

Representative Stewart Barlow proposes the following substitute bill:

PHYSICIAN AND OSTEOPATHIC MEDICINE AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stewart Barlow

Senate Sponsor: John L. Valentine

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



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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:

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;

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

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

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

(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:

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

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

(e) 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);

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 for which the physician is certified; and

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

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

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

148 (b) (i) 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; or

151 (ii) be certified or had prior certification by the member board of the American Board
152 of Medical Specialties or an American Osteopathic Certifying Board.

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

154 **58-68-302. Qualifications for licensure.**

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

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

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

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

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

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

165 (c) be of good moral character;

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

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

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

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

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

180 (ii) (A) has successfully completed 12 months of resident training in an ACGME or

181 AOA approved program after receiving a degree of doctor of osteopathic medicine as required
182 under Subsection (1)(d);

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

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

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

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

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

197 (i) designate:

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

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

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

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

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

211 (b) have been actively engaged in the legal practice of osteopathic medicine in any

212 state, district or territory of the United States, or Canada for not less than 6,000 hours during
213 the five years immediately preceding the day on which the applicant applied for licensure in
214 Utah;

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

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

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

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

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

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

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

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

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

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

240 (a) the applicant submits a complete application required for temporary licensure to the
241 division;

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

- 243 (i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility
244 Licensing and Inspection Act, stating that the applicant is practicing under the;
245 (A) invitation of the health care facility; [or] and
246 (B) the general supervision of a physician practicing at the health care facility; or
247 (ii) two individuals licensed under this chapter, whose license is in good standing and
248 who practice in the same clinical location, both stating that:
249 (A) the applicant is practicing under the invitation and general supervision of the
250 individual; and
251 (B) the applicant will practice at the same clinical location as the individual;
252 (c) the applicant submits a signed certification to the division that the applicant meets
253 the requirements of Subsection (2);
254 (d) the applicant does not engage in the practice of medicine until the division has
255 issued a temporary license;
256 (e) the temporary license is only issued for and may not be extended or renewed
257 beyond the duration of one year from issuance; and
258 (f) the temporary license expires immediately and prior to the expiration of one year
259 from issuance, upon notification from the division that the applicant's application for licensure
260 by endorsement is denied.
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262 business days after the applicant satisfies the requirements of Subsection (3).

263 Section 4. Section **58-68-806** is enacted to read:

264 **58-68-806. Representation of medical specialization.**

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266 medical specialty or certified by a particular board unless:

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

268 (i) the certification board or entity; and

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

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

271 (2) A certification entity or board under Subsection (1) shall meet the following
272 qualifications:

273 (a) be included in the American Board of Medical Specialties or an American

274 Osteopathic Association Certifying Board; or
275 (b) (i) require an Accreditation Council for Graduate Medical Education or American
276 Osteopathic Association approved post-graduate training program that provides complete
277 training in the specialty or sub-specialty; and
278 (ii) be certified or had prior certification by the member board of the American Board
279 of Medical Specialties or an American Osteopathic Association Certifying Board.