

MEDICINE AND SURGERY

Footnotes

Enforcement, § 147.87, 147.90, 147.92

Penalty, § 147.86

Examining board, support staff exceptions;
location and powers; see § 135.11A, 135.31

Utilization and cost control
review committee; § 514F.1

148.1 Persons engaged in practice.

For the purpose of this subtitle the following classes of persons shall be deemed to be engaged in the practice of medicine and surgery:

1. Persons who publicly profess to be physicians or surgeons or who publicly profess to assume the duties incident to the practice of medicine or surgery.
2. Persons who prescribe, or prescribe and furnish medicine for human ailments or treat the same by surgery.
3. Persons who act as representatives of any person in doing any of the things mentioned in this section.

[C97, § 2579; C24, 27, 31, 35, 39, § **2538**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 148.1]

148.2 Persons not required to qualify.

Section 148.1 shall not be construed to include the following classes of persons:

1. Persons who advertise or sell patent or proprietary medicines.
2. Persons who advertise, sell, or prescribe natural mineral waters flowing from wells or springs.
3. Students of medicine or surgery who have completed at least two years' study in a medical school, approved by the medical examiners, and who prescribe medicine under the supervision of a licensed physician and surgeon, or who render gratuitous service to persons in case of emergency.
4. Licensed podiatric physicians, osteopaths, osteopathic physicians and surgeons, chiropractors, physical therapists, nurses, dentists, optometrists, and pharmacists who are exclusively engaged in the practice of their respective professions.
5. Physicians and surgeons of the United States army, navy, or public health service when acting in the line of duty in this state, or physicians and surgeons licensed in another state, when incidentally called into this state in consultation with a physician and surgeon licensed in this state.
6. A graduate of a medical school who is continuing training and performing the duties of an intern, or who is engaged in postgraduate training deemed the equivalent of an internship in a hospital approved for training by the medical examiners.

[C97, § 2579, 2581; S13, § 2581; C24, 27, 31, 35, 39, § **2539**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 148.2]

148.2A Board of medical examiners.

As used in this chapter, "*board*" and "*medical examiners*" mean the board of medical examiners established in chapter 147.

92 Acts, ch 1183, § 11

148.3 Requirements for license.

An applicant for a license to practice medicine and surgery shall:

1. Present a diploma issued by a medical college approved by the medical examiners, or present other evidence of equivalent medical education approved by the medical examiners. The medical examiners may accept, in lieu of a diploma from a medical college approved by them, all of the following:

a. A diploma issued by a medical college which has been neither approved nor disapproved by the medical examiners; and

b. A valid standard certificate issued by the educational commission for foreign medical graduates or similar accrediting agency.

2. Pass an examination prescribed by the medical examiners which shall include subjects which determine the applicant's qualifications to practice medicine and surgery and which shall be given according to the methods deemed by the medical examiners to be the most appropriate and practicable. However, the federation licensing examination (FLEX) or any other national standardized examination which the medical examiners shall approve may be administered to any or all applicants in lieu of or in conjunction with other examinations which the medical examiners shall prescribe. The medical examiners may establish necessary achievement levels on all examinations for a passing grade and adopt rules relating to examinations.

3. Present to the medical examiners satisfactory evidence that the applicant has successfully completed one year of postgraduate internship or resident training in a hospital approved for such training by the medical examiners. Beginning July 1, 2006, an applicant who holds a valid certificate issued by the educational commission for foreign medical graduates shall submit satisfactory evidence of successful completion of two years of such training.

1. [C97, § 2582; S13, § 2582; C24, 27, 31, 35, 39, § **2540**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 148.3; 82 Acts, ch 1005, § 4]

2. [C97, § 2576; S13, § 2576; C24, 27, 31, 35, 39, § **2540**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 148.3]

3. [C27, 31, 35, 39, § **2540**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 148.3]

90 Acts, ch 1086, § 9, 10; 92 Acts, ch 1183, § 12; 2004 Acts, ch 1168, §7

148.4 Certificates of national board.

The medical examiners may accept in lieu of the examination prescribed in section 148.3 a certificate of examination issued by the national board of medical examiners of the United States of America, but every applicant for a license upon the basis of such certificate shall be required to pay the fee prescribed by the medical examiners for licenses.

[S13, § 2582; C24, 27, 31, 35, 39, § 2541; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 148.4]

92 Acts, ch 1183, § 13

148.5 Resident physician license.

A physician, who is a graduate of a medical school and is serving as a resident physician who is not otherwise licensed to practice medicine and surgery in this state, shall be required to obtain from the medical examiners a license to practice as a resident physician. The license shall be designated "Resident Physician License" and shall authorize the licensee to serve as a resident physician only, under the supervision of a licensed practitioner of medicine and surgery or osteopathic medicine and surgery, in an institution approved for such training by the medical examiners. A license shall be valid for a duration as determined by the board. The fee for each license shall be set by the medical examiners to cover the administrative costs of issuing the license. The medical examiners shall determine in each instance those eligible for a license, whether or not examinations shall be given, and the type of examinations. Requirements of the law pertaining to regular permanent licensure shall not be mandatory for a resident physician license except as specifically designated by the medical examiners. The granting of a resident physician license does not in any way indicate that the person licensed is necessarily eligible for regular permanent licensure, nor are the medical examiners in any way obligated to license the individual.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 148.5]

90 Acts, ch 1086, § 11; 92 Acts, ch 1183, § 14; 2000 Acts, ch 1140, §32

148.6 Revocation.

1. The medical examiners, after due notice and hearing in accordance with chapter 17A, may issue an order to discipline a licensee for any of the grounds set forth in section 147.55, chapter 272C, or this subsection. Notwithstanding section 272C.3, licensee discipline may include a civil penalty not to exceed ten thousand dollars.

2. Pursuant to this section, the board of medical examiners may discipline a licensee who is guilty of any of the following acts or offenses:

a. Knowingly making misleading, deceptive, untrue or fraudulent representation in the practice of the physician's profession.

b. Being convicted of a felony in the courts of this state or another state, territory, or country. Conviction as used in this paragraph shall include a conviction of an offense which if committed in this state would be deemed a felony without regard to its designation elsewhere, or a criminal proceeding in which a finding or verdict of guilt is made or returned, but the adjudication of guilt is either withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state shall be conclusive evidence.

c. Violating a statute or law of this state, another state, or the United States, without regard to its designation as either felony or misdemeanor, which statute or law relates to the practice of medicine.

d. Having the license to practice medicine and surgery, osteopathic medicine and surgery or osteopathy revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is prima facie evidence.

e. Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice medicine and surgery,

osteopathic medicine and surgery or osteopathy.

f. Being adjudged mentally incompetent by a court of competent jurisdiction. Such adjudication shall automatically suspend a license for the duration of the license unless the board orders otherwise.

g. Being guilty of a willful or repeated departure from, or the failure to conform to, the minimal standard of acceptable and prevailing practice of medicine and surgery, osteopathic medicine and surgery or osteopathy in which proceeding actual injury to a patient need not be established; or the committing by a physician of an act contrary to honesty, justice, or good morals, whether the same is committed in the course of the physician's practice or otherwise, and whether committed within or without this state.

h. Inability to practice medicine and surgery, osteopathic medicine and surgery or osteopathy with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition. The medical examiners may, upon probable cause, compel a physician to submit to a mental or physical examination by designated physicians or to submit to alcohol or drug screening within a time specified by the medical examiners. Failure of a physician to submit to an examination or to submit to alcohol or drug screening shall constitute admission to the allegations made against the physician and the finding of fact and decision of the medical examiners may be entered without the taking of testimony or presentation of evidence. At reasonable intervals, a physician shall be afforded an opportunity to demonstrate that the physician can resume the competent practice of medicine with reasonable skill and safety to patients.

A person licensed to practice medicine and surgery, osteopathic medicine and surgery or osteopathy who makes application for the renewal of a license, as required by section 147.10, gives consent to submit to a mental or physical examination as provided by this paragraph when directed in writing by the medical examiners. All objections shall be waived as to the admissibility of the examining physicians' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against a physician in another proceeding and shall be confidential, except for other actions filed against a physician to revoke or suspend a license.

i. Willful or repeated violation of lawful rule or regulation adopted by the board or violating a lawful order of the board, previously entered by the board in a disciplinary or licensure hearing, or violating the terms and provisions of a consent agreement or informal settlement between a licensee and the board.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, § 148.6]

90 Acts, ch 1086, § 1214; 92 Acts, ch 1183, § 15

Footnotes

Service of notice, R.C.P. 1.305

148.7 Procedure for suspension or revocation.

A proceeding for the revocation or suspension of a license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy or to discipline a person licensed to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy shall be substantially in accord with the following procedure:

1. The medical examiners may, upon their own motion or upon verified complaint in writing, and shall, if such complaint is filed by the director of public health, issue an order fixing the time and place for hearing. A

written notice of the time and place of the hearing together with a statement of the charges shall be served upon the licensee at least ten days before the hearing in the manner required for the service of notice of the commencement of an ordinary action or by restricted certified mail.

2. If the licensee has left the state, the notice and statement of the charges shall be so served at least twenty days before the date of the hearing, wherever the licensee may be found. If the whereabouts of the licensee is unknown, service may be had by publication as provided in the rules of civil procedure upon filing the affidavit required by said rules. In case the licensee fails to appear, either in person or by counsel at the time and place designated in said notice, the medical examiners shall proceed with the hearing as hereinafter provided.

3. The hearing shall be before a member or members designated by the board or before an administrative law judge appointed by the board according to the requirements of section 17A.11, subsection 1. The presiding board member or administrative law judge may issue subpoenas, administer oaths, and take or cause depositions to be taken in connection with the hearing. The presiding board member or administrative law judge shall issue subpoenas at the request and on behalf of the licensee. The hearing shall be open to the public.

The administrative law judge shall be an attorney vested with full authority of the board to schedule and conduct hearings. The administrative law judge shall prepare and file with the medical examiners the administrative law judge's findings of fact and conclusions of law, together with a complete written transcript of all testimony and evidence introduced at the hearing and all exhibits, pleas, motions, objections, and rulings of the administrative law judge.

4. A stenographic record of the proceedings shall be kept. The licensee shall have the opportunity to appear personally and by an attorney, with the right to produce evidence in the licensee's own behalf, to examine and cross-examine witnesses and to examine documentary evidence produced against the licensee.

5. If a person refuses to obey a subpoena issued by the presiding member or administrative law judge or to answer a proper question during the hearing, the presiding member or administrative law judge may invoke the aid of a court of competent jurisdiction or judge of this court in requiring the attendance and testimony of the person and the production of papers. A failure to obey the order of the court may be punished by the court as a civil contempt may be punished.

6. Unless the hearing is before the entire board, a transcript of the proceeding, together with exhibits presented, shall be considered by the entire board at the earliest practicable time. The licensee and the licensee's attorney shall have the opportunity to appear personally to present the licensee's position and arguments to the board. The board shall determine the charge or charges upon the merits on the basis of the evidence in the record before it.

7. If a majority of the members of the board vote in favor of finding the licensee guilty of an act or offense specified in section 147.55 or 148.6, the board shall prepare written findings of fact and its decision imposing one or more of the following disciplinary measures:

a. Suspend the licensee's license to practice the profession for a period to be determined by the board.

b. Revoke the licensee's license to practice the profession.

c. Suspend imposition of judgment and penalty or impose the judgment and penalty, but suspend enforcement and place the physician on probation. The probation ordered may be vacated upon noncompliance. The medical examiners may restore and reissue a license to practice medicine and surgery, osteopathic medicine

and surgery or osteopathy, but may impose a disciplinary or corrective measure which it might originally have imposed. A copy of the medical examiners' order, findings of fact, and decision, shall be served on the licensee in the manner of service of an original notice or by certified mail return receipt requested.

8. Judicial review of the board's action may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

9. The medical examiners' order revoking or suspending a license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy or to discipline a licensee shall remain in force and effect until the appeal is finally determined and disposed of upon its merit.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, § 148.7]

88 Acts, ch 1109, § 16; 90 Acts, ch 1086, § 15; 92 Acts, ch 1183, § 16, 17; 98 Acts, ch 1202, §31, 46; 2003 Acts, ch 44, §114

148.8 Voluntary surrender of license.

The medical examiners may accept the voluntary surrender of a license if accompanied by a written statement of intention. A voluntary surrender, when accepted, has the same force and effect as an order of revocation.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, § 148.8]

92 Acts, ch 1183, § 18

148.9 Reinstatement.

Any person whose license has been suspended, revoked or placed on probation may apply to the board of medical examiners for reinstatement at any time and the board may hold hearings on any such petition and may order reinstatement and impose terms and conditions thereof and issue a certificate of reinstatement to the director of public health who shall thereupon issue a license as directed by the board.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, § 148.9]

148.10 Temporary certificate.

The medical examiners may, in their discretion, issue a temporary certificate authorizing the licensee to practice medicine and surgery or osteopathic medicine and surgery in a specific location or locations and for a specified period of time if, in the opinion of the medical examiners, a need exists and the person possesses the qualifications prescribed by the medical examiners for the license, which shall be substantially equivalent to those required for licensure under this chapter or chapter 150A, as the case may be. The medical examiners shall determine in each instance those eligible for this license, whether or not examinations shall be given, and the type of examinations. No requirements of the law pertaining to regular permanent licensure are mandatory for this temporary license except as specifically designated by the medical examiners. The granting of a temporary license does not in any way indicate that the person so licensed is necessarily eligible for regular licensure, nor are the medical examiners in any way obligated to so license the person.

The temporary certificate shall be issued for a period not to exceed one year and may be renewed, but a person shall not practice medicine and surgery or osteopathic medicine and surgery in excess of three years while holding a temporary certificate. The fee for this license and the fee for renewal of this license shall be set by the medical examiners. The fees shall be based on the administrative costs of issuing and renewing the licenses.

[C66, 71, 73, 75, 77, 79, 81, § 148.10]

87 Acts, ch 128, § 1; 2004 Acts, ch 1167, §5

148.11 Special license to practice medicine and surgery.

1. Whenever the need exists, the board of medical examiners may issue a special license. The special license shall authorize the licensee to practice medicine and surgery under the policies and standards applicable to the health care services of a medical school academic staff member or as otherwise specified in the special license.

2. A person applying for a special license shall:

a. Be a physician in a professional specialty.

b. Present a diploma issued by a medical college.

c. Present evidence of an unrestricted license to practice medicine and surgery which has been issued by a foreign state or territory or an alien country.

d. Present a letter of recommendation from the dean of a medical school in this state indicating that the applicant has been invited to serve on the academic staff of the medical school.

e. Present letters of recommendation from universities, other educational institutions, or research facilities that indicate the noteworthy professional attainment by the applicant.

f. Present biographical background information concerning the applicant's education and qualifications.

3. The fee for initial issuance of a special license shall be established in an amount sufficient to cover the costs of issuing the special license. If the special license is extended beyond one year, an annual renewal fee shall be established in an amount sufficient to cover the costs of renewing the special license.

4. Notwithstanding the provisions of chapter 17A, the board may cancel a special license at any time without hearing. However, when such license is proposed to be canceled, the board shall promptly notify the licensee by certified mail sent to the last known address of the licensee. Thirty days after the service of such notice, the special license shall be canceled.

5. A special license issued under this section shall automatically expire upon the special licensee discontinuing service on the academic staff of a medical school in this state. An expired special license shall not be renewed. However, a former special licensee may reapply for a special license.

[C77, 79, 81, § 148.11]

148.12 Voluntary agreements.

The medical examiners, after due notice and hearing, may issue an order to revoke, suspend, or restrict a license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy, or to issue a restricted license on application if the medical examiners determine that a physician licensed to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy, or an applicant for licensure has entered into a voluntary agreement to restrict the practice of medicine and surgery, osteopathic medicine and surgery, or osteopathy in another state, district, territory, country, or an agency of the federal government. A certified copy of the voluntary agreement shall be considered prima facie evidence.

86 Acts, ch 1211, § 17; 92 Acts, ch 1183, § 19; 2005 Acts, ch 89, §14

148.13 Authority of board as to supervising physicians and review of contested cases under chapter 148C rules.

1. The board of medical examiners shall adopt rules setting forth in detail its criteria and procedures for determining the ineligibility of a physician to serve as a supervising physician under chapter 148C. The rules shall provide that a physician may serve as a supervising physician under chapter 148C until such time as the board determines, following normal disciplinary procedures, that the physician is ineligible to serve in that capacity.
2. The board of medical examiners shall establish by rule specific procedures for consulting with and considering the advice of the board of physician assistant examiners in determining whether to initiate a disciplinary proceeding under chapter 17A against a licensed physician in a matter involving the supervision of a physician assistant.
3. In exercising their respective authorities, the board of medical examiners and the board of physician assistant examiners shall cooperate with the goal of encouraging the utilization of physician assistants in a manner that is consistent with the provision of quality health care and medical services for the citizens of Iowa.
4. The board of medical examiners shall adopt rules requiring a physician serving as a supervising physician to notify the board of the identity of a physician assistant the physician is supervising, and of any change in the status of the supervisory relationship.

88 Acts, ch 1225, §14; 2003 Acts, ch 93, §4, 5, 14