

PHYSICIAN AND OSTEOPATHIC LICENSING

AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen E. Sandstrom

Senate Sponsor: John L. Valentine

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

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 specialty or board certification as a qualification for

134 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 specialty or board certification as a qualification for
244 licensure.

Legislative Review Note
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Office of Legislative Research and General Counsel