.S., defines health care practitioners 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, dieticians, 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*, p 3, available at <http://mqawebteam.com/annualreports/1415/#6> (last visited Mar. 17, 2017).

Allopathic Physician Licensure and Continuing Medical Education (CME)

Chapter 458, F.S., delineates two main paths for a person to obtain an unrestricted Florida license as an allopathic physician: licensure by examination and licensure by endorsement.

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

- Complete certain undergraduate college education courses;
- Meet the medical school education and college postgraduate training requirements; and
- Obtain a passing score on the U.S. Medical Licensing Examination (USMLE) or other approved examinations.³

An individual who holds an active license to practice allopathic medicine in another jurisdiction may seek licensure by endorsement to practice in Florida.⁴ The applicant must meet the same requirements for licensure by examination and submit evidence of his or her 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 the filing of an application, or a board-approved clinical competency examination within the year preceding the filing of an application for licensure.

Allopathic physician licenses are renewed biennially.⁵ Within each biennial licensure renewal period, a physician must complete 40 hours of CME courses approved by the allopathic Board of Medicine (BOM). A licensee must also complete, as a part of the 40 hours of CME, the following:

- A 2-hour course regarding domestic violence every third biennial;⁶
- A 1-hour course addressing the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome before the first biennial renewal;⁷ and
- 2 hours of CME relating to the prevention of medical errors.⁸

The DOH may not renew a license until a licensee complies with all CME requirements.⁹ The BOM may also take action against a license for failure to comply with CME requirements.

Osteopathic Physician Licensure and Continuing Medical Education (CME)

An individual seeking to be licensed in Florida as an osteopathic physician must, among other things:¹⁰

- Graduate from a medical college recognized and approved by the American Osteopathic Association (AOA);

³ Section 458.311(1), F.S.

⁴ Section 458.313, F.S.

⁵ 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.

⁶ Section 456.031, F.S.

⁷ Section 456.033, F.S.

⁸ Section 456.013(7), F.S.

⁹ Section 456.013, F.S.

¹⁰ Section 459.0055(1), F.S.

- Successfully complete an approved resident internship; and
- Obtain a passing score on all parts of the examination conducted by the National Board of Osteopathic Medical Examiners or other examination approved by the osteopathic board, no more than 5 years prior to applying for licensure.¹¹

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 2 years prior to applying for licensure in Florida.

Osteopathic physician licenses are renewed biennially.¹² Each biennial licensure renewal period, an osteopathic physician must complete 40 hours of approved CME courses. As a part of the 40 hours of CME, a licensee must also complete the following:

- A 2-hour course on domestic violence every third biennial;¹³
- A 1-hour course on the Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS) before the first biennial renewal;¹⁴
- 2 hours of CME relating to the prevention of medical errors;¹⁵
- A 1-hour course on professional and medical ethics; and
- A 1-hour course on the federal and state laws on prescribing of controlled substances.¹⁶

The 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.¹⁸

Board Certification of Physicians

Medical licensure of physicians sets the minimum competency requirements to diagnose and treat patients; it is not specialty specific.¹⁹ Medical specialty certification is a voluntary process that gives a physician a way to develop and demonstrate expertise in a particular specialty or subspecialty.²⁰

¹¹ However, if an applicant has been actively licensed in another state, the initial licensure in the other state must have occurred no more than 5 years after the applicant obtained the passing score on the licensure examination. *See* s. 459.055(1)(m), F.S.

¹² Section 459.008, F.S.

¹³ Section 456.013, 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 Section 459.015, F.S.

¹⁹ American Board of Family Medicine, “*What does board-certified mean?*” available at <https://www.theabfm.org/diplomate/certified.aspx>, (last visited Mar. 17, 2017).

²⁰ *Id.*

Board Certification by the American Board of Medical Specialties (ABMS)

When a physician is board certified by an ABMS specialty board, it means he or she has met the standards²¹ and requirements for certification in a specialty or subspecialty of one or more of the 24 ABMS Member Boards.²²

Board Certifications Offered by ABMS Member Boards:²³

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

²¹ See American Board of Medical Specialties, *A Trusted Credential*, available at <http://www.abms.org/board-certification/a-trusted-credential/> (last visited Mar. 17, 2017).

²² 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 Mar. 17, 2017).

²³ American Board of Medical Specialties, *Specialty and Subspecialty Certificates*, available at <http://www.abms.org/member-boards/specialty-subspecialty-certificates/> (last visited Mar. 17, 2017).

Member Board	General Certification(s)	Subspecialty Certification(s)
		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
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

Member Board	General Certification(s)	Subspecialty Certification(s)
American Board of Orthopaedic Surgery	Orthopaedic Surgery	Orthopaedic Sports Medicine Surgery of the Hand
American Board of Otolaryngology	Otolaryngology	Neuroethology Pediatric Otolaryngology ²⁴ Plastic Surgery Within the Head and Neck ²⁵ 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 ²⁶ 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

²⁴ Subspecialty has been approved by the American Board of Otolaryngology, but not yet issued.

²⁵ Id.

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

Member Board	General Certification(s)	Subspecialty Certification(s)
		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 ²⁷ Surgery of the Hand
American Board of Preventive Medicine	Aerospace Medicine Occupational Medicine Public Health and General Preventive Medicine	Addiction Medicine ²⁸ Clinical Informatics Medical Toxicology Undersea and Hyperbaric Medicine
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

Initial Allopathic Board Certification

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

- Finish 4 years of premedical education;
- Earn a medical degree (MD) from an ABMS accredited medical school;
- Complete three to 5 years of a residency program accredited by the ACGME;
- Provide letters of attestation from the program director or faculty;
- Obtain an unrestricted medical license to practice in the U.S. or Canada; and
- Pass a written and an oral examination given by the ABMS Member Board.³⁰

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

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

²⁹ American Board of Medical Specialties, *ABMS Guide to Medical Specialties*, p-7 (2017), available at http://www.abms.org/media/114634/guide-to-medicalspecialties_04_2016.pdf, (last visited Mar. 17, 2017).

³⁰ American Board of Medical Specialties, *Steps Toward Initial Certification and MOC*, available at <http://www.abms.org/board-certification/steps-toward-initial-certification-and-moc/> (last visited Mar. 12, 2017).

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:³¹
 - Practice-Based Learning and Improvement;
 - Patient Care and Procedural Skills;
 - Systems-based Practice;
 - Medical Knowledge;
 - Interpersonal and Communication Skills; and
 - Professionalism;
- The Member Board and programs in a specialty share the responsibility for assessing a candidate's suitability;³²
- Each ABMS Member Board will determine criteria for eligibility and the expiration date for the eligibility period;³³ and
- Each ABMS Member Board will work to maintain high standards in the initial certification program to reflect advances in medicine.³⁴

The standards for initial certification also include standards of professionalism; education and training; and assessment of knowledge, judgment, and skills.³⁵

Candidates who have passed the exam and completed all other requirements are considered certified as a specialist and a diplomat of their specialty board.³⁶

Subspecialty Allopathic Board Certification

A similar eligibility process to the initial board certification is followed for certifying physicians seeking subspecialty certification. In order to obtain a subspecialty board certification, the physician must have an initial certification in the general specialty from the ABMS Member Board.³⁷ Subspecialty board certification requires additional training or the completion of a fellowship program and the passing of another examination given by the ABMS Member Board.³⁸

ABMS Maintenance of Certification (MOC)

Physicians maintain their board certification by participating in a professional development program called the ABMS Program for MOC.³⁹ 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;

³¹ *Supra* note 22, at 3.

³² *Supra* note 22, at 4.

³³ *Id.*

³⁴ *Id.*

³⁵ *Supra* note 22, at 5-7.

³⁶ *Supra* note 22, at 7.

³⁷ *Supra* note 23, at 11.

³⁸ *Id.*

³⁹ *Supra* note 30.

- Patient Care and Procedural Skills;
- Systems-based Practice;
- Medical Knowledge;
- Interpersonal and Communication Skills; and
- Professionalism.⁴⁰

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;
- Lifelong Learning and Self-Assessment;
- Assessment of Knowledge, Judgment, and Skills; and
- Improvement in Medical Practice.⁴¹

All Programs for MOC implemented by the Member Boards measure the same six competencies within the same four-part framework.⁴² While these elements are consistent across all Member Boards, the specific activities used to measure these competencies may vary according to the specialty.⁴³

Initial 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.⁴⁴

Board Certifications Offered by AOA Boards⁴⁵

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

⁴⁰ American Board of Specialties, *Based on Core Competencies*, available at <http://www.abms.org/board-certification/a-trusted-credential/based-on-core-competencies/> (last visited Mar. 17, 2017).

⁴¹ American Board of Medical Specialties, *Assessed Through a Four-Part Framework*, available at <http://www.abms.org/board-certification/a-trusted-credential/assessed-through-a-four-part-framework/> (last visited Mar. 17, 2017).

⁴² *Supra* note 22.

⁴³ *Id.*

⁴⁴ American Osteopathic Association, *AOA Specialty Certified Boards and Conjoint Examination Committees*, available at <https://www.osteopathic.org/inside-aoa/development/aoa-board-certification/Pages/aoa-specialty-boards.aspx> (last visited Mar. 17, 2017).

⁴⁵ American Osteopathic Association, *AOA Specialties & Subspecialties*, available at <http://www.osteopathic.org/inside-aoa/development/aoa-board-certification/Pages/specialty-subspecialty-certification.aspx> (last visited Mar. 17, 2017).

Specialty Board	Primary Certification(s)	Subspecialty Certification(s)
		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 ⁴⁶	Family Practice and Osteopathic Manipulative Treatment ⁴⁷ 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 ⁴⁸ Endocrinology Gastroenterology Geriatric Medicine Hematology Hospice and Palliative Medicine Infectious Diseases Interventional Cardiology

⁴⁶) The AOA Board of Family Physicians uses the term “Certification of Added Qualifications” to describe a subspecialty certification obtained under its jurisdiction.

⁴⁷ 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*.

⁴⁸ Available to diplomats of other AOA boards.

Specialty Board	Primary Certification(s)	Subspecialty Certification(s)
		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
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

Specialty Board	Primary Certification(s)	Subspecialty Certification(s)
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 ⁴⁹ 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 ⁵⁰

⁴⁹ Id.

⁵⁰ Id.

Primary Board Certification

Primary board certification is conferred on diplomats who meet the requirements in a specified field of medical practice under the jurisdiction of a certifying board.⁵¹ Primary certification represents a distinct and well-defined field of osteopathic medical practice.⁵² 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 physicians seeking certification 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.⁵³

Osteopathic Subspecialty Certification

Osteopathic subspecialty certification is conferred by a certifying board in a specific subspecialty area.⁵⁴ 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.⁵⁵ Such subspecialty certifications, which require longer than the standard 1 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.⁵⁶ 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.⁵⁷

Osteopathic Continuous Certification (OCC)

Each specialty certifying board developed OCC requirements implemented as of January 1, 2013.⁵⁸ A physician with a time-limited⁵⁹ board certification is required to participate in the five

⁵¹ American Osteopathic Association, *Definitions of Certifications*, available at <http://www.osteopathic.org/inside-aoa/development/aoa-board-certification/Pages/certification-definitions.aspx>, (last visited Mar. 19, 2017).

⁵² *Id.*

⁵³ See American Osteopathic Board of Anesthesiology, *Primary Certification in Anesthesiology*, available at <http://www.aobanes.com/services.html>, (last visited Mar. 19, 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 Mar. 19, 2017); and American Osteopathic Board of Orthopedic Surgery 2017, *Handbook for Candidates for Board Certification* (February 2017), available at <http://www.aobos.org/mm/files/Candidate-Handbook-Master.pdf> (last visited Mar. 19, 2017).

⁵⁴ *Id.*

⁵⁵ *Supra* note 51.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ American Osteopathic Association, *Osteopathic Continuous Certification*, available at <http://www.osteopathic.org/inside-aoa/development/aoa-board-certification/Pages/osteopathic-continuous-certification.aspx> (last visited Mar. 19, 2017).

⁵⁹ Certificates issued prior to 1993 are not time-limited and therefore are valid for life.

components of the OCC process to maintain osteopathic board certification.⁶⁰ The five components of OCC are:

- Active Licensure;
- Lifelong Learning/Continuing Medical Education;
- Cognitive Assessment;
- Practice Performance Assessment and Improvement; and
- Continuous AOA Membership, including participation in relevant specialty-specific educational activities.⁶¹

Credentialing of Physicians by Health Plans and Insurers

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.⁶² 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.⁶³ Health plans and insurers may require board-certified physicians to maintain board certification as a condition of participating in the network.⁶⁴

Admitting Privileges Credentialing

Health care facilities, hospitals and ambulatory surgical centers, 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.⁶⁵ Admitting privileges are different from 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.⁶⁶

Board Certification and Florida Licensure

The DOH does not license physicians by specialty or subspecialty based upon board certification; however, ch. 458, F.S., and ch. 459, F.S., limit which physicians may hold

⁶⁰ *Supra* note 58.

⁶¹ *Id.*

⁶² See Aetna, *Health care professionals: Joining the Network FAQs*, available at <https://www.aetna.com/faqs-health-insurance/health-care-professionals-join-network.html>, (last visited March 19, 2017); Florida Blue, *Manual for Physicians and Providers* (2017), available at <https://www.floridablue.com/providers/tools-resources/provider-manual> (last visited Mar. 12, 2017); United Health Care, *Physician Credentialing and Recredentialing Frequently Asked Questions*, available at https://www.uhccommunityplan.com/content/dam/communityplan/healthcareprofessionals/providerinformation/KS-Provider-Information/KS-Credentialing_FAQ.pdf, (last visited Mar. 19, 2017).

⁶³ NCQA, *CR Standards & Guidelines*, available at <http://www.ncqa.org/tabid/404/Default.aspx> (last visited Mar. 19, 2017).

⁶⁴ See Aetna, *Health care professionals: Joining the Network FAQs*, available at <https://www.aetna.com/faqs-health-insurance/health-care-professionals-join-network.html>, (last visited Mar. 19, 2017)

⁶⁵ 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.

⁶⁶ Section 395.002(5), F.S.

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 the ABMS or other recognizing agency⁶⁷ approved by the BOM.⁶⁸ 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 BOM.⁶⁹

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 AOA or the ACGME and is certified as a specialist by a certifying agency⁷⁰ approved by the board.⁷¹ The limitations on advertising are set out in Rules 64B8-11.001 and 64B15-14.001 of the Florida Administrative Code, for allopathic and osteopathic physicians, respectively.

III. Effect of Proposed Changes:

SB 1354 creates s. 458.3113, F.S., for allopathic physicians, and s. 459.0056, F.S., for osteopathic physicians, entitled, *Conditions of licensure, reimbursement, employment, or admitting privileges*. The bill prohibits the allopathic board, osteopathic board, DOH, health care facilities⁷² and insurers⁷³ from requiring maintenance of certification or recertification in a medical subspecialty as a condition of licensure, reimbursement, employment, or admitting privileges for a physician who practices medicine and has achieved initial board certification in the subspecialty. The bill does not address specialty board certifications, only subspecialty board certifications.

The bill defines “maintenance of certification” as a periodic testing regimen, proprietary self-assessment requirement, peer evaluation, or other requirement imposed by a recognizing agency approved by the allopathic or osteopathic board.

The bill defines “recertification” as a subsequent recognition or certification of educational or scholarly achievement beyond initial board certification in a subspecialty by a recognizing agency approved by the allopathic or osteopathic board.

These definitions would 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, the DOH, health care facilities, and insurers cannot penalize a physician whose subspecialty board certification lapses by denying him or her licensure, reimbursement, employment, or admitting privileges. This bill may have an effect on the contracts between

⁶⁷ The allopathic board has approved the specialty boards of the ABMS as recognizing agencies. See Rule 64B8-11.001(1)(f), F.A.C.

⁶⁸ Section 458.3312, F.S.

⁶⁹ Id.

⁷⁰ The osteopathic board has approved the specialty boards of the ABMS and AOA as recognizing agencies. See Rule 64B15-14.001(h), F.A.C.

⁷¹ Section 459.0152, F.S.

⁷² The bill refers to health care facilities licensed under ch. 395, F.S. These include hospitals and ambulatory surgical centers.

⁷³ The bill refers to insurers as defined in s. 624.03, F.S., which defines the term to include every person engaged as an indemnitor, surety, or contractor in the business of entering into contracts of insurance or of annuity.

physicians, hospitals, health care facilities and insurers. In addition, the bill may have an effect on health plan accreditation by the National Commission for Quality Assurance.

The bill would have no impact on a physician's license were he or she to allow his or her subspecialty board certification to lapse. The DOH does not license physicians by specialty or subspecialty board certification. 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 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.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 1354 may have an impact on the right to negotiate contract between physicians, hospitals, health care facilities, insurers and health plans.

The bill may also have an impact on public safety. Practitioners certified in subspecialties, such as cardiology, who are not required to maintain their primary certification as a condition of subspecialty certification, could not be denied admitting privileges to practice cardiology if their subspecialty certification lapsed. Health care facilities, hospitals, and insurers would be unable to assure the public that those they had granted admitting privileges to, or had authorized under their plans, were properly vetted and qualified.

C. **Government Sector Impact:**

The impacts identified for the private sector also apply to state and federally funded programs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill refers to continuing medical education requirements pursuant to two rules in the Florida Administrative Code. Specifically identifying the rules in statute has the effect of freezing the provisions in those rules as they exist on the effective date of the bill.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 458.3113 and 459.0056.

IX. Additional Information:

A. **Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

None.