

SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 3258

(SENATE AUTHORS: DRAHEIM)

DATE
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Introduction and first reading
 Referred to Health and Human Services Finance and Policy

OFFICIAL STATUS

1.1 A bill for an act

1.2 relating to health; modifying licensure requirements for the practice of medicine

1.3 and acupuncture; strengthening forms of disciplinary action for physicians and

1.4 physician's assistants; repealing professional corporation rules; amending Minnesota

1.5 Statutes 2020, sections 147.03, subdivision 1; 147.037, subdivision 1; 147A.16;

1.6 147B.02, subdivision 7; Minnesota Statutes 2021 Supplement, section 147.141;

1.7 repealing Minnesota Rules, parts 5610.0100; 5610.0200; 5610.0300.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2020, section 147.03, subdivision 1, is amended to read:

1.10 Subdivision 1. **Endorsement; reciprocity.** (a) The board may issue a license to practice

1.11 medicine to any person who satisfies the requirements in paragraphs (b) to (e).

1.12 (b) The applicant shall satisfy all the requirements established in section 147.02,

1.13 subdivision 1, paragraphs (a), (b), (d), (e), and (f).

1.14 (c) The applicant shall:

1.15 (1) have passed an examination prepared and graded by the Federation of State Medical

1.16 Boards, the National Board of Medical Examiners, or the United States Medical Licensing

1.17 Examination (USMLE) program in accordance with section 147.02, subdivision 1, paragraph

1.18 (c), clause (2); the National Board of Osteopathic Medical Examiners; or the Medical Council

1.19 of Canada; and

1.20 (2) have a current license from the equivalent licensing agency in another state or Canada

1.21 and, if the examination in clause (1) was passed more than ten years ago, either:

1.22 (i) pass the Special Purpose Examination of the Federation of State Medical Boards ~~with~~

1.23 ~~a score of 75 or better~~ (SPEX) within three attempts; or

2.1 (ii) have a current certification by a specialty board of the American Board of Medical
 2.2 Specialties, of the American Osteopathic Association, the Royal College of Physicians and
 2.3 Surgeons of Canada, or of the College of Family Physicians of Canada; or

2.4 (3) if the applicant fails to meet the requirement established in section 147.02, subdivision
 2.5 1, paragraph (c), clause (2), because the applicant failed to pass within the required three
 2.6 attempts each of steps or levels one, two, and three of the USMLE ~~within the required three~~
 2.7 ~~attempts~~ or the Comprehensive Osteopathic Medical Licensing Examination
 2.8 (COMLEX-USA), the applicant may be granted a license provided the applicant:

2.9 (i) has passed each of steps or levels one, two, and three within no more than four attempts
 2.10 for any of the three steps or levels with passing scores as recommended by the USMLE or
 2.11 COMLEX-USA program ~~within no more than four attempts for any of the three steps;~~

2.12 (ii) is currently licensed in another state; and

2.13 (iii) has current certification by a specialty board of the American Board of Medical
 2.14 Specialties, the American Osteopathic Association ~~Bureau of Professional Education~~, the
 2.15 Royal College of Physicians and Surgeons of Canada, or the College of Family Physicians
 2.16 of Canada.

2.17 (d) The applicant must not be under license suspension or revocation by the licensing
 2.18 board of the state or jurisdiction in which the conduct that caused the suspension or revocation
 2.19 occurred.

2.20 (e) The applicant must not have engaged in conduct warranting disciplinary action against
 2.21 a licensee; or have been subject to disciplinary action other than as specified in paragraph
 2.22 (d). If an applicant does not satisfy the requirements stated in this paragraph, the board may
 2.23 issue a license only on the applicant's showing that the public will be protected through
 2.24 issuance of a license with conditions or limitations the board considers appropriate.

2.25 (f) Upon the request of an applicant, the board may conduct the final interview of the
 2.26 applicant by teleconference.

2.27 Sec. 2. Minnesota Statutes 2020, section 147.037, subdivision 1, is amended to read:

2.28 Subdivision 1. **Requirements.** The board shall issue a license to practice medicine to
 2.29 any person who satisfies the requirements in paragraphs (a) to (g).

2.30 (a) The applicant shall satisfy all the requirements established in section 147.02,
 2.31 subdivision 1, paragraphs (a), (e), (f), (g), and (h).

3.1 (b) The applicant shall present evidence satisfactory to the board that the applicant is a
3.2 graduate of a medical or osteopathic school approved by the board as equivalent to accredited
3.3 United States or Canadian schools based upon its faculty, curriculum, facilities, accreditation,
3.4 or other relevant data. If the applicant is a graduate of a medical or osteopathic program
3.5 that is not accredited by the Liaison Committee for Medical Education or the American
3.6 Osteopathic Association, the applicant may use the Federation of State Medical Boards'
3.7 Federation Credentials Verification Service (FCVS) or its successor. If the applicant uses
3.8 this service as allowed under this paragraph, the physician application fee may be less than
3.9 \$200 but must not exceed the cost of administering this paragraph.

3.10 (c) The applicant shall present evidence satisfactory to the board that the applicant has
3.11 been awarded a certificate by the Educational Council for Foreign Medical Graduates, and
3.12 the applicant has a working ability in the English language sufficient to communicate with
3.13 patients and physicians and to engage in the practice of medicine.

3.14 (d) The applicant shall present evidence satisfactory to the board of the completion of
3.15 one year of graduate, clinical medical training in a program accredited by a national
3.16 accrediting organization approved by the board or other graduate training approved in
3.17 advance by the board as meeting standards similar to those of a national accrediting
3.18 organization. This requirement does not apply to an applicant who is admitted pursuant to
3.19 the rules of the United States Department of Labor and:

3.20 (1) ~~to an applicant who is~~ was admitted as a permanent immigrant to the United States
3.21 on or before October 1, 1991, as a person of exceptional ability in the sciences according
3.22 to Code of Federal Regulations, title 20, section 656.22(d); or

3.23 (2) ~~to an applicant holding~~ who holds a valid license to practice medicine in another
3.24 country and was issued a permanent immigrant visa after October 1, 1991, as a person of
3.25 extraordinary ability in the field of science or as an outstanding professor or researcher
3.26 according to Code of Federal Regulations, title 8, section 204.5(h) and (i), or a temporary
3.27 nonimmigrant visa as a person of extraordinary ability in the field of science according to
3.28 Code of Federal Regulations, title 8, section 214.2(o);

3.29 ~~provided that a person under clause (1) or (2) is admitted pursuant to rules of the United~~
3.30 ~~States Department of Labor.~~

3.31 (e) The applicant must:

3.32 (1) have passed an examination prepared and graded by the Federation of State Medical
3.33 Boards, the United States Medical Licensing Examination (USMLE) program in accordance

4.1 with section 147.02, subdivision 1, paragraph (c), clause (2), or the Medical Council of
4.2 Canada; and

4.3 (2) if the examination in clause (1) was passed more than ten years ago, either:

4.4 (i) pass the Special Purpose Examination of the Federation of State Medical Boards ~~with~~
4.5 ~~a score of 75 or better within three attempts~~ (SPEX) or the Comprehensive Osteopathic
4.6 Medical Variable-Purpose Examination of the National Board of Osteopathic Medical
4.7 Examiners (COMVEX). The applicant must pass the SPEX or COMVEX within no more
4.8 than three attempts of taking the SPEX, COMVEX, or a combination of the SPEX and
4.9 COMVEX; or

4.10 (ii) have a current certification by a specialty board of the American Board of Medical
4.11 Specialties, ~~of~~ the American Osteopathic Association, ~~of~~ the Royal College of Physicians
4.12 and Surgeons of Canada, or ~~of~~ the College of Family Physicians of Canada; or

4.13 (3) if the applicant fails to meet the requirement established in section 147.02, subdivision
4.14 1, paragraph (c), clause (2), because the applicant failed to pass within the required three
4.15 attempts each of steps or levels one, two, and three of the USMLE ~~within the required three~~
4.16 attempts or the Comprehensive Osteopathic Medical Licensing Examination
4.17 (COMLEX-USA), the applicant may be granted a license provided the applicant:

4.18 (i) has passed each of steps or levels one, two, and three within no more than four attempts
4.19 for any of the three steps or levels with passing scores as recommended by the USMLE or
4.20 COMLEX-USA program ~~within no more than four attempts for any of the three steps;~~

4.21 (ii) is currently licensed in another state; and

4.22 (iii) has current certification by a specialty board of the American Board of Medical
4.23 Specialties, the American Osteopathic Association, the Royal College of Physicians and
4.24 Surgeons of Canada, or the College of Family Physicians of Canada.

4.25 (f) The applicant must not be under license suspension or revocation by the licensing
4.26 board of the state or jurisdiction in which the conduct that caused the suspension or revocation
4.27 occurred.

4.28 (g) The applicant must not have engaged in conduct warranting disciplinary action
4.29 against a licensee; or have been subject to disciplinary action other than as specified in
4.30 paragraph (f). If an applicant does not satisfy the requirements stated in this paragraph, the
4.31 board may issue a license only on the applicant's showing that the public will be protected
4.32 through issuance of a license with conditions or limitations the board considers appropriate.

5.1 Sec. 3. Minnesota Statutes 2021 Supplement, section 147.141, is amended to read:

5.2 **147.141 FORMS OF DISCIPLINARY ACTION.**

5.3 When the board finds that a licensed physician or a physician registered under section
5.4 147.032 has violated a provision or provisions of sections 147.01 to 147.22, it may do one
5.5 or more of the following:

5.6 (1) revoke the license;

5.7 (2) suspend the license;

5.8 (3) revoke or suspend registration to perform interstate telehealth;

5.9 (4) impose limitations or conditions on the physician's practice of medicine, including
5.10 limiting the limitation of scope of practice to designated field specialties; the imposition of
5.11 imposing retraining or rehabilitation requirements; the requirement of requiring practice
5.12 under supervision; or the conditioning of continued practice on demonstration of knowledge
5.13 or skills by appropriate examination or other review of skill and competence;

5.14 (5) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount
5.15 of the civil penalty to be fixed so as to deprive the physician of any economic advantage
5.16 gained by reason of the violation charged, to discourage similar violations, or to reimburse
5.17 the board for the cost of the investigation and proceeding;

5.18 (6) order the physician to provide unremunerated professional service under supervision
5.19 at a designated public hospital, clinic, or other health care institution; or

5.20 (7) censure or reprimand the licensed physician.

5.21 Sec. 4. Minnesota Statutes 2020, section 147A.16, is amended to read:

5.22 **147A.16 FORMS OF DISCIPLINARY ACTION.**

5.23 (a) When the board finds that a licensed physician assistant has violated a provision of
5.24 this chapter, it may do one or more of the following:

5.25 (1) revoke the license;

5.26 (2) suspend the license;

5.27 (3) impose limitations or conditions on the physician assistant's practice, including
5.28 limiting the scope of practice to designated field specialties; imposing retraining or
5.29 rehabilitation requirements; or limiting practice until demonstration of knowledge or skills
5.30 by appropriate examination or other review of skill and competence;

6.1 (4) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount
6.2 of the civil penalty to be fixed so as to deprive the physician assistant of any economic
6.3 advantage gained by reason of the violation charged, to discourage similar violations, or to
6.4 reimburse the board for the cost of the investigation and proceeding; or

6.5 (5) censure or reprimand the licensed physician assistant.

6.6 (b) Upon judicial review of any board disciplinary action taken under this chapter, the
6.7 reviewing court shall seal the administrative record, except for the board's final decision,
6.8 and shall not make the administrative record available to the public.

6.9 Sec. 5. Minnesota Statutes 2020, section 147B.02, subdivision 7, is amended to read:

6.10 Subd. 7. **Licensure requirements.** (a) ~~After June 30, 1997,~~ An applicant for licensure
6.11 must:

6.12 (1) submit a completed application for licensure on forms provided by the board, which
6.13 must include the applicant's name and address of record, which shall be public;

6.14 (2) unless licensed under subdivision 5 or 6, submit ~~a notarized copy of a~~ evidence
6.15 satisfactory to the board of current NCCAOM certification;

6.16 (3) sign a statement that the information in the application is true and correct to the best
6.17 of the applicant's knowledge and belief;

6.18 (4) submit with the application all fees required; and

6.19 (5) sign a waiver authorizing the board to obtain access to the applicant's records in this
6.20 state or any state in which the applicant has engaged in the practice of acupuncture.

6.21 (b) The board may ask the applicant to provide any additional information necessary to
6.22 ensure that the applicant is able to practice with reasonable skill and safety to the public.

6.23 (c) The board may investigate information provided by an applicant to determine whether
6.24 the information is accurate and complete. The board shall notify an applicant of action taken
6.25 on the application and the reasons for denying licensure if licensure is denied.

6.26 Sec. 6. **REPEALER.**

6.27 Minnesota Rules, parts 5610.0100; 5610.0200; and 5610.0300, are repealed.

5610.0100 SWORN STATEMENT TO BOARD.

At the time a professional corporation files with the board the copy of its articles of incorporation as required by Minnesota Statutes, section 319A.08, and annually thereafter when such corporation files with the board its annual report as required by Minnesota Statutes, section 319A.21, it shall file with the board a statement under oath as to each and all of the following:

- A. the address of the registered office of the corporation and the name of its proposed registered agent, if any, for service and process;
- B. the name or names and respective office and residence addresses of the directors and officers of the corporation;
- C. in the case of a corporation organized under Minnesota Statutes, chapter 301, a statement of the aggregate number of issued shares, itemized by classes and the person or persons to whom issued;
- D. in the case of a corporation organized under Minnesota Statutes, chapter 317A, a statement of the names of the members of the corporation if no stock has been issued, or if stock has been issued, a statement of the aggregate number of issued shares, itemized by classes and the person or persons to whom issued;
- E. a description of the nature of the professional services and ancillary services, if any, to be provided by the corporation;
- F. the location or locations of the premises at which the applicant corporation proposes to provide professional services;
- G. a statement listing the name or names of employees, other than members or shareholders of the corporation, who are licensed under Minnesota Statutes, chapter 147, to practice medicine and surgery within the state of Minnesota; and
- H. a statement whether or not all shareholders, members, directors, officers, employees, and agents rendering professional service in Minnesota on behalf of the corporation are licensed to practice medicine and surgery in Minnesota or are otherwise authorized to render the professional service being rendered by the corporation.

5610.0200 SUSPENSION OR REVOCATION OF LICENSE OF SHAREHOLDER, MEMBER, DIRECTOR, OFFICER, EMPLOYEE, OR AGENT.

If the license to practice medicine in Minnesota of any shareholder, member, director, officer, employee, or agent rendering professional service in this state on behalf of the corporation is revoked or suspended by the board, the corporation shall forthwith remove from office and terminate the employment of such shareholder, member, director, officer, employee, or agent, and shall not reinstate in office or reemploy such shareholder, member, director, officer, employee, or agent unless and until the license to practice medicine in Minnesota is restored by the board.

5610.0300 WRITTEN NOTICE REQUIREMENT.

Every professional corporation shall promptly notify the board in writing upon the happening of any of the following events:

- A. the death of any shareholder, member, director, officer, employee, or agent who is licensed to practice medicine in Minnesota;
- B. the revocation or suspension of the license to practice medicine in Minnesota of any shareholder, member, director, officer, employee, or agent;
- C. the amendment of the articles of incorporation or bylaws of the corporation, in which case a copy of such amendment shall be furnished to the board with such notice;
- D. a change in the registered office of the corporation;

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- E. a change in the registered agent of the corporation;
- F. the admission, election, or employment of a new shareholder, member, director, officer, employee, or agent of the corporation;
- G. the termination, replacement, or discharge of a shareholder, member, director, officer, employee, or agent, in which case the professional corporation shall notify the board of the date thereof and reason therefor;
- H. a change in the nature of the professional services and ancillary services, if any, provided by the corporation; or
- I. a change in the location or locations of the premises at which the corporation provides or intends to provide professional services.