

**Senator Stephen H. Urquhart** proposes the following substitute bill:

**LICENSING OF PHYSICIAN-EDUCATORS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen H. Urquhart**

House Sponsor: Bradley G. Last

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**LONG TITLE**

**General Description:**

This bill modifies the Utah Medical Practice Act in relation to licensing of physician-educators.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides for issuance of a temporary license for a foreign-educated physician who has been invited to serve as a faculty member at a Utah medical school;
- ▶ establishes requirements for a foreign-educated physician who has held a temporary license for at least five years to apply for a permanent license;
- ▶ authorizes the division to revoke a license described in this bill for a material misrepresentation or unlawful or unprofessional conduct; and
- ▶ makes technical corrections.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**



26 AMENDS:

27 **58-67-303**, as last amended by Laws of Utah 2005, Chapter 94

28 **58-67-502**, as enacted by Laws of Utah 1996, Chapter 248

29 ENACTS:

30 **58-67-302.7**, Utah Code Annotated 1953

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

33 Section 1. Section **58-67-302.7** is enacted to read:

34 **58-67-302.7. Licensing of physician-educators.**

35 (1) As used in this section:

36 (a) "Foreign country" means a country other than the United States, its territories, or  
37 Canada.

38 (b) "Foreign medical school" means a medical school that is outside the United States,  
39 its territories, and Canada.

40 (2) Notwithstanding any provision of law to the contrary, an individual may receive a  
41 type I foreign teaching license if the individual:

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

43 (i) submission by the applicant of information maintained in a practitioner data bank,  
44 as designated by division rule, with respect to the applicant;

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

47 (iii) the applicant's curriculum vitae;

48 (b) is a graduate of a foreign medical school that is accepted for certification by the  
49 Educational Commission for Foreign Medical Graduates;

50 (c) is licensed in good standing in a foreign country, the United States, its territories, or  
51 Canada;

52 (d) does not have an investigation or action pending against the physician's healthcare  
53 license, does not have a healthcare license that was suspended or revoked, and has not  
54 surrendered a healthcare license in lieu of disciplinary action, unless:

55 (i) the license was subsequently reinstated in good standing; or

56 (ii) the division in collaboration with the board determines to its satisfaction, after full

57 disclosure by the applicant and full consideration by the division in collaboration with the  
58 board, that:

59 (A) the conduct has been corrected, monitored, and resolved; or

60 (B) a mitigating circumstance exists that prevents resolution, and the division in  
61 collaboration with the board is satisfied that but for the mitigating circumstance, the license  
62 would be reinstated;

63 (e) submits documentation of legal status to work in the United States;

64 (f) meets at least three of the following qualifications:

65 (i) (A) published original results of clinical research, within 10 years before the day on  
66 which the application is submitted, in a medical journal listed in the Index Medicus or an  
67 equivalent scholarly publication; and

68 (B) submits the publication to the Board in English or in a foreign language with a  
69 verifiable, certified English translation;

70 (ii) held an appointment at a medical school approved by the LCME or at any medical  
71 school listed in the World Health Organization directory at the level of associate or full  
72 professor, or its equivalent, for at least five years;

73 (iii) (A) developed a treatment modality, surgical technique, or other verified original  
74 contribution to the field of medicine within 10 years before the day on which the application is  
75 submitted; and

76 (B) has the treatment modality, surgical technique, or other verified original  
77 contribution attested to by the dean of an LCME accredited school of medicine in Utah;

78 (iv) actively practiced medicine cumulatively for 10 years; or

79 (v) is board certified in good standing of a board of the American Board of Medical  
80 Specialities or equivalent specialty board;

81 (g) is of good moral character;

82 (h) is able to read, write, speak, understand, and be understood in the English language  
83 and demonstrates proficiency to the satisfaction of the division in collaboration with the board,  
84 if requested;

85 (i) is invited by an LCME accredited medical school in Utah to serve as a full-time  
86 member of the medical school's academic faculty, as evidenced by written certification from:

87 (i) the dean of the medical school, stating that the applicant has been appointed to a

88 full-time faculty position, that because the applicant has unique expertise in a specific field of  
89 medicine the medical school considers the applicant to be a valuable member of the faculty,  
90 and that the applicant is qualified by knowledge, skill, and ability to practice medicine in the  
91 state; and

92 (i) the head of the department to which the applicant is to be appointed, stating that the  
93 applicant will be under the direction of the head of the department and will be permitted to  
94 practice medicine only as a necessary part of the applicant's duties, providing detailed evidence  
95 of the applicant's qualifications and competence, including the nature and location of the  
96 applicant's proposed responsibilities, reasons for any limitations of the applicant's practice  
97 responsibilities, and the degree of supervision, if any, under which the applicant will function;

98 (j) pays a licensing fee set by the division under Section 63J-1-504; and

99 (k) has practiced medicine for at least 10 years as an attending physician.

100 (3) Notwithstanding any provision of law to the contrary, an individual may receive a  
101 type II foreign teaching license if the individual:

102 (a) satisfies the requirements of Subsections 2(a) through (e) and (g) through (j);

103 (b) has delivered clinical care to patients cumulatively for five years after graduation  
104 from medical school; and

105 (c) (i) will be completing a clinical fellowship while employed at the medical school  
106 described in Subsection (2)(i); or

107 (ii) has already completed a medical residency accredited by the Royal College of  
108 Physicians and Surgeons of Canada, the United Kingdom, Australia, or New Zealand, or a  
109 comparable accreditation organization as determined by the division in collaboration with the  
110 board.

111 (4) After an initial term of one year, a type I license may be renewed for periods of two  
112 years if the licensee continues to satisfy the requirements described in Subsection (2) and  
113 completes the division's continuing education renewal requirements established under Section  
114 58-67-303.

115 (5) A type II license may be renewed on an annual basis, up to four times, if the  
116 licensee continues to satisfy the requirements described in Subsection (3) and completes the  
117 division's continuing education renewal requirements established under Section 58-67-303.

118 (6) A license issued under this section:

- 119 (a) authorizes the licensee to practice medicine:  
120 (i) within the scope of the licensee's employment at the medical school described in  
121 Subsection (2)(i) and the licensee's academic position; and  
122 (ii) at a hospital or clinic affiliated with the medical school described in Subsection  
123 (2)(i) for the purpose of teaching, clinical care, or pursuing research;  
124 (b) shall list the limitations described in Subsection (6)(a); and  
125 (c) shall expire on the earlier of:  
126 (i) one year after the day on which the type I or type II license is initially issued, unless  
127 the license is renewed;  
128 (ii) for a type I license, two years after the day on which the license is renewed;  
129 (iii) for a type II license, one year after the day on which the license is renewed; or  
130 (iv) the day on which employment at the medical school described in Subsection (2)(i)  
131 ends.  
132 (7) A person who holds a type I license for five consecutive years may apply for  
133 licensure as a physician and surgeon in this state and shall be licensed if the individual satisfies  
134 the requirements described in Subsection (8). If the person fails to obtain licensure as a  
135 physician and surgeon in this state, the person may apply for a renewal of the type I license  
136 under Subsection (2).  
137 (8) An individual who holds a type I or type II license for five consecutive years is  
138 eligible for licensure as a physician and surgeon in this state if the individual:  
139 (a) worked an average of at least 40 hours per month at the level of an attending  
140 physician during the time the individual held the type I or type II license;  
141 (b) holds the rank of associate professor or higher at the medical school described in  
142 Subsection (2)(i);  
143 (c) obtains certification from the Educational Commission for Foreign Medical  
144 Graduates or any successor organization approved by the division in collaboration with the  
145 board;  
146 (d) spent a cumulative 20 hours per year while holding a type I or type II license:  
147 (i) teaching or lecturing to medical students or house staff;  
148 (ii) participating in educational department meetings or conferences that are not  
149 certified to meet the continuing medical education license renewal requirement; or

150 (iii) attending continuing medical education classes in addition to the requirements for  
151 continuing education described in Subsections (4) and (5);

152 (e) obtains a passing score on the final step of the licensing examination sequence  
153 required by division rule made in collaboration with the board; and

154 (f) satisfies the requirements described in Subsections 58-67-302(1)(a) through (c) and  
155 (h) through (k).

156 (9) If a person who holds a type II license fails to obtain licensure as a physician and  
157 surgeon in this state after applying under the procedures described in Subsection (8), the person  
158 may not:

159 (a) reapply for or renew a type II license; or

160 (b) apply for a type I license.

161 (10) The division or the board may require an applicant for licensure under this section  
162 to meet with the board and representatives of the division for the purpose of evaluating the  
163 applicant's qualifications for licensure.

164 (11) The division in collaboration with the board may withdraw a license under this  
165 section at any time for material misrepresentation or unlawful or unprofessional conduct.

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

167 **58-67-303. Term of license -- Expiration -- Renewal.**

168 (1) (a) ~~The~~ Except as provided in Section 58-67-302.7, the division shall issue each  
169 license under this chapter in accordance with a two-year renewal cycle established by division  
170 rule.

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

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

174 (a) continuing education renewal requirements; and

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

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

180 Section 3. Section **58-67-502** is amended to read:

181           **58-67-502. Unprofessional conduct.**

182           "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501,  
183 using or employing the services of any individual to assist a licensee in any manner not in  
184 accordance with the generally recognized practices, standards, or ethics of the profession, state  
185 law, or division rule, or making a material misrepresentation regarding the qualifications for  
186 licensure under Section 58-67-302.7.

# FISCAL NOTE

S.B. 129 3rd Sub. (Ivory)

SHORT TITLE: Licensing of Physician-educators

SPONSOR: Urquhart, S.

2011 GENERAL SESSION, STATE OF UTAH

## STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this legislation will result in revenue of \$500 in FY 2012 and \$1,000 in odd-numbered years thereafter. Commerce Department expenses associated with the new licensure are estimated at \$400 in FY 2012 and \$500 annually thereafter. Commerce Service Fund revenue and expenditures affect the annual transfer to the General Fund. As such, this bill will result in transfers to the General Fund of \$100 in FY 2012 and \$500 in FY 2013 and every odd-numbered year after that. Transfers to the General Fund will decrease by \$500 in even-numbered years after FY 2013.

## STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
<b>Revenue:</b>			
General Fund	\$0	\$100	\$500
Commerce Service Fund	\$0	\$400	\$500
Total Revenue	\$0	\$500	\$1,000
<b>Expenditure:</b>			
Commerce Service Fund	\$0	\$400	\$500
Total Expenditure	\$0	\$400	\$500
Net Impact, All Funds (Rev.-Exp.)	\$0	\$100	\$500
Net Impact, General/Education Funds	\$0	\$100	\$500

## LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

## DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this legislation would require an estimated five licensees to pay the \$100 application fee in FY 2012. An additional five applicants are expected in FY 2013, together with the renewal of the original five licensees.