

MEDICAL PRACTICE AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rex P. Shipp

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill prohibits a physician or surgeon from performing a transgender procedure on a minor.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ makes it unprofessional conduct to perform a medically unnecessary puberty inhibition procedure or a sex characteristic-altering procedure on a minor; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-67-102, as last amended by Laws of Utah 2017, Chapter 299

58-67-502, as last amended by Laws of Utah 2020, Chapter 25

58-68-102, as last amended by Laws of Utah 2017, Chapter 299

58-68-502, as last amended by Laws of Utah 2020, Chapter 25



28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **58-67-102** is amended to read:

30 **58-67-102. Definitions.**

31 In addition to the definitions in Section **58-1-102**, as used in this chapter:

32 (1) "Ablative procedure" means a procedure that is expected to excise, vaporize,
33 disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium:
34 YAG lasers, and excluding hair removal.

35 (2) "ACGME" means the Accreditation Council for Graduate Medical Education of the
36 American Medical Association.

37 (3) "Administrative penalty" means a monetary fine or citation imposed by the division
38 for acts or omissions determined to constitute unprofessional or unlawful conduct, in
39 accordance with a fine schedule established by the division in collaboration with the board, as a
40 result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4,
41 Administrative Procedures Act.

42 (4) "Associate physician" means an individual licensed under Section **58-67-302.8**.

43 (5) "Attempted sex change" means an attempt or effort to change an individual's body
44 to present that individual as being of a sex or gender that is different from the individual's
45 biological sex at birth.

46 (6) "Biological sex at birth" means an individual's sex, as being male or female,
47 according to distinct reproductive roles as manifested by sex and reproductive organ anatomy,
48 chromosomal makeup, and endogenous hormone profiles.

49 [~~5~~] (7) "Board" means the Physicians Licensing Board created in Section **58-67-201**.

50 [~~6~~] (8) "Collaborating physician" means an individual licensed under Section
51 **58-67-302** who enters into a collaborative practice arrangement with an associate physician.

52 [~~7~~] (9) "Collaborative practice arrangement" means the arrangement described in
53 Section **58-67-807**.

54 [~~8~~] (10) (a) "Cosmetic medical device" means tissue altering energy based devices
55 that have the potential for altering living tissue and that are used to perform ablative or
56 nonablative procedures, such as American National Standards Institute (ANSI) designated
57 Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic
58 devices, and excludes ANSI designated Class IIIa and lower powered devices.

59 (b) Notwithstanding Subsection [~~(8)~~] (10)(a), if an ANSI designated Class IIIa and
60 lower powered device is being used to perform an ablative procedure, the device is included in
61 the definition of cosmetic medical device under Subsection [~~(8)~~] (10)(a).

62 [~~(9)~~] (11) "Cosmetic medical procedure":

63 (a) includes the use of cosmetic medical devices to perform ablative or nonablative
64 procedures; and

65 (b) does not include a treatment of the ocular globe such as refractive surgery.

66 [~~(10)~~] (12) "Diagnose" means:

67 (a) to examine in any manner another person, parts of a person's body, substances,
68 fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's
69 body, to determine the source, nature, kind, or extent of a disease or other physical or mental
70 condition;

71 (b) to attempt to conduct an examination or determination described under Subsection
72 [~~(10)~~] (12)(a);

73 (c) to hold oneself out as making or to represent that one is making an examination or
74 determination as described in Subsection [~~(10)~~] (12)(a); or

75 (d) to make an examination or determination as described in Subsection [~~(10)~~] (12)(a)
76 upon or from information supplied directly or indirectly by another person, whether or not in
77 the presence of the person making or attempting the diagnosis or examination.

78 [~~(11)~~] (13) "LCME" means the Liaison Committee on Medical Education of the
79 American Medical Association.

80 [~~(12)~~] (14) "Medical assistant" means an unlicensed individual working under the
81 indirect supervision of a licensed physician and surgeon and engaged in specific tasks assigned
82 by the licensed physician and surgeon in accordance with the standards and ethics of the
83 profession.

84 [~~(13)~~] (15) "Medically underserved area" means a geographic area in which there is a
85 shortage of primary care health services for residents, as determined by the Department of
86 Health.

87 [~~(14)~~] (16) "Medically underserved population" means a specified group of people
88 living in a defined geographic area with a shortage of primary care health services, as
89 determined by the Department of Health.

90 (17) (a) "Medically unnecessary puberty inhibition procedure" means administering or
91 supplying to an individual younger than 18 years old, alone or in combination with aromatase
92 inhibitors:

- 93 (i) gonadotropin-releasing hormone agonists;
- 94 (ii) progestins; or
- 95 (iii) androgen receptor inhibitors.

96 (b) "Medically unnecessary puberty inhibition procedure" does not include
97 administering or supplying a treatment described in Subsection (17)(a) to an individual younger
98 than 18 years old if the treatment is medically necessary as a treatment for:

- 99 (i) precocious puberty;
- 100 (ii) idiopathic short stature;
- 101 (iii) endometriosis; or
- 102 (iv) a sex hormone-stimulated cancer.

103 ~~[(15)]~~ (18) (a) (i) "Nonablative procedure" means a procedure that is expected or
104 intended to alter living tissue, but is not intended or expected to excise, vaporize, disintegrate,
105 or remove living tissue.

106 (ii) Notwithstanding Subsection ~~[(15)]~~ (18)(a)(i), nonablative procedure includes hair
107 removal.

108 (b) "Nonablative procedure" does not include:

- 109 (i) a superficial procedure as defined in Section 58-1-102;
- 110 (ii) the application of permanent make-up; or
- 111 (iii) the use of photo therapy and lasers for neuromusculoskeletal treatments that are
112 performed by an individual licensed under this title who is acting within the individual's scope
113 of practice.

114 ~~[(16)]~~ (19) "Physician" means both physicians and surgeons licensed under Section
115 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
116 Section 58-68-301, Utah Osteopathic Medical Practice Act.

117 ~~[(17)]~~ (20) (a) "Practice of medicine" means:

- 118 (i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human
119 disease, ailment, injury, infirmity, deformity, pain or other condition, physical or mental, real
120 or imaginary, including to perform cosmetic medical procedures, or to attempt to do so, by any

121 means or instrumentality, and by an individual in Utah or outside the state upon or for any
122 human within the state;

123 (ii) when a person not licensed as a physician directs a licensee under this chapter to
124 withhold or alter the health care services that the licensee has ordered;

125 (iii) to maintain an office or place of business for the purpose of doing any of the acts
126 described in Subsection ~~[(17)]~~ (20)(a) whether or not for compensation; or

127 (iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
128 treatment of human diseases or conditions in any printed material, stationery, letterhead,
129 envelopes, signs, or advertisements, the designation "doctor," "doctor of medicine,"
130 "physician," "surgeon," "physician and surgeon," "Dr.," "M.D.," or any combination of these
131 designations in any manner which might cause a reasonable person to believe the individual
132 using the designation is a licensed physician and surgeon, and if the party using the designation
133 is not a licensed physician and surgeon, the designation must additionally contain the
134 description of the branch of the healing arts for which the person has a license, provided that an
135 individual who has received an earned degree of doctor of medicine degree but is not a licensed
136 physician and surgeon in Utah may use the designation "M.D." if it is followed by "Not
137 Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

138 (b) The practice of medicine does not include:

139 (i) except for an ablative medical procedure as provided in Subsection ~~[(17)]~~
140 (20)(b)(ii), the conduct described in Subsection ~~[(17)]~~ (20)(a)(i) that is performed in
141 accordance with a license issued under another chapter of this title;

142 (ii) an ablative cosmetic medical procedure if the scope of practice for the person
143 performing the ablative cosmetic medical procedure includes the authority to operate or
144 perform a surgical procedure; or

145 (iii) conduct under Subsection 58-67-501(2).

146 ~~[(18)]~~ (21) "Prescription device" means an instrument, apparatus, implement, machine,
147 contrivance, implant, in vitro reagent, or other similar or related article, and any component
148 part or accessory, which is required under federal or state law to be prescribed by a practitioner
149 and dispensed by or through a person or entity licensed under this chapter or exempt from
150 licensure under this chapter.

151 ~~[(19)]~~ (22) "Prescription drug" means a drug that is required by federal or state law or

152 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

153 (23) (a) "Sex characteristic-altering procedure" means, for the purpose of effectuating
154 or facilitating an individual's attempted sex change:

155 (i) castration, orchiectomy, penectomy, vaginoplasty, vulvoplasty, breast augmentation
156 surgery, or facial feminization surgery on an individual whose biological sex at birth is male;

157 (ii) mastectomy, hysterectomy, oophorectomy, metoidioplasty, phalloplasty, or chest or
158 facial masculinization procedures on an individual whose biological sex at birth is female;

159 (iii) any surgical procedure that is related to or necessary for a procedure described in
160 Subsection (23)(a)(i) or (ii), that would result in the sterilization of an individual who is
161 non-sterile;

162 (iv) administering or supplying:

163 (A) doses of testosterone or other androgens to an individual whose biological sex at
164 birth is female at levels above those normally found in an individual whose biological sex at
165 birth is female; or

166 (B) doses of estrogens or synthetic compounds with estrogenic activity or effect to an
167 individual whose biological sex at birth is male at levels above those normally found in an
168 individual whose biological sex at birth is male; or

169 (v) removing any otherwise healthy or non-diseased body part or tissue.

170 (b) "Sex characteristic-altering procedure" does not include:

171 (i) surgery or other procedures or treatments performed on an individual who:

172 (A) is born with external biological sex characteristics that are irresolvably ambiguous;

173 (B) is born with 46, XX chromosomes with virilization;

174 (C) is born with 46, XY chromosomes with undervirilization;

175 (D) has both ovarian and testicular tissue; or

176 (E) has been diagnosed by a physician, based on genetic or biochemical testing, with a
177 sex development disorder characterized by abnormal sex chromosome structure, sex steroid
178 hormone production, or sex steroid hormone action for a male or female; or

179 (ii) removing a body part:

180 (A) because it is cancerous or diseased; or

181 (B) for a reason that is medically necessary, other than to effectuate or facilitate an
182 individual's attempted sex change.

183 ~~[(20)]~~ (24) "SPEX" means the Special Purpose Examination of the Federation of State
184 Medical Boards.

185 ~~[(21)]~~ (25) "Unlawful conduct" means the same as that term is defined in Sections
186 58-1-501 and 58-67-501.

187 ~~[(22)]~~ (26) "Unprofessional conduct" means the same as that term is defined in
188 Sections 58-1-501 and 58-67-502, and as may be further defined by division rule.

189 Section 2. Section 58-67-502 is amended to read:

190 **58-67-502. Unprofessional conduct.**

191 (1) "Unprofessional conduct" includes, in addition to the definition in Section
192 58-1-501:

193 (a) using or employing the services of any individual to assist a licensee in any manner
194 not in accordance with the generally recognized practices, standards, or ethics of the
195 profession, state law, or division rule;

196 (b) making a material misrepresentation regarding the qualifications for licensure under
197 Section 58-67-302.7 or Section 58-67-302.8;

198 (c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
199 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

200 (d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act; or

201 (e) falsely making an entry in, or altering, a medical record with the intent to conceal:

202 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
203 or an individual under the direction or control of an individual licensed under this chapter; ~~or~~

204 (ii) conduct described in Subsections (1)(a) through (d) or Subsection 58-1-501(1)~~[-]~~;

205 or

206 (f) performing, or causing to be performed, a sex characteristic-altering procedure or
207 medically unnecessary puberty inhibition procedure upon an individual who is less than 18
208 years old.

209 (2) "Unprofessional conduct" does not include:

210 (a) in compliance with Section 58-85-103:

211 (i) obtaining an investigational drug or investigational device;

212 (ii) administering the investigational drug to an eligible patient; or

213 (iii) treating an eligible patient with the investigational drug or investigational device;

214 or

215 (b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

216 (i) when registered as a qualified medical provider, as that term is defined in Section
217 26-61a-102, recommending the use of medical cannabis;

218 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
219 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

220 (iii) when registered as a state central patient portal medical provider, as that term is
221 defined in Section 26-61a-102, providing state central patient portal medical provider services.

222 (3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and
223 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
224 unprofessional conduct for a physician described in Subsection (2)(b).

225 Section 3. Section 58-68-102 is amended to read:

226 **58-68-102. Definitions.**

227 In addition to the definitions in Section 58-1-102, as used in this chapter:

228 (1) "Ablative procedure" means a procedure that is expected to excise, vaporize,
229 disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium:
230 YAG lasers, and excluding hair removal.

231 (2) "ACGME" means the Accreditation Council for Graduate Medical Education of the
232 American Medical Association.

233 (3) "Administrative penalty" means a monetary fine imposed by the division for acts or
234 omissions determined to constitute unprofessional or unlawful conduct, as a result of an
235 adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative
236 Procedures Act.

237 (4) "AOA" means the American Osteopathic Association.

238 (5) "Associate physician" means an individual licensed under Section 58-68-302.5.

239 (6) "Attempted sex change" means an attempt or effort to change an individual's body
240 to present that individual as being of a sex or gender that is different from the individual's
241 biological sex at birth.

242 (7) "Biological sex at birth" means an individual's sex, as being male or female,
243 according to distinct reproductive roles as manifested by sex and reproductive organ anatomy,
244 chromosomal makeup, and endogenous hormone profiles.

245 ~~[(6)]~~ (8) "Board" means the Osteopathic Physician and Surgeon's Licensing Board
246 created in Section 58-68-201.

247 ~~[(7)]~~ (9) "Collaborating physician" means an individual licensed under Section
248 58-68-302 who enters into a collaborative practice arrangement with an associate physician.

249 ~~[(8)]~~ (10) "Collaborative practice arrangement" means the arrangement described in
250 Section 58-68-807.

251 ~~[(9)]~~ (11) (a) "Cosmetic medical device" means tissue altering energy based devices
252 that have the potential for altering living tissue and that are used to perform ablative or
253 nonablative procedures, such as American National Standards Institute (ANSI) designated
254 Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic
255 devices and excludes ANSI designated Class IIIa and lower powered devices.

256 (b) Notwithstanding Subsection ~~[(9)]~~ (11)(a), if an ANSI designated Class IIIa and
257 lower powered device is being used to perform an ablative procedure, the device is included in
258 the definition of cosmetic medical device under Subsection ~~[(9)]~~ (11)(a).

259 ~~[(10)]~~ (12) "Cosmetic medical procedure":

260 (a) includes the use of cosmetic medical devices to perform ablative or nonablative
261 procedures; and

262 (b) does not include a treatment of the ocular globe such as refractive surgery.

263 ~~[(11)]~~ (13) "Diagnose" means:

264 (a) to examine in any manner another person, parts of a person's body, substances,
265 fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's
266 body, to determine the source, nature, kind, or extent of a disease or other physical or mental
267 condition;

268 (b) to attempt to conduct an examination or determination described under Subsection
269 ~~[(11)]~~ (13)(a);

270 (c) to hold oneself out as making or to represent that one is making an examination or
271 determination as described in Subsection ~~[(11)]~~ (13)(a); or

272 (d) to make an examination or determination as described in Subsection ~~[(11)]~~ (13)(a)
273 upon or from information supplied directly or indirectly by another person, whether or not in
274 the presence of the person making or attempting the diagnosis or examination.

275 ~~[(12)]~~ (14) "Medical assistant" means an unlicensed individual working under the

276 indirect supervision of a licensed osteopathic physician and surgeon and engaged in specific
277 tasks assigned by the licensed osteopathic physician and surgeon in accordance with the
278 standards and ethics of the profession.

279 ~~[(13)]~~ (15) "Medically underserved area" means a geographic area in which there is a
280 shortage of primary care health services for residents, as determined by the Department of
281 Health.

282 ~~[(14)]~~ (16) "Medically underserved population" means a specified group of people
283 living in a defined geographic area with a shortage of primary care health services, as
284 determined by the Department of Health.

285 (17) (a) "Medically unnecessary puberty inhibition procedure" means administering or
286 supplying to an individual younger than 18 years old, alone or in combination with aromatase
287 inhibitors:

288 (i) gonadotropin-releasing hormone agonists;

289 (ii) progestins; or

290 (iii) androgen receptor inhibitors.

291 (b) "Medically unnecessary puberty inhibition procedure" does not include
292 administering or supplying a treatment described in Subsection (17)(a) to an individual younger
293 than 18 years old if the treatment is medically necessary as a treatment for:

294 (i) precocious puberty;

295 (ii) idiopathic short stature;

296 (iii) endometriosis; or

297 (iv) a sex hormone-stimulated cancer.

298 ~~[(15)]~~ (18) (a) (i) "Nonablative procedure" means a procedure that is expected or
299 intended to alter living tissue, but is not expected or intended to excise, vaporize, disintegrate,
300 or remove living tissue.

301 (ii) Notwithstanding Subsection ~~[(15)]~~ (18)(a)(i), nonablative procedure includes hair
302 removal.

303 (b) "Nonablative procedure" does not include:

304 (i) a superficial procedure as defined in Section 58-1-102;

305 (ii) the application of permanent make-up; or

306 (iii) the use of photo therapy lasers for neuromusculoskeletal treatments that are

307 preformed by an individual licensed under this title who is acting within the individual's scope
308 of practice.

309 ~~[(16)]~~ (19) "Physician" means both physicians and surgeons licensed under Section
310 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
311 Section 58-68-301, Utah Osteopathic Medical Practice Act.

312 ~~[(17)]~~ (20) (a) "Practice of osteopathic medicine" means:

313 (i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human
314 disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real
315 or imaginary, or to attempt to do so, by any means or instrumentality, which in whole or in part
316 is based upon emphasis of the importance of the musculoskeletal system and manipulative
317 therapy in the maintenance and restoration of health, by an individual in Utah or outside of the
318 state upon or for any human within the state;

319 (ii) when a person not licensed as a physician directs a licensee under this chapter to
320 withhold or alter the health care services that the licensee has ordered;

321 (iii) to maintain an office or place of business for the purpose of doing any of the acts
322 described in Subsection ~~[(17)]~~ (20)(a) whether or not for compensation; or

323 (iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
324 treatment of human diseases or conditions, in any printed material, stationery, letterhead,
325 envelopes, signs, or advertisements, the designation "doctor," "doctor of osteopathic medicine,"
326 "osteopathic physician," "osteopathic surgeon," "osteopathic physician and surgeon," "Dr.,"
327 "D.O.," or any combination of these designations in any manner which might cause a
328 reasonable person to believe the individual using the designation is a licensed osteopathic
329 physician, and if the party using the designation is not a licensed osteopathic physician, the
330 designation must additionally contain the description of the branch of the healing arts for which
331 the person has a license, provided that an individual who has received an earned degree of
332 doctor of osteopathic medicine but is not a licensed osteopathic physician and surgeon in Utah
333 may use the designation "D.O." if it is followed by "Not Licensed" or "Not Licensed in Utah"
334 in the same size and style of lettering.

335 (b) The practice of osteopathic medicine does not include:

336 (i) except for an ablative medical procedure as provided in Subsection ~~[(17)]~~
337 (20)(b)(ii), the conduct described in Subsection ~~[(17)]~~ (20)(a)(i) that is performed in

338 accordance with a license issued under another chapter of this title;

339 (ii) an ablative cosmetic medical procedure if the scope of practice for the person
340 performing the ablative cosmetic medical procedure includes the authority to operate or
341 perform a surgical procedure; or

342 (iii) conduct under Subsection [58-68-501\(2\)](#).

343 ~~[(18)]~~ (21) "Prescription device" means an instrument, apparatus, implement, machine,
344 contrivance, implant, in vitro reagent, or other similar or related article, and any component
345 part or accessory, which is required under federal or state law to be prescribed by a practitioner
346 and dispensed by or through a person or entity licensed under this chapter or exempt from
347 licensure under this chapter.

348 ~~[(19)]~~ (22) "Prescription drug" means a drug that is required by federal or state law or
349 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

350 (23) (a) "Sex characteristic-altering procedure" means, for the purpose of effectuating
351 or facilitating an individual's attempted sex change:

352 (i) castration, orchiectomy, penectomy, vaginoplasty, vulvoplasty, breast augmentation
353 surgery, or facial feminization surgery on an individual whose biological sex at birth is male;

354 (ii) mastectomy, hysterectomy, oophorectomy, metoidioplasty, phalloplasty, or chest or
355 facial masculinization procedures on an individual whose biological sex at birth is female;

356 (iii) any surgical procedure that is related to or necessary for a procedure described in
357 Subsection (23)(a)(i) or (ii), that would result in the sterilization of an individual who is
358 non-sterile;

359 (iv) administering or supplying:

360 (A) doses of testosterone or other androgens to an individual whose biological sex at
361 birth is female at levels above those normally found in an individual whose biological sex at
362 birth is female; or

363 (B) doses of estrogens or synthetic compounds with estrogenic activity or effect to an
364 individual whose biological sex at birth is male at levels above those normally found in an
365 individual whose biological sex at birth is male; or

366 (v) removing any otherwise healthy or non-diseased body part or tissue.

367 (b) "Sex characteristic-altering procedure" does not include:

368 (i) surgery or other procedures or treatments performed on an individual who:

- 369 (A) is born with external biological sex characteristics that are irresolvably ambiguous;
 370 (B) is born with 46, XX chromosomes with virilization;
 371 (C) is born with 46, XY chromosomes with undervirilization;
 372 (D) has both ovarian and testicular tissue; or
 373 (E) has been diagnosed by a physician, based on genetic or biochemical testing, with a
 374 sex development disorder characterized by abnormal sex chromosome structure, sex steroid
 375 hormone production, or sex steroid hormone action for a male or female; or
 376 (ii) removing a body part:
 377 (A) because it is cancerous or diseased; or
 378 (B) for a reason that is medically necessary, other than to effectuate or facilitate an
 379 individual's attempted sex change.

380 ~~[(20)]~~ (24) "SPEX" means the Special Purpose Examination of the Federation of State
 381 Medical Boards.

382 ~~[(21)]~~ (25) "Unlawful conduct" means the same as that term is defined in Sections
 383 58-1-501 and 58-68-501.

384 ~~[(22)]~~ (26) "Unprofessional conduct" means the same as that term is defined in
 385 Sections 58-1-501 and 58-68-502 and as may be further defined by division rule.

386 Section 4. Section 58-68-502 is amended to read:

387 **58-68-502. Unprofessional conduct.**

388 (1) "Unprofessional conduct" includes, in addition to the definition in Section
 389 58-1-501:

390 (a) using or employing the services of any individual to assist a licensee in any manner
 391 not in accordance with the generally recognized practices, standards, or ethics of the
 392 profession, state law, or division rule;

393 (b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
 394 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

395 (c) making a material misrepresentation regarding the qualifications for licensure under
 396 Section 58-68-302.5;

397 (d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act;

398 [or]

399 (e) falsely making an entry in, or altering, a medical record with the intent to conceal:

400 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
401 or an individual under the direction or control of an individual licensed under this chapter; or

402 (ii) conduct described in Subsections (1)(a) through (d) or Subsection 58-1-501(1)[-];

403 or

404 (f) performing, or causing to be performed, a sex characteristic-altering procedure or
405 medically unnecessary puberty inhibition procedure upon an individual who is younger than 18
406 years old.

407 (2) "Unprofessional conduct" does not include:

408 (a) in compliance with Section 58-85-103:

409 (i) obtaining an investigational drug or investigational device;

410 (ii) administering the investigational drug to an eligible patient; or

411 (iii) treating an eligible patient with the investigational drug or investigational device;

412 or

413 (b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

414 (i) when registered as a qualified medical provider, as that term is defined in Section
415 26-61a-102, recommending the use of medical cannabis;

416 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
417 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

418 (iii) when registered as a state central patient portal medical provider, as that term is
419 defined in Section 26-61a-102, providing state central patient portal medical provider services.

420 (3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and
421 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
422 unprofessional conduct for a physician described in Subsection (2)(b).