

ACCESS TO PATIENT MEDICAL RECORDS

2005 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Patrice M. Arent

House Sponsor: Rebecca D. Lockhart

LONG TITLE

General Description:

This bill amends the Utah Medical Practices Act and the Osteopathic Medical Practice Act to require the appointment of a contact person for access to medical records in compliance with federal law and as a condition of licensure and license renewal.

Highlighted Provisions:

This bill:

- ▶ requires an applicant for license under the Medical Practices Act and the Osteopathic Medical Practice Act to appoint a contact person for access to medical records in accordance with HIPAA and an alternate contact person for access to medical records;
- ▶ requires an applicant for renewal of a license to appoint a contact person for access to medical records and an alternate contact person;
- ▶ requires solo-practitioners to provide a method of notifying patients of the identity of the contact person and alternate contact person for access to medical records; and
- ▶ requires a licensee who is renewing a license to certify to the division that the licensee is in compliance with the requirement to appoint a contact person and alternate contact person for access to medical records.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-67-302, as last amended by Chapter 327, Laws of Utah 1999

58-67-303, as last amended by Chapter 268, Laws of Utah 2001

58-67-304, as last amended by Chapter 268, Laws of Utah 2001

58-68-302, as enacted by Chapter 248, Laws of Utah 1996

58-68-303, as last amended by Chapter 268, Laws of Utah 2001

58-68-304, as last amended by Chapter 268, Laws of Utah 2001

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **58-67-302** is amended to read:

58-67-302. Qualifications for licensure.

(1) An applicant for licensure as a physician and surgeon, except as set forth in Subsection (2), shall:

- (a) submit an application in a form prescribed by the division, which may include:
 - (i) submissions by the applicant of information maintained by practitioner data banks, as designated by division rule, with respect to the applicant; and
 - (ii) a record of professional liability claims made against the applicant and settlements paid by or on behalf of the applicant;
- (b) pay a fee determined by the department under Section 63-38-3.2;
- (c) be of good moral character;
- (d) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a physician and surgeon, as evidenced by having received an earned degree of doctor of medicine from:
 - (i) an LCME accredited medical school or college; or
 - (ii) a medical school or college located outside of the United States or its jurisdictions which at the time of the applicant's graduation, met criteria for LCME accreditation;
- (e) hold a current certification by the Educational Commission for Foreign Medical Graduates or any successor organization approved by the division in collaboration with the

board, if the applicant graduated from a medical school or college located outside of the United States or its jurisdictions;

(f) satisfy the division and board that the applicant:

(i) has successfully completed 24 months of progressive resident training in a program approved by the ACGME, the Royal College of Physicians and Surgeons, the College of Family Physicians of Canada, or any similar body in the United States or Canada approved by the division in collaboration with the board; or

(ii) (A) has successfully completed 12 months of resident training in an ACGME approved program after receiving a degree of doctor of medicine as required under Subsection (1)(d);

(B) has been accepted in and is successfully participating in progressive resident training in an ACGME approved program within Utah, in the applicant's second or third year of postgraduate training; and

(C) has agreed to surrender to the division his license as a physician and surgeon without any proceedings under Title 63, Chapter 46b, Administrative Procedures Act, and has agreed his license as a physician and surgeon will be automatically revoked by the division if the applicant fails to continue in good standing in an ACGME approved progressive resident training program within the state;

(g) pass the licensing examination sequence required by division rule made in collaboration with the board;

(h) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board; ~~and~~

(i) meet with the board and representatives of the division, if requested, for the purpose of evaluating the applicant's qualifications for licensure[-];

(j) designate:

(i) a contact person for access to medical records in accordance with the federal Health Insurance Portability and Accountability Act; and

(ii) an alternate contact person for access to medical records, in the event the original

contact person is unable or unwilling to serve as the contact person for access to medical records;
and

(k) establish a method for notifying patients of the identity and location of the contact person and alternate contact person, if the applicant will practice in a location with no other persons licensed under this chapter.

(2) An applicant for licensure as a physician and surgeon by endorsement shall:

(a) be currently licensed with a full unrestricted license in good standing in any state, district, or territory of the United States;

(b) have been actively engaged in the legal practice of medicine in any state, district, or territory of the United States for not less than 6,000 hours during the five years immediately preceding the date of application for licensure in Utah;

(c) not have any action pending against the applicant's license; and

(d) produce satisfactory evidence of the applicant's qualifications, identity, and good standing to the satisfaction of the division in collaboration with the board.

Section 2. Section **58-67-303** is amended to read:

58-67-303. Term of license -- Expiration -- Renewal.

(1) (a) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by division rule.

(b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(2) At the time of renewal, the licensee shall show compliance with:

(a) continuing education renewal requirements[-]; and

(b) the requirement for designation of a contact person and alternate contact person for access to medical records and notice to patients as required by Subsections 58-67-304(1)(b) and (c).

(3) Each license issued under this chapter expires on the expiration date shown on the license unless renewed in accordance with Section 58-1-308.

Section 3. Section **58-67-304** is amended to read:

58-67-304. License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule[-];

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule made in collaboration with the board[-];

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-67-302(1)(j); and

(c) if the licensee practices medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for the licensee.

(2) If a renewal period is extended or shortened under Section 58-67-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

Section 4. Section **58-68-302** is amended to read:

58-68-302. Qualifications for licensure.

(1) An applicant for licensure as an osteopathic physician and surgeon, except as set forth in Subsection (2) or (3), shall:

(a) submit an application in a form prescribed by the division, which may include:

(i) submissions by the applicant of information maintained by practitioner data banks, as designated by division rule, with respect to the applicant; and

(ii) a record of professional liability claims made against the applicant and settlements paid by or on behalf of the applicant;

(b) pay a fee determined by the department under Section 63-38-3.2;

(c) be of good moral character;

(d) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as an osteopathic physician and surgeon, as evidenced by having received an earned degree of doctor of osteopathic medicine from:

(i) an AOA approved medical school or college; or
(ii) an osteopathic medical school or college located outside of the United States or its jurisdictions which at the time of the applicant's graduation, met criteria for accreditation by the AOA;

(e) hold a current certification by the Educational Commission for Foreign Medical Graduates or any successor organization approved by the division in collaboration with the board, if the applicant graduated from a medical school or college located outside of the United States or its jurisdictions;

(f) satisfy the division and board that the applicant:

(i) has successfully completed 24 months of progressive resident training in an ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine required under Subsection (1)(d); or

(ii) (A) has successfully completed 12 months of resident training in an ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine as required under Subsection (1)(d);

(B) has been accepted in and is successfully participating in progressive resident training in an ACGME or AOA approved program within Utah, in the applicant's second or third year of postgraduate training; and

(C) has agreed to surrender to the division his license as an osteopathic physician and surgeon without any proceedings under Title 63, Chapter 46b, Administrative Procedures Act, and has agreed his license as an osteopathic physician and surgeon will be automatically revoked by the division if the applicant fails to continue in good standing in an ACGME or AOA approved progressive resident training program within the state;

(g) pass the licensing examination sequence required by division rule, as made in collaboration with the board;

(h) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board, if requested by the board; [~~and~~]

(i) meet with the board and representatives of the division, if requested for the purpose of

evaluating the applicant's qualifications for licensure[-];

(j) designate:

(i) a contact person for access to medical records in accordance with the federal Health Insurance Portability and Accountability Act; and

(ii) an alternate contact person for access to medical records, in the event the original contact person is unable or unwilling to serve as the contact person; and

(k) establish a method for notifying patients of the identity and location of the contact person and alternate contact person, if the applicant will practice in a location with no other persons licensed under this chapter.

(2) An applicant for licensure as an osteopathic physician and surgeon qualifying under the endorsement provision of Section 58-1-302 shall:

(a) be currently licensed in good standing in another jurisdiction as set forth in Section 58-1-302;

(b) (i) document having met all requirements for licensure under Subsection (1) except, if an applicant received licensure in another state or jurisdiction based upon only 12 months residency training after graduation from medical school, the applicant may qualify for licensure in Utah by endorsement only if licensed in the other state prior to July 1, 1996; or

(ii) document having obtained licensure in another state or jurisdiction whose licensure requirements were at the time of obtaining licensure equal to licensure requirements at that time in Utah;

(c) have passed the SPEX examination within 12 months preceding the date of application for licensure in Utah if the date on which the applicant passed qualifying examinations for licensure is greater than five years prior to the date of the application for licensure in Utah, or meet medical specialty certification requirements which may be established by division rule made in collaboration with the board;

(d) have been actively engaged in the practice as an osteopathic physician and surgeon for not less than 6,000 hours during the five years immediately preceding the date of application for licensure in Utah; and

(e) meet with the board and representatives of the division, if requested for the purpose of evaluating the applicant's qualifications for licensure.

(3) An applicant for licensure as an osteopathic physician and surgeon, who has been licensed as an osteopathic physician in Utah, who has allowed his license in Utah to expire for nonpayment of license fees, and who is currently licensed in good standing in another state or jurisdiction of the United States shall:

- (a) submit an application in a form prescribed by the division;
- (b) pay a fee determined by the department under Section 63-38-3.2;
- (c) be of good moral character;

(d) have passed the SPEX examination within 12 months preceding the date of application for licensure in Utah if the date on which the applicant passed qualifying examinations for licensure is greater than five years prior to the date of the application for licensure in Utah;

(e) have been actively engaged in the practice as an osteopathic physician for not fewer than 6,000 hours during the five years immediately preceding the date of application for licensure; and

(f) meet with the board and representatives of the division, if requested for the purpose of evaluating the applicant's qualifications for licensure.

Section 5. Section **58-68-303** is amended to read:

58-68-303. Term of license -- Expiration -- Renewal.

(1) (a) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by division rule.

(b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(2) At the time of renewal, the licensee shall show compliance with:

(a) continuing education renewal requirements[-]; and

(b) the requirement for designation of a contact person and alternate contact person for access to medical records and notice to patients as required by Subsections 58-68-304(1)(b) and

(c).

(3) Each license issued under this chapter expires on the expiration date shown on the license unless renewed in accordance with Section 58-1-308.

Section 6. Section **58-68-304** is amended to read:

58-68-304. License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule[7];

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule in collaboration with the board[-];

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-68-302(1)(j); and

(c) if the licensee practices osteopathic medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for access to medical records for the licensee in accordance with Subsection 58-68-302(1)(k).

(2) If a renewal period is extended or shortened under Section 58-68-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.