

## SB0129S03 compared with SB0129S02

~~deleted text~~ shows text that was in SB0129S02 but was deleted in SB0129S03.

inserted text shows text that was not in SB0129S02 but was inserted into SB0129S03.

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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

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- ▶ makes technical corrections.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

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

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

ENACTS:

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

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

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

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

(1) As used in this section:

- (a) "Foreign country" means a country other than the United States, its territories, or Canada.
- (b) "Foreign medical school" means a medical school that is outside the United States, its territories, and Canada.
- (2) Notwithstanding any provision of law to the contrary, an individual may receive a type I foreign teaching license if the individual:
- (a) submits an application in a form prescribed by the division, which may include:
- (i) submission by the applicant of information maintained in a practitioner data bank, as designated by division rule, with respect to the applicant;
- (ii) a record of professional liability claims made against the applicant and settlements paid by or on behalf of the applicant; and
- (iii) the applicant's curriculum vitae;
- (b) is a graduate of a foreign medical school that is accepted for certification by the Educational Commission for Foreign Medical Graduates;
- (c) is licensed in good standing in a foreign country, the United States, its territories, or

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Canada ~~is~~:

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

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

(ii) the division in collaboration with the board determines to its satisfaction, after full disclosure by the applicant and full consideration by the division in collaboration with the board, that:

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

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

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

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

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

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

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

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

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

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

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

(g) is of good moral character;

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

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

(i) the dean of the medical school, stating that the applicant has been appointed to a full-time faculty position, that because the applicant has unique expertise in a specific field of medicine the medical school considers the applicant to be a valuable member of the faculty, and that the applicant is qualified by knowledge, skill, and ability to practice medicine in the state; and

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

(j) pays a licensing fee ~~as determined~~ set by the division under [Section 63J-1-504](#); and

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

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

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

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

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

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

(4) After an initial term of one year, a type I license may be renewed for periods of two years if the licensee continues to satisfy the requirements described in Subsection (2) and

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completes the division's continuing education renewal requirements established under Section 58-67-303.

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

(6) A ~~license~~ license issued under this section:

(a) authorizes the licensee to practice medicine:

(i) within the scope of the licensee's employment at the medical school described in Subsection (2)(i) and the licensee's academic position; and

(ii) at a hospital or clinic affiliated with the medical school described in Subsection (2)(i) for the purpose of teaching, clinical care, or pursuing research;

(b) shall list the limitations described in Subsection (6)(a); and

(c) shall expire on the earlier of:

(i) one year after the day on which the type I or type II license is initially issued, ~~unless the license is renewed;~~

(ii) for a type I license, two years after the day on which the license is renewed;

~~(iii)~~ ~~two years~~ for a type II license, one year after the day on which the ~~type I~~ license ~~was~~ is renewed; or

~~(iii)~~ iv) the day on which employment at the medical school described in Subsection (2)(i) ends.

(7) A person who holds a type I license for five consecutive years may apply for licensure as a physician and surgeon in this state and shall be licensed if the individual satisfies the requirements described in Subsection (8). If the person fails to obtain licensure as a physician and surgeon in this state, the person may apply for a renewal of the type I license under Subsection (2).

(8) ~~A person~~ An individual who holds a type I or type II license for five consecutive years is eligible for licensure as a physician and surgeon in this state if the ~~person:~~

~~(a)~~ individual:

(a) worked an average of at least 40 hours per month at the level of an attending physician during the time the individual held the type I or type II license;

(b) holds the rank of associate professor or higher at the medical school described in

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### Subsection (2)(i):

(c) obtains certification from the Educational Commission for Foreign Medical Graduates or any successor organization approved by the division in collaboration with the board;

(d) spent a cumulative 20 hours per year while holding a type I or type II license:

(i) teaching or lecturing to medical students or house staff;

(ii) participating in educational department meetings or conferences that are not certified to meet the continuing medical education license renewal requirement; or

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

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

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

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

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

(b) apply for a type I license.

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

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

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

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

(1) (a) [~~The~~] Except as provided in Section 58-67-302.7, 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.

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(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 **58-67-502** is amended to read:

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

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