

1 **PHYSICIAN CERTIFICATION AMENDMENTS**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Michael K. McKell**

5 Senate Sponsor: Curtis S. Bramble

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions related to physician licensing and certification.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ prohibits the following persons from requiring that a physician maintain certain
13 certifications:

- 14 • a health care facility, for purposes of employment, privileges, or reimbursement;
- 15 • a managed care organization or other third party for purposes or reimbursement;

16 or

17 • the Division of Occupational and Professional Licensing, for purposes of
18 licensing; and

19 ▶ makes technical changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **26-21-31**, as enacted by Laws of Utah 2018, Chapter 438

27 **31A-45-305**, as enacted by Laws of Utah 2018, Chapter 438



28 [58-67-302](#), as last amended by Laws of Utah 2018, Chapters 318 and 438
29 [58-67-302.5](#), as last amended by Laws of Utah 2018, Chapters 318 and 438
30 [58-68-302](#), as last amended by Laws of Utah 2018, Chapters 318 and 438

31

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

33 Section 1. Section **26-21-31** is amended to read:

34 **26-21-31. Prohibition on certain physician testing.**

35 A health care facility may not require for purposes of employment, privileges, or
36 reimbursement, that a physician, as defined in Section [58-67-102](#)[~~7~~];

37 (1) take a cognitive test when the physician reaches a specified age, unless the test
38 reflects nationally recognized standards adopted by the American Medical Association for
39 testing whether an older physician remains able to provide safe and effective care for
40 patients[~~7~~]; or

41 (2) secure maintenance of certification by a nationally recognized accrediting
42 organization that includes continuous reexamination to measure core competencies in practice
43 of medicine, as defined in Section [58-67-102](#), as a requirement for maintaining certification.

44 Section 2. Section **31A-45-305** is amended to read:

45 **31A-45-305. Prohibition on certain physician testing.**

46 A managed care organization or other third party may not require for purposes of
47 reimbursement that a physician, as defined in Section [58-67-102](#)[~~5~~];

48 (1) take a cognitive test when the physician reaches a specified age, unless the test
49 reflects nationally recognized standards adopted by the American Medical Association for
50 testing whether an older physician remains able to provide safe and effective care for
51 patients[~~7~~]; or

52 (2) secure maintenance of certification by a nationally recognized accrediting
53 organization that includes continuous reexamination to measure core competencies in practice
54 of medicine, as defined in Section [58-67-102](#), as a requirement of maintaining certification.

55 Section 3. Section **58-67-302** is amended to read:

56 **58-67-302. Qualifications for licensure.**

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

- 59 (a) submit an application in a form prescribed by the division, which may include:
- 60 (i) submissions by the applicant of information maintained by practitioner data banks,
61 as designated by division rule, with respect to the applicant;
- 62 (ii) a record of professional liability claims made against the applicant and settlements
63 paid by or on behalf of the applicant; and
- 64 (iii) authorization to use a record coordination and verification service approved by the
65 division in collaboration with the board;
- 66 (b) pay a fee determined by the department under Section [63J-1-504](#);
- 67 (c) be of good moral character;
- 68 (d) if the applicant is applying to participate in the Interstate Medical Licensure
69 Compact under Chapter 67b, Interstate Medical Licensure Compact, consent to a criminal
70 background check in accordance with Section [58-67-302.1](#) and any requirements established by
71 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 72 (e) provide satisfactory documentation of having successfully completed a program of
73 professional education preparing an individual as a physician and surgeon, as evidenced by:
- 74 (i) having received an earned degree of doctor of medicine from an LCME accredited
75 medical school or college; or
- 76 (ii) if the applicant graduated from a medical school or college located outside the
77 United States or its territories, submitting a current certification by the Educational
78 Commission for Foreign Medical Graduates or any successor organization approved by the
79 division in collaboration with the board;
- 80 (f) satisfy the division and board that the applicant:
- 81 (i) has successfully completed 24 months of progressive resident training in a program
82 approved by the ACGME, the Royal College of Physicians and Surgeons, the College of
83 Family Physicians of Canada, or any similar body in the United States or Canada approved by
84 the division in collaboration with the board; or
- 85 (ii) (A) has successfully completed 12 months of resident training in an ACGME
86 approved program after receiving a degree of doctor of medicine as required under Subsection
87 (1)(e);
- 88 (B) has been accepted in and is successfully participating in progressive resident
89 training in an ACGME approved program within Utah, in the applicant's second or third year

90 of postgraduate training; and

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

96 (g) pass the licensing examination sequence required by division rule made in
97 collaboration with the board;

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

100 (i) meet with the board and representatives of the division, if requested, for the purpose
101 of evaluating the applicant's qualifications for licensure;

102 (j) designate:

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

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

108 (k) establish a method for notifying patients of the identity and location of the contact
109 person and alternate contact person, if the applicant will practice in a location with no other
110 persons licensed under this chapter.

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

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

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

119 (c) comply with the requirements for licensure under Subsections (1)(a) through (e),
120 (1)(f)(i), and (1)(h) through (k);

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

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

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

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

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

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

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

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

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

144 (a) the applicant submits a complete application required for temporary licensure to the
145 division;

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

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

149 (A) invitation of the health care facility; and

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

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

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

153 (A) the applicant is practicing under the invitation and general supervision of the
154 individual; and

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

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

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

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

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

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

167 (5) The division may not require the following requirements for licensure:

168 (a) a post-residency board certification; ~~or~~

169 (b) a cognitive test when the physician reaches a specified age, unless the test reflects
170 nationally recognized standards adopted by the American Medical Association for testing
171 whether an older physician remains able to provide safe and effective care for patients~~[-];~~ or

172 (c) maintenance of certification by a nationally recognized accrediting organization that
173 includes continuous reexamination to measure core competencies in practice of medicine as a
174 requirement for maintaining certification.

175 Section 4. Section **58-67-302.5** is amended to read:

176 **58-67-302.5. Licensing of graduates of foreign medical schools.**

177 (1) Notwithstanding any other provision of law to the contrary, an individual enrolled
178 in a medical school outside the United States, its territories, the District of Columbia, or
179 Canada is eligible for licensure as a physician and surgeon in this state if the individual has
180 satisfied the following requirements:

181 (a) meets all the requirements of Subsection **58-67-302**(1), except for Subsection
182 **58-67-302**(1)(e);

183 (b) has studied medicine in a medical school located outside the United States which is
184 recognized by an organization approved by the division;

185 (c) has completed all of the formal requirements of the foreign medical school except
186 internship or social service;

187 (d) has attained a passing score on the educational commission for foreign medical
188 graduates examination or other qualifying examinations such as the United States Medical
189 Licensing Exam parts I and II, which are approved by the division or a medical school
190 approved by the division;

191 (e) has satisfactorily completed one calendar year of supervised clinical training under
192 the direction of a United States medical education setting accredited by the liaison committee
193 for graduate medical education and approved by the division;

194 (f) has completed the postgraduate hospital training required by Subsection
195 58-67-302(1)(f)(i); and

196 (g) has passed the examination required by the division of all applicants for licensure.

197 (2) Satisfaction of the requirements of Subsection (1) is in lieu of:

198 (a) the completion of any foreign internship or social service requirements; and

199 (b) the certification required by Subsection 58-67-302(1)(e).

200 (3) Individuals who satisfy the requirements of Subsections (1)(a) through (g) shall be
201 eligible for admission to graduate medical education programs within the state, including
202 internships and residencies, which are accredited by the liaison committee for graduate medical
203 education.

204 (4) A document issued by a medical school located outside the United States shall be
205 considered the equivalent of a degree of doctor of medicine for the purpose of licensure as a
206 physician and surgeon in this state if:

207 (a) the foreign medical school is recognized by an organization approved by the
208 division;

209 (b) the document granted by the foreign medical school is issued after the completion
210 of all formal requirements of the medical school except internship or social service; and

211 (c) the foreign medical school certifies that the person to whom the document was
212 issued has satisfactorily completed the requirements of Subsection (1)(c).

213 (5) The division may not require as a requirement for licensure;

214 (a) a cognitive test when the physician reaches a specified age, unless the test reflects
215 nationally recognized standards adopted by the American Medical Association for testing
216 whether an older physician remains able to provide safe and effective care for patients[:]; or

217 (b) maintenance of certification by a nationally recognized accrediting organization
218 that includes continuous reexamination to measure core competencies in practice of medicine
219 as a requirement for maintaining certification.

220 (6) The provisions for licensure under this section shall be known as the "fifth pathway
221 program."

222 Section 5. Section **58-68-302** is amended to read:

223 **58-68-302. Qualifications for licensure.**

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

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

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

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

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

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

234 (c) be of good moral character;

235 (d) if the applicant is applying to participate in the Interstate Medical Licensure
236 Compact under Chapter 67b, Interstate Medical Licensure Compact, consent to a criminal
237 background check in accordance with Section [58-68-302.1](#) and any requirements established by
238 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

239 (e) provide satisfactory documentation of having successfully completed a program of
240 professional education preparing an individual as an osteopathic physician and surgeon, as
241 evidenced by:

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

244 (ii) submitting a current certification by the Educational Commission for Foreign

245 Medical Graduates or any successor organization approved by the division in collaboration
246 with the board, if the applicant is graduated from an osteopathic medical school or college
247 located outside of the United States or its territories which at the time of the applicant's
248 graduation, met criteria for accreditation by the AOA;

249 (f) satisfy the division and board that the applicant:

250 (i) has successfully completed 24 months of progressive resident training in an
251 ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine
252 required under Subsection (1)(e); or

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

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

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

264 (g) pass the licensing examination sequence required by division rule, as made in
265 collaboration with the board;

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

268 (i) meet with the board and representatives of the division, if requested for the purpose
269 of evaluating the applicant's qualifications for licensure;

270 (j) designate:

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

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

276 (k) establish a method for notifying patients of the identity and location of the contact
277 person and alternate contact person, if the applicant will practice in a location with no other
278 persons licensed under this chapter.

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

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

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

288 (c) comply with the requirements for licensure under Subsections (1)(a) through (e),
289 (1)(f)(i), and (1)(h) through (k);

290 (d) have passed the licensing examination sequence required in Subsection (1)(g) or
291 another medical licensing examination sequence in another state, district or territory of the
292 United States, or Canada that the division in collaboration with the board by rulemaking
293 determines is equivalent to its own required examination;

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

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

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

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

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

306 (f) submit to a records review, a practice review history, and physical and

307 psychological assessments, if requested by the division in collaboration with the board; and
308 (g) produce evidence that the applicant meets the requirements of this Subsection (2) to
309 the satisfaction of the division in collaboration with the board.

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

313 (a) the applicant submits a complete application required for temporary licensure to the
314 division;

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

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

318 (A) invitation of the health care facility; and

319 (B) the general supervision of a physician practicing at the health care facility; or

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

322 (A) the applicant is practicing under the invitation and general supervision of the
323 individual; and

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

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

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

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

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

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

336 (5) The division may not require the following as a requirement for licensure:

337 (a) a post-residency board certification; [or]

338 (b) a cognitive test when the physician reaches a specified age, unless the test reflects
339 nationally recognized standards adopted by the American Medical Association for testing
340 whether an older physician remains able to provide safe and effective care for patients[:]; or

341 (c) maintenance of certification by a nationally recognized accrediting organization that
342 includes continuous reexamination to measure core competencies in the practice of medicine as
343 a requirement for maintaining certification.