

PHYSICIAN AND OSTEOPATHIC MEDICINE AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stewart Barlow

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Utah Medical Practice Act and the Utah Osteopathic Medical Practice Act.

Highlighted Provisions:

This bill:

- ▶ amends the temporary license laws; and
- ▶ restricts representations made about medical specialization.

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

ENACTS:

58-67-806, Utah Code Annotated 1953

58-68-806, Utah Code Annotated 1953

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



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

29 **58-67-302. Qualifications for licensure.**

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

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

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

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

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

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

40 (c) be of good moral character;

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

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

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

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

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

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

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

59 of postgraduate training; and

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

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

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

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

71 (i) designate:

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

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

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

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

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

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

88 (c) comply with the requirements for licensure under Subsection (1)(a) through (d),
89 (1)(e)(i), and (1)(g) through (j);

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

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

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

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

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

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

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

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

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

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

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

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

118 (A) invitation of the health care facility; [or] and

119 (B) the general supervision of a physician practicing at the facility; or

120 (ii) two individuals licensed under this chapter, whose license is in good standing and

121 who practice in the same clinical location, both stating that:

122 (A) the applicant is practicing under the invitation and general supervision of the
123 individual; and

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

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

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

129 (e) the temporary license is only issued for and may not be extended or renewed
130 beyond the duration of one year from issuance; and

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

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

136 Section 2. Section **58-67-806** is enacted to read:

137 **58-67-806. Representation of medical specialization.**

138 (1) A physician may not represent to another person that the physician is certified in a
139 medical specialty or certified by a particular board unless:

140 (a) the physician includes in the representation the name of:

141 (i) the certification board or entity; and

142 (ii) the medical specialty or procedure for which the physician is certified; and

143 (b) the board or certification entity meets the requirements of Subsection (2).

144 (2) (a) A certification entity or board under Subsection (1) shall meet the following
145 qualifications:

146 (i) be included in the American Board of Medical Specialties or an American
147 Osteopathic Association Certifying Board; or

148 (ii) require an Accreditation Council for Graduate Medical Education or American
149 Osteopathic Association approved post-graduate training program that provides complete
150 training in the specialty or sub-specialty.

151 (b) If the certifying board does not meet the requirements of Subsection (2)(a):

152 (i) the certification board may seek approval from the division after consultation with
153 the board to be recognized as a certifying board; or

154 (ii) the physician may seek approval from the board to have the specialty board
155 recognized as a certifying board.

156 Section 3. Section **58-68-302** is amended to read:

157 **58-68-302. Qualifications for licensure.**

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

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

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

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

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

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

168 (c) be of good moral character;

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

172 (i) having received an earned degree of doctor of osteopathic medicine from an AOA
173 approved medical school or college; or

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

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

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

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

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

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

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

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

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

200 (i) designate:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

243 (a) the applicant submits a complete application required for temporary licensure to the
244 division;

- 245 (b) the applicant submits a written document to the division from:
- 246 (i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility
- 247 Licensing and Inspection Act, stating that the applicant is practicing under the:
- 248 (A) invitation of the health care facility; [or] and
- 249 (B) the general supervision of a physician practicing at the health care facility; or
- 250 (ii) two individuals licensed under this chapter, whose license is in good standing and
- 251 who practice in the same clinical location, both stating that:
- 252 (A) the applicant is practicing under the invitation and general supervision of the
- 253 individual; and
- 254 (B) the applicant will practice at the same clinical location as the individual;
- 255 (c) the applicant submits a signed certification to the division that the applicant meets
- 256 the requirements of Subsection (2);
- 257 (d) the applicant does not engage in the practice of medicine until the division has
- 258 issued a temporary license;
- 259 (e) the temporary license is only issued for and may not be extended or renewed
- 260 beyond the duration of one year from issuance; and
- 261 (f) the temporary license expires immediately and prior to the expiration of one year
- 262 from issuance, upon notification from the division that the applicant's application for licensure
- 263 by endorsement is denied.
- 264 (4) The division shall issue a temporary license under Subsection (3) within 15
- 265 business days after the applicant satisfies the requirements of Subsection (3).
- 266 Section 4. Section **58-68-806** is enacted to read:
- 267 **58-68-806. Representation of medical specialization.**
- 268 (1) A physician may not represent to another person that the physician is certified in a
- 269 medical specialty or certified by a particular board unless:
- 270 (a) the physician includes in the representation the name of:
- 271 (i) the certification board or entity; and
- 272 (ii) the medical specialty or procedure for which the physician is certified; and
- 273 (b) the board or certification entity meets the requirements of Subsection (2).
- 274 (2) (a) A certification entity or board under Subsection (1) shall meet the following
- 275 qualifications:

- 276 (i) be included in the American Board of Medical Specialties or an American
277 Osteopathic Association Certifying Board; or
- 278 (ii) require an Accreditation Council for Graduate Medical Education or American
279 Osteopathic Association approved post-graduate training program that provides complete
280 training in the specialty or sub-specialty.
- 281 (b) If the certifying board does not meet the requirements of Subsection (2)(a):
- 282 (i) the certification board may seek approval from the division after consultation with
283 the board to be recognized as a certifying board; or
- 284 (ii) the physician may seek approval from the board to have the specialty board
285 recognized as a certifying board.
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Legislative Review Note
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Office of Legislative Research and General Counsel