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AB-2273 Physicians and surgeons: foreign medical graduates: special faculty permits. (2019-2020)

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Assembly Bill No. 2273

CHAPTER 280

An act to amend Sections 2111, 2113, 2168, 2168.1, and 2168.2, of, and to add Section 2168.5 to, the Business and Professions Code, relating to healing arts.

[Approved by Governor September 29, 2020. Filed with Secretary of State September 29, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2273, Bloom. Physicians and surgeons: foreign medical graduates: special faculty permits.

Existing law, the Medical Practice Act, prohibits the practice of medicine without a physician's and surgeon's certificate issued by the Medical Board of California through its Division of Licensing. Under existing law, any person who meets certain eligibility requirements, including, but not limited to, the requirement that the person is academically eminent, as defined, may apply for a special faculty permit that authorizes the holder to practice medicine, without a physician's and surgeon's certificate, within the medical school itself and certain affiliated institutions. The act also authorizes physicians who are not citizens who meet certain eligibility requirements and who seek postgraduate study in an approved medical school to, after receipt of an appointment from the dean of the California medical school and application to and approval by the board, be permitted to participate in the professional activities of the department or division in the medical school to which they are appointed. These physicians are known as visiting fellows. The act also authorizes a person who does not immediately qualify for a physician's and surgeon's certificate who is offered by the dean of an approved medical school in this state a full-time faculty position to be granted a certificate of registration to engage in the practice of medicine only to the extent that the practice is incident to and a necessary part of the person's duties as approved by the board in connection with the faculty position, as specified.

This bill would also authorize the holder of a special faculty permit, a visiting fellow, and a holder of a certificate of registration to practice medicine at an academic medical center. The bill would define an "academic medical center" to include, but not be limited to, a facility licensed by the State of California that trains a minimum of 250 residents and postdoctoral fellows on an annual basis commencing each January 1. The bill would prohibit the board from approving more than 5 special faculty permit applications submitted by academic medical centers within a calendar year. The bill would also expand the definition of "academically eminent" to include persons who hold or have been offered a full-time position at an academic medical center or persons, clearly outstanding in a specific field of medicine or surgery and who have been offered a full-time position by the chief medical officer of an academic medical center, as specified. The bill would provide that the permitholders and visiting fellows described above who were authorized before January 1, 2021, and are in an academic medical center would be authorized as if their original applications had been sponsored by that academic medical center.

The act also authorizes the board, in its discretion, to waive certain examination and certification requirements for licensure for a graduate of a foreign medical school who holds a certificate of registration issued by the board to practice medicine as a full-time faculty member at a medical school.

The bill would also authorize the board to accept clinical practice in an appointment as qualifying time to meet specified postgraduate training requirements for licensure for those registrants.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2111 of the Business and Professions Code is amended to read:

2111. (a) Physicians who are not citizens but who meet the requirements of subdivision (b) and who seek postgraduate study in an approved medical school or academic medical center may, after receipt of an appointment from the dean of the California medical school, or dean or chief medical officer of an academic medical center, and application to and approval by the board, be permitted to participate in the professional activities of the department or division in the medical school or academic medical center to which they are appointed. The physician shall be under the direction of the head of the department to which the physician is appointed, supervised by the medical center staff of the medical school or academic medical center, and known for these purposes as a "visiting fellow." The visiting fellow shall wear a visible name tag containing the title "visiting fellow" when the visiting fellow provides clinical services.

(b) (1) Application for approval shall be made on a form prescribed by the division and shall be accompanied by a fee fixed by the board in an amount necessary to recover the actual application processing costs of the program. The application shall show that the person does not immediately qualify for a physician's and surgeon's certificate under this chapter and that the person has completed at least three years of postgraduate basic residency requirements. The application shall include a written statement of the recruitment procedures followed by the medical school or academic medical center before offering the appointment to the applicant.

(2) Approval shall be granted only for appointment to one medical school or academic medical center, and a physician shall not be granted more than one approval for the same period of time.

(3) Approval may be granted for a maximum of three years and shall be renewed annually. The medical school or academic medical center shall submit a request for renewal on a form prescribed by the board, which shall be accompanied by a renewal fee fixed by the board in an amount necessary to recover the actual application processing costs of the program.

(c) Except to the extent authorized by this section, the visiting fellow may not engage in the practice of medicine. The visiting fellow or the medical school or academic medical center shall not assess any charge for the medical services provided by the visiting fellow, and the visiting fellow shall not receive any other compensation therefor.

(d) The time spent under appointment in a medical school or academic medical center pursuant to this section shall not be used to meet the requirements for licensure.

(e) (1) The board shall notify both the visiting fellow and the dean of the appointing medical school or the dean or chief medical officer of the academic medical center of any complaint made about the visiting fellow.

(2) The board may terminate its approval of an appointment for any act that would be grounds for discipline if done by a licensee. The board shall provide both the visiting fellow and the dean of the medical school or dean or chief medical officer of the academic medical center with a written notice of termination including the basis for that termination. The visiting fellow may, within 30 days after the date of the notice of termination, file a written appeal to the board. The appeal shall include any documentation the visiting fellow wishes to present to the board.

(f) This section shall not preclude any United States citizen who has received a medical degree from a medical school located in a foreign country and recognized by the board from participating in any program established pursuant to this section.

(g) A visiting fellow approved pursuant to this section before January 1, 2021, who participates in the professional activities of the department or division in an academic medical center shall be deemed to be appointed to that academic medical center as though the initial application had been sponsored by the academic medical center.

(h) As used in this section, "academic medical center" has the same meaning as defined in subdivision (a) of Section 2168.

SEC. 2. Section 2113 of the Business and Professions Code is amended to read:

2113. (a) Any person who does not immediately qualify for a physician's and surgeon's certificate under this chapter and who is offered by the dean of an approved medical school, or the dean or chief medical officer of an academic medical center, in this state a full-time faculty position may, after application to and approval by the board, be granted a certificate of registration to engage in the practice of medicine only to the extent that the practice is incident to and a necessary part of that person's duties

as approved by the board in connection with the faculty position. A certificate of registration does not authorize a registrant to admit patients to a nursing or a skilled or assisted living facility unless that facility is formally affiliated with the sponsoring medical school or academic medical center. A clinical fellowship shall not be submitted as a faculty service appointment.

(b) Application for a certificate of registration shall be made on a form prescribed by the board and shall be accompanied by a registration fee fixed by the board in an amount necessary to recover the actual application processing costs of the program. To qualify for the certificate, an applicant shall submit all of the following:

(1) If the applicant is a graduate of a medical school other than in the United States or Canada, documentary evidence satisfactory to the board that the applicant has been licensed to practice medicine and surgery for not less than four years in another state or country whose requirements for licensure are satisfactory to the board, or has been engaged in the practice of medicine in the United States for at least four years in approved facilities, or has completed a combination of that licensure and training.

(2) If the applicant is a graduate of a medical school in the United States or Canada, documentary evidence that the medical school is approved by the board.

(3) Written certification by the head of the department in which the applicant is to be appointed of all of the following:

(A) The applicant will be under the head of the department's direction.

(B) The applicant will not be permitted to practice medicine unless incident to and a necessary part of the applicant's duties as approved by the board in subdivision (a).

(C) The applicant will be accountable to the medical school's or academic medical center's department chair or division chief for the specialty in which the applicant will practice.

(D) The applicant will be proctored in the same manner as other new faculty members, including, as appropriate, review by the medical staff of the sponsoring medical school or academic medical center.

(E) The applicant will not be appointed to a supervisory position at the level of a medical school or academic medical center's department chair or division chief.

(4) Demonstration by the dean of the medical school, or the dean or chief medical officer of an academic medical center, that the applicant has the requisite qualifications to assume the position to which the applicant is to be appointed and that shall include a written statement of the recruitment procedures followed by the medical school or academic medical center before offering the faculty position to the applicant.

(c) A certificate of registration shall be issued only for a faculty position at one approved medical school, or academic medical center, and a person shall not be issued more than one certificate of registration for the same period of time.

(d) (1) A certificate of registration is valid for one year from its date of issuance and may be renewed twice.

A request for renewal shall be submitted on a form prescribed by the board and shall be accompanied by a renewal fee fixed by the board in an amount necessary to recover the actual application processing costs of the program.

(2) The dean of the medical school, or the dean or chief medical officer of an academic medical center, may request renewal of the registration by submitting a plan at the beginning of the third year of the registrant's appointment demonstrating the registrant's continued progress toward licensure and, if the registrant is a graduate of a medical school other than in the United States or Canada, that the registrant has been issued a certificate by the Educational Commission for Foreign Medical Graduates. The board may, in its discretion, extend the registration for a two-year period to facilitate the registrant's completion of the licensure process.

(e) If the registrant is a graduate of a medical school other than in the United States or Canada, the registrant shall meet the requirements of Section 2065 or 2135, as appropriate, in order to obtain a physician's and surgeon's certificate. Notwithstanding any other provision of law, the board may accept clinical practice in an appointment pursuant to this section as qualifying time to meet the postgraduate training requirements in Section 2065, and, in its discretion, waive the examination and the Educational Commission for Foreign Medical Graduates certification requirements specified in paragraph (3) of subdivision (a) of Section 2065 in the event the registrant applies for a physician's and surgeon's certificate. As a condition to waiving any examination or the Educational Commission for Foreign Medical Graduates certification requirement, the board in its discretion, may require an applicant to pass a clinical competency examination approved by the board. The board shall not waive any examination for an applicant who has not completed at least one year in the faculty position.

(f) Except to the extent authorized by this section, the registrant shall not engage in the practice of medicine, bill individually for medical services provided by the registrant, or receive compensation therefor, unless the registrant is issued a physician's and surgeon's certificate.

(g) When providing clinical services, the registrant shall wear a visible name tag containing the title "visiting professor" or "visiting faculty member," as appropriate, and the institution at which the services are provided shall obtain a signed statement from each patient to whom the registrant provides services acknowledging that the patient understands that the services are provided by a person who does not hold a physician's and surgeon's certificate but who is qualified to participate in a special program as a visiting professor or faculty member.

(h) The board shall notify both the registrant and the dean of the medical school, or the dean or chief medical officer of an academic medical center, of a complaint made about the registrant. The board may terminate a registration for any act that would be grounds for discipline if done by a licensee. The board shall provide both the registrant and the dean of the medical school, or the dean or chief medical officer of an academic medical center, with written notice of the termination and the basis for that termination. The registrant may, within 30 days after the date of the notice of termination, file a written appeal to the board. The appeal shall include any documentation the registrant wishes to present to the board.

(i) A registrant granted a certificate of registration before January 1, 2021, to engage in the practice of medicine pursuant to this section at an academic medical center shall be deemed to be authorized at that academic medical center as though the initial application had been sponsored by the academic medical center.

(j) As used in this section, "academic medical center" has the same meaning as defined in subdivision (a) of Section 2168.

SEC. 3. Section 2168 of the Business and Professions Code is amended to read:

2168. (a) (1) A special faculty permit authorizes the holder to practice medicine only within the medical school itself, any affiliated institution of the medical school, or an academic medical center and any affiliated institution in which the permitholder is providing instruction as part of the medical school's or academic medical center's educational program and for which the medical school or academic medical center has assumed direct responsibility. The holder of a special faculty permit shall not engage in the practice of medicine except as provided above.

(2) For the purposes of this section, the term "academic medical center" is defined as being all of the following:

(A) A facility licensed by the State of California.

(B) The facility conducts both internal and external peer review of the faculty for the purpose of conferral of academic appointments on an ongoing basis.

(C) The facility conducts clinical and basic research for the purpose of advancing patient care.

(D) The facility trains a minimum of 250 residents and postdoctoral fellows on an annual basis commencing each January 1.

(E) The facility meets all of the following requirements:

(i) The facility has more than 100 research students or postdoctoral researchers annually.

(ii) The facility has foreign medical graduates in clinical research.

(iii) The facility offers clinical observership training.

(iv) The facility has an intern and resident-to-bed ratio meeting the federal Centers for Medicare and Medicaid Services definition as a major teaching hospital and conducts research in an amount of one hundred million dollars (\$100,000,000) or more annually.

(b) Time spent in a faculty position under a special faculty permit shall not be counted toward the postgraduate training required for licensure and shall not qualify the holder of the permit for waiver of any written examination required for licensure.

(c) The medical school or academic medical center shall not appoint the holder of a special faculty permit to a position as a division chief or head of a department without express written authorization from the board.

SEC. 4. Section 2168.1 of the Business and Professions Code is amended to read:

2168.1. (a) Any person who meets all of the following eligibility requirements may apply for a special faculty permit:

(1) Is academically eminent. For purposes of this article, "academically eminent" means the applicant meets either of the following criteria:

(A) The person holds or has been offered a full-time appointment at the level of full professor in a tenure track position, or its equivalent, at an academic medical center, as defined in Section 2168, or a California medical school approved by the board.

(B) The person is clearly outstanding in a specific field of medicine or surgery and has been offered by the dean of a medical school or the dean or chief medical officer of an academic medical center a full-time academic appointment at the level of full professor or associate professor, and a great need exists to fill that position.

(2) Possesses a current valid license to practice medicine issued by another state, country, or other jurisdiction.

(3) Is not subject to denial under Section 480 or any provision of this chapter.

(4) Pays the fee prescribed for application for, and initial licensure as, a physician and surgeon.

(5) Has not held a position under Section 2113 for a period of two years or more preceding the date of the application. The board may, in its discretion, waive this requirement.

(b) The board shall exercise its discretion in determining whether an applicant satisfies the requirements of paragraph (1) of subdivision (a).

(c) (1) The board shall establish a review committee composed of two members of the division, one of whom shall be a physician and surgeon and one of whom shall be a public member, one representative from each of the medical schools, and one individual selected pursuant to paragraph (3) to represent academic medical centers in California. The committee shall review and make recommendations to the board regarding the applicants applying pursuant to this section, including those applicants that a medical school or academic medical center proposes to appoint as a division chief or head of a department or as nontenure track faculty.

(2) The representative of the medical school or academic medical center offering the applicant an academic appointment shall not participate in any vote on the recommendation to the board for that applicant.

(3) The academic medical centers shall select by consensus, one individual to represent academic medical centers on the review committee.

(d) The board shall not approve more than five applications submitted pursuant to this section by academic medical centers in any calendar year.

(e) As used in this section, "academic medical center" has the same meaning as defined in subdivision (a) of Section 2168.

SEC. 5. Section 2168.2 of the Business and Professions Code is amended to read:

2168.2. An application for a special faculty permit shall be made on a form prescribed by the board and shall include any information that the board may prescribe to establish an applicant's eligibility for a permit. This information shall include, but is not limited to, the following:

(a) A statement from the dean of the medical school or dean or chief medical officer at an academic medical center at which the applicant will be employed describing the applicant's qualifications and justifying the dean's or chief medical officer's determination that the applicant satisfies the requirements of paragraph (1) of subdivision (a) of Section 2168.1.

(b) A statement by the dean of the medical school or dean or chief medical officer of the academic medical center listing every affiliated institution in which the applicant will be providing instruction as part of the medical school's or academic medical center's educational program and justifying any clinical activities at each of the institutions listed by the dean or chief medical officer.

SEC. 6. Section 2168.5 is added to the Business and Professions Code, to read:

2168.5. A holder of a special faculty permit issued before January 1, 2021, who practices medicine pursuant to subdivision (a) of Section 2168 at an academic medical center, as defined in subdivision (a) of Section 2168, shall be deemed to hold a special faculty permit with that academic medical center as though the initial application had been sponsored by the academic medical center.