

1           **PROFESSIONAL COMPETENCY STANDARDS AMENDMENTS**

2                           2019 GENERAL SESSION

3                           STATE OF UTAH

4                   **Chief Sponsor: Jennifer Dailey-Provost**

5                           Senate Sponsor: Daniel Hemmert

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7   **LONG TITLE**

8   **General Description:**

9           This bill repeals certain restrictions on age-based physician testing.

10 **Highlighted Provisions:**

11           This bill:

12           ▶ repeals a restriction on certain age-based testing for physician licensing,  
13 employment, privileges, or reimbursement.

14 **Money Appropriated in this Bill:**

15           None

16 **Other Special Clauses:**

17           None

18 **Utah Code Sections Affected:**

19 AMENDS:

20           **58-67-302**, as last amended by Laws of Utah 2018, Chapters 318 and 438

21           **58-67-302.5**, as last amended by Laws of Utah 2018, Chapters 318 and 438

22           **58-68-302**, as last amended by Laws of Utah 2018, Chapters 318 and 438

23 REPEALS:

24           **26-21-31**, as enacted by Laws of Utah 2018, Chapter 438

25           **31A-45-305**, as enacted by Laws of Utah 2018, Chapter 438

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

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

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

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

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

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

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

59 approved program after receiving a degree of doctor of medicine as required under Subsection  
60 (1)(e);

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

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

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

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

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

75 (j) designate:

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

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

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

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

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

89 (b) have been actively engaged in the legal practice of medicine in any state, district, or

90 territory of the United States, or Canada for not less than 6,000 hours during the five years  
91 immediately preceding the date of application for licensure in Utah;

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

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

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

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

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

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

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

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

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

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

117 (a) the applicant submits a complete application required for temporary licensure to the  
118 division;

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

120 (i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility

121 Licensing and Inspection Act, stating that the applicant is practicing under the:

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

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

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

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

126 (A) the applicant is practicing under the invitation and general supervision of the

127 individual; and

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

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

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

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

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

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

140 (5) The division may not require ~~[the following requirements for licensure:(a)]~~ a  
141 post-residency board certification~~[-or]~~.

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

145 Section 2. Section **58-67-302.5** is amended to read:

146 **58-67-302.5. Licensing of graduates of foreign medical schools.**

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

151 (a) meets all the requirements of Subsection **58-67-302(1)**, except for Subsection

152 58-67-302(1)(e);

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

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

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

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

164 (f) has completed the postgraduate hospital training required by Subsection  
165 58-67-302(1)(f)(i); and

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

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

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

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

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

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

177 (a) the foreign medical school is recognized by an organization approved by the  
178 division;

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

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

183           ~~[(5) The division may not require as a requirement for licensure a cognitive test when~~  
184 ~~the physician reaches a specified age, unless the test reflects nationally recognized standards~~  
185 ~~adopted by the American Medical Association for testing whether an older physician remains~~  
186 ~~able to provide safe and effective care for patients.]~~

187           ~~[(6)]~~ (5) The provisions for licensure under this section shall be known as the "fifth  
188 pathway program."

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

190           **58-68-302. Qualifications for licensure.**

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

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

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

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

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

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

201           (c) be of good moral character;

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

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

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

211           (ii) submitting a current certification by the Educational Commission for Foreign  
212 Medical Graduates or any successor organization approved by the division in collaboration  
213 with the board, if the applicant is graduated from an osteopathic medical school or college

214 located outside of the United States or its territories which at the time of the applicant's  
215 graduation, met criteria for accreditation by the AOA;

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

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

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

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

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

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

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

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

237 (j) designate:

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

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

243 (k) establish a method for notifying patients of the identity and location of the contact  
244 person and alternate contact person, if the applicant will practice in a location with no other



245 persons licensed under this chapter.

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

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

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

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

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

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

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

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

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

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

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

275 (g) produce evidence that the applicant meets the requirements of this Subsection (2) to

276 the satisfaction of the division in collaboration with the board.

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

280 (a) the applicant submits a complete application required for temporary licensure to the  
281 division;

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

283 (i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility

284 Licensing and Inspection Act, stating that the applicant is practicing under the:

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

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

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

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

289 (A) the applicant is practicing under the invitation and general supervision of the  
290 individual; and

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

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

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

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

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

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

303 (5) The division may not require ~~[the following as a requirement for licensure: (a)]~~ a  
304 post-residency board certification~~[-or]~~.

305 ~~[(b) a cognitive test when the physician reaches a specified age, unless the test reflects~~  
306 ~~nationally recognized standards adopted by the American Medical Association for testing~~

307 ~~whether an older physician remains able to provide safe and effective care for patients.]~~

308 Section 4. **Repealer.**

309 This bill repeals:

310 Section **26-21-31**, **Prohibition on certain age-based physician testing.**

311 Section **31A-45-305**, **Prohibition on certain age-based physician testing.**