

**PHYSICIAN AND OSTEOPATHIC LICENSING**

**AMENDMENTS**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen E. Sandstrom**

Senate Sponsor: John L. Valentine

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**LONG TITLE**

**General Description:**

This bill amends the Utah Medical Practice Act and the Utah Osteopathic Medical Practice Act relating to licensing requirements.

**Highlighted Provisions:**

This bill:

- ▶ prohibits the Division of Occupational Licensing from requiring board or specialty certification as a requirement for licensure; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**58-67-302**, as last amended by Laws of Utah 2011, Chapter 214

**58-68-302**, as last amended by Laws of Utah 2011, Chapter 214

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

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



28           **58-67-302. Qualifications for licensure.**

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

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

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

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

36           (iii) authorization to use a record coordination and verification service approved by the  
37 division in collaboration with the board;

38           (b) pay a fee determined by the department under Section 63J-1-504;

39           (c) be of good moral character;

40           (d) provide satisfactory documentation of having successfully completed a program of  
41 professional education preparing an individual as a physician and surgeon, as evidenced by:

42           (i) having received an earned degree of doctor of medicine from an LCME accredited  
43 medical school or college; or

44           (ii) if the applicant graduated from a medical school or college located outside the  
45 United States or its territories, submitting a current certification by the Educational  
46 Commission for Foreign Medical Graduates or any successor organization approved by the  
47 division in collaboration with the board;

48           (e) satisfy the division and board that the applicant:

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

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

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

59 (C) has agreed to surrender to the division the applicant's license as a physician and  
60 surgeon without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act,  
61 and has agreed the applicant's license as a physician and surgeon will be automatically revoked  
62 by the division if the applicant fails to continue in good standing in an ACGME approved  
63 progressive resident training program within the state;

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

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

68 (h) meet with the board and representatives of the division, if requested, for the  
69 purpose of evaluating the applicant's qualifications for licensure;

70 (i) designate:

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

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

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

79 (2) An applicant for licensure as a physician and surgeon by endorsement who is  
80 currently licensed to practice medicine in any state other than Utah, a district or territory of the  
81 United States, or Canada shall:

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

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

87 (c) comply with the requirements for licensure under [~~Subsection~~] Subsections (1)(a)  
88 through (d), (1)(e)(i), and (1)(g) through (j);

89 (d) have passed the licensing examination sequence required in Subsection (1)(f) or

90 another medical licensing examination sequence in another state, district or territory of the  
91 United States, or Canada that the division in collaboration with the board by rulemaking  
92 determines is equivalent to its own required examination;

93 (e) not have any investigation or action pending against any health care license of the  
94 applicant, not have a health care license that was suspended or revoked in any state, district or  
95 territory of the United States, or Canada, and not have surrendered a health care license in lieu  
96 of a disciplinary action, unless:

97 (i) the license was subsequently reinstated as a full unrestricted license in good  
98 standing; or

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

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

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

105 (f) submit to a records review, a practice history review, and comprehensive  
106 assessments, if requested by the division in collaboration with the board; and

107 (g) produce satisfactory evidence that the applicant meets the requirements of this  
108 Subsection (2) to the satisfaction of the division in collaboration with the board.

109 (3) An applicant for licensure by endorsement may engage in the practice of medicine  
110 under a temporary license while the applicant's application for licensure is being processed by  
111 the division, provided:

112 (a) the applicant submits a complete application required for temporary licensure to the  
113 division;

114 (b) the applicant submits a written document to the division from:

115 (i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility  
116 Licensing and Inspection Act, stating that the applicant is practicing under the invitation of the  
117 health care facility; or

118 (ii) two individuals licensed under this chapter, whose license is in good standing and  
119 who practice in the same clinical location, both stating that:

120 (A) the applicant is practicing under the invitation of the individual; and

121 (B) the applicant will practice at the same clinical location as the individual;

122 (c) the applicant submits a signed certification to the division that the applicant meets  
123 the requirements of Subsection (2);

124 (d) the applicant does not engage in the practice of medicine until the division has  
125 issued a temporary license;

126 (e) the temporary license is only issued for and may not be extended beyond the  
127 duration of one year from issuance; and

128 (f) the temporary license expires immediately and prior to the expiration of one year  
129 from issuance, upon notification from the division that the applicant's application for licensure  
130 by endorsement is denied.

131 (4) The division shall issue a temporary license under Subsection (3) within 15  
132 business days after the applicant satisfies the requirements of Subsection (3).

133 (5) ~~§→ [The division may not require a ~~fi→ medical ←fi specialty fi→ certification ←fi or~~~~  
133a ~~fi→ [board] subspecialty ←fi certification as a qualification for fi→ initial ←fi~~  
134 ~~licensure fi→ or to maintain licensure ←fi .]~~ **The division may not require a post-residency board**  
134a **certification as a requirement for licensure. ←§**

135 Section 2. Section **58-68-302** is amended to read:

136 **58-68-302. Qualifications for licensure.**

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

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

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

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

144 (iii) authorization to use a record coordination and verification service approved by the  
145 division in collaboration with the board;

146 (b) pay a fee determined by the department under Section 63J-1-504;

147 (c) be of good moral character;

148 (d) provide satisfactory documentation of having successfully completed a program of  
149 professional education preparing an individual as an osteopathic physician and surgeon, as  
150 evidenced by:

151 (i) having received an earned degree of doctor of osteopathic medicine from an AOA

152 approved medical school or college; or

153 (ii) submitting a current certification by the Educational Commission for Foreign  
154 Medical Graduates or any successor organization approved by the division in collaboration  
155 with the board, if the applicant is graduated from an osteopathic medical school or college  
156 located outside of the United States or its territories which at the time of the applicant's  
157 graduation, met criteria for accreditation by the AOA;

158 (e) satisfy the division and board that the applicant:

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

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

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

168 (C) has agreed to surrender to the division the applicant's license as an osteopathic  
169 physician and surgeon without any proceedings under Title 63G, Chapter 4, Administrative  
170 Procedures Act, and has agreed the applicant's license as an osteopathic physician and surgeon  
171 will be automatically revoked by the division if the applicant fails to continue in good standing  
172 in an ACGME or AOA approved progressive resident training program within the state;

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

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

177 (h) meet with the board and representatives of the division, if requested for the purpose  
178 of evaluating the applicant's qualifications for licensure;

179 (i) designate:

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

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

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

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

188 (2) An applicant for licensure as an osteopathic physician and surgeon by endorsement  
189 who is currently licensed to practice osteopathic medicine in any state other than Utah, a  
190 district or territory of the United States, or Canada shall:

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

193 (b) have been actively engaged in the legal practice of osteopathic medicine in any  
194 state, district or territory of the United States, or Canada for not less than 6,000 hours during  
195 the five years immediately preceding the day on which the applicant applied for licensure in  
196 Utah;

197 (c) comply with the requirements for licensure under Subsections (1)(a) through (d),  
198 (1)(e)(i), and (1)(g) through (j);

199 (d) have passed the licensing examination sequence required in Subsection (1)(f) or  
200 another medical licensing examination sequence in another state, district or territory of the  
201 United States, or Canada that the division in collaboration with the board by rulemaking  
202 determines is equivalent to its own required examination;

203 (e) not have any investigation or action pending against any health care license of the  
204 applicant, not have a health care license that was suspended or revoked in any state, district or  
205 territory of the United States, or Canada, and not have surrendered a health care license in lieu  
206 of a disciplinary action, unless:

207 (i) the license was subsequently reinstated as a full unrestricted license in good  
208 standing; or

209 (ii) the division in collaboration with the board determines, after full disclosure by the  
210 applicant, that:

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

212 (B) a mitigating circumstance exists that prevents its resolution, and the division in  
213 collaboration with the board is satisfied that, but for the mitigating circumstance, the license

214 would be reinstated;

215 (f) submit to a records review, a practice review history, and physical and  
 216 psychological assessments, if requested by the division in collaboration with the board; and

217 (g) produce evidence that the applicant meets the requirements of this Subsection (2) to  
 218 the satisfaction of the division in collaboration with the board.

219 (3) An applicant for licensure by endorsement may engage in the practice of medicine  
 220 under a temporary license while the applicant's application for licensure is being processed by  
 221 the division, provided:

222 (a) the applicant submits a complete application required for temporary licensure to the  
 223 division;

224 (b) the applicant submits a written document to the division from:

225 (i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility  
 226 Licensing and Inspection Act, stating that the applicant is practicing under the invitation of the  
 227 health care facility; or

228 (ii) two individuals licensed under this chapter, whose license is in good standing and  
 229 who practice in the same clinical location, both stating that:

230 (A) the applicant is practicing under the invitation of the individual; and

231 (B) the applicant will practice at the same clinical location as the individual;

232 (c) the applicant submits a signed certification to the division that the applicant meets  
 233 the requirements of Subsection (2);

234 (d) the applicant does not engage in the practice of medicine until the division has  
 235 issued a temporary license;

236 (e) the temporary license is only issued for and may not be extended beyond the  
 237 duration of one year from issuance; and

238 (f) the temporary license expires immediately and prior to the expiration of one year  
 239 from issuance, upon notification from the division that the applicant's application for licensure  
 240 by endorsement is denied.

241 (4) The division shall issue a temporary license under Subsection (3) within 15  
 242 business days after the applicant satisfies the requirements of Subsection (3).

243 (5) ~~§~~ **[The division may not require a ~~medical~~ specialty ~~certification~~ or**  
 243a **~~board~~ subspecialty ~~certification~~ as a qualification for ~~initial~~**  
 244 **licensure or to maintain licensure. ~~The division may not require a post-residency board~~**  
 244a **certification as a requirement for licensure. ~~§~~**



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**Legislative Review Note**  
as of 2-14-12 10:22 AM

**Office of Legislative Research and General Counsel**