

**SFA**

BILL ANALYSIS

Senate Fiscal Agency

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PUBLIC ACT 248 of 1990

Senate Bill 1029 (as enrolled)

Sponsor: Senator Vern Ehlers

Senate Committee: Health Policy

House Committee: Public Health

Date Completed: 10-30-90

RATIONALE

Under the Public Health Code, physicians who have been trained at medical schools outside the United States or Canada cannot receive a full license to practice medicine in this State without satisfying the same examination and residency program requirements that apply to new graduates of American or Canadian medical schools. This is the case regardless of a foreign-trained physician's clinical and academic qualifications and experience. This also is true regardless of whether the physician has an educational limited license, which applies to graduates of both domestic and foreign medical schools, or a clinical academic limited license, under which a licensee can serve at a medical facility in this State that is affiliated with an academic institution, but cannot directly solicit patients or hold himself or herself out to the public as being engaged in the practice of medicine. Given these restrictions, it is reported that some hospitals in the State have had difficulty recruiting highly qualified, foreign-trained physicians, and cannot compete with hospitals in other states that have more lenient licensing laws. For example, Butterworth Hospital, in Grand Rapids, apparently has been searching for a transplant surgeon who would work in the hospital's cardiac surgery and transplantation program. The hospital is interested in recruiting a particular surgeon who was trained and is practicing in England, and who is considered to be one of the more experienced heart and heart/lung transplant surgeons in the world. Due to the State's restrictions on licensing foreign-trained

physicians, however, hospital officials feel unable to recruit this surgeon.

CONTENT

The bill would amend the Public Health Code to revise current requirements for the licensure of physicians by doing the following:

- Permitting a licensing board to grant a full license to practice medicine to an applicant who had completed requirements for a medical degree at a medical school located outside of the United States or Canada, if the applicant passed a special examination and demonstrated certain experience outlined in the bill, including two years' practice under a clinical academic limited license.
- Requiring that a clinical academic limited license be granted to a person who practiced a health profession only as part of an "academic institution" and only as part of his or her employment with that institution. The bill would delete the current provision on licensing for a clinical academic limited license.
- Requiring that a person granted a clinical academic limited license practice medicine only for an

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**academic institution and under the supervision of one or more fully licensed physicians.**

- **Providing for the annual renewal of a clinical academic limited license for up to five years.**
- **Prohibiting a person from teaching or doing research that required the practice of medicine, unless the person was licensed or otherwise authorized under the licensing provisions of Article 15 of the Code.**
- **Providing that an applicant for a full license to practice medicine who in good faith made a statement as to his or her experience in practicing medicine would not be civilly or criminally liable for that statement.**

#### Clinical Academic Limited License

The Code currently permits a licensing board to grant a clinical academic limited license to a person who functions in that capacity, but who does not hold himself or herself out to the public as being actively engaged in the practice of the health profession or directly solicit patients or clients.

The bill would delete this provision and, instead, would permit a licensing board to grant a clinical academic limited license to a person who practiced the health profession only as part of an "academic institution" and only in connection with his or her employment or other contractual relationship with that academic institution.

The bill specifies that "academic institution" would mean either a) a medical school approved by the licensing board; or b) a hospital licensed under the Code that met the following requirements:

- Had been the sole sponsor or a co-sponsor, if each other co-sponsor was either a medical school approved by the board or a hospital owned by the Federal government and operated directly by the U.S. Department of Veterans' Affairs, of at least four postgraduate education residency programs approved by the Board of Medicine for at least three years immediately preceding the date of an application for a clinical academic limited

license or an application for full license to practice medicine (for a person who completed degree requirements at a medical school located outside of the United States or Canada), provided that at least one of the residency programs was in the specialty area of medical practice, or in a specialty area that included the subspecialty of medical practice, in which the applicant for a limited license proposed to practice or in which the applicant for a full license had practiced for the hospital.

- Had spent at least \$2 million for medical education during each of the three years immediately preceding the date of an application for a clinical academic limited license or an application for a full license to practice medicine (for a person who completed degree requirements at a medical school located outside of the U.S. or Canada).

A clinical academic limited license granted by the board, under the bill, for the practice of medicine would have to require that the person practice only for an academic institution and under the supervision of one or more physicians fully licensed under Article 15 of the Public Health Code. A clinical academic limited license would be renewable annually. A person, however, could not practice medicine under one or more clinical academic limited licenses for more than five years.

#### Full License to Practice Medicine

The bill would permit the Board of Medicine to grant a full license to practice medicine to an applicant who had completed the requirements for a degree in medicine at a medical school located outside the U.S. or Canada, if the applicant demonstrated to the board all of the following:

- That the applicant had practiced medicine for at least 10 years after having completed the requirements for a degree in medicine.
- That the applicant had completed at least three years of postgraduate clinical training in an institution affiliated with a medical school that was listed in the directory of medical schools published by the World Health Organization as

approved by the Board.

- That the applicant had achieved a passing score, as determined by the Board, on either of the following: a) an initial medical licensure examination approved by the Board; or, b) the special purpose examination developed by the National Board of Medical Examiners for the Federation of State Medical Boards or, if the special purpose exam no longer were available, then a Board-approved cognitive examination designed to assess current competence for general, undifferentiated medical practice by physicians who held or have held a license to practice medicine in another jurisdiction.
- That the applicant had safely and competently practiced medicine under a clinical academic limited license for one or more academic institutions located in the State for at least two years immediately preceding the date of application for a license, during which time the applicant functioned in the observation and treatment of patients for at least 800 hours per year.

An applicant would have to file with the board a written statement from each academic institution upon which the applicant relied to satisfy the requirement on having practiced medicine under a clinical academic limited license. The statement would have to indicate, at a minimum, that the applicant functioned for the academic institution in the observation and treatment of patients at least 800 hours per year, and in doing so the applicant practiced medicine safely and competently. The bill specifies that a person, who in good faith made a written statement that was filed under this provision, would not be civilly or criminally liable for that statement. The bill also specifies that there would be a rebuttable presumption that a person who made such a written statement did so in good faith.

MCL 333.16182 et al.

### FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

### ARGUMENTS

#### Supporting Argument

By relaxing licensing requirements, the bill would aid Michigan hospitals that are affiliated with academic institutions, in recruiting highly qualified foreign-trained physicians. Currently, in order to practice medicine in Michigan, medical doctors who have been trained at health care institutions outside of the United States or Canada and who have practiced competently for a number of years in another country must complete the same requirements that new graduates of foreign medical schools must meet, including spending two years as a student in a U.S. or Canadian resident training program. Many times, these foreign-trained and experienced physicians are being considered for possible teaching positions in such a program, and, thus, should not be considered prospective students. In addition, these experienced physicians do not want to be subjected to taking the same battery of tests that are required of new graduates of medical schools. Because of Michigan's licensing law, however, these physicians are confronted with a situation that would be similar to requiring an experienced physician in Michigan to retake the exams given by a national medical licensing board or requiring an experienced lawyer to take the bar exam again. As a result, some hospitals in the State are having difficulty hiring foreign-trained physicians who are eminently qualified. The employment of these physicians would enhance a hospital's patient care, education, and research efforts, as well as enrich the medical expertise available in the State.

#### Supporting Argument

Experienced, foreign-trained physicians, under the current licensing law, may be granted a clinical academic license, which limits their activities to a single institution and which precludes them from publicizing themselves as being actively involved in the practice of medicine or soliciting patients. In addition, foreign-trained physicians, despite their possessing years of experience, must have two years of postgraduate training in the United States or Canada before being granted a permanent license to practice in the State. Given the restrictions on establishing a private practice and obtaining a permanent license, some physicians from outside of the United States are hesitant to locate in Michigan. The

bill would permit the Board of Medicine to grant a full license to practice to foreign-trained physicians who had met certain requirements, including having practiced medicine for at least two years for an academic institution in the State. Thus, hospitals that were attempting to recruit these physicians could offer them the possibility of obtaining a permanent license to practice medicine in Michigan for the rest of their careers, without being subjected to the examination and residency requirements for new graduates.

#### **Supporting Argument**

According to the Department of Licensing and Regulation, the current clinical academic license statute--which applies to all health professions--is unclear, and has been difficult to administer. The law states that a licensee must "function" in a clinical academic "capacity", but does not specify the kind of institution where the licensee must practice, such as a medical school or teaching hospital. The law also states that a licensee cannot "hold himself or herself out to the public as being actively engaged in the practice of the health profession", but does not explain that restriction. Thus, it is not clear, for example, whether a licensee in a large academic institution may have his or her name on the door along with the title of "Dr." or "M.D."; or, whether such a licensee may distribute a business card to a member of the public who has come into the institution. The bill would clarify the Code's clinical academic limited license provisions, in part by defining "academic institution". In addition, the bill would require annual renewal for the practice of medicine but would limit a physician to practicing up to five years under a clinical academic limited license. Currently, there is no limit, although the Department has required annual renewal as an administrative policy.

#### **Supporting Argument**

Examination and residency requirements in the Code are designed to protect the public by trying to ensure that physicians have a minimum acceptable level of knowledge and ability before practicing in Michigan. The bill would continue to protect the public by leaving in place the current requirements for new graduates and for other foreign physicians who could not meet the proposed new requirements for full licensure. At the same time, the bill would establish alternative licensure requirements for

experienced, proven foreign-trained physicians. These requirements would focus on three areas: a physician's education and training, his or her previous experience and medical knowledge, and his or her experience practicing medicine in a Michigan academic institution.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.