

1 **PROHIBITING SEX TRANSITIONING PROCEDURES ON**
2 **MINORS**

3 2023 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Rex P. Shipp**

6 Senate Sponsor: _____

7
8 **LONG TITLE**

9 **General Description:**

10 This bill prohibits a health care provider from performing a medical procedure on a
11 minor for the purpose of attempted sex transitioning or attempted sex change.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines terms;
- 15 ▶ makes it unprofessional conduct for a health care provider to perform a medical
16 procedure on a minor for the purpose of attempted sex transitioning or attempted
17 sex change; and
- 18 ▶ makes technical changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **58-31b-502**, as last amended by Laws of Utah 2022, Chapter 290

26 **58-67-102**, as last amended by Laws of Utah 2022, Chapter 233

27 **58-67-502**, as last amended by Laws of Utah 2021, Chapter 337



28 [58-68-102](#), as last amended by Laws of Utah 2022, Chapter 233
29 [58-68-502](#), as last amended by Laws of Utah 2021, Chapter 337
30 [58-70a-503](#), as last amended by Laws of Utah 2022, Chapter 290

31 ENACTS:

32 [58-1-511](#), Utah Code Annotated 1953



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

35 Section 1. Section **58-1-511** is enacted to read:

36 **58-1-511. Prohibition on hormonal transgender procedures on minors.**

37 (1) As used in this section:

38 (a) "Administration of cross-sex hormones" means administering or supplying:

39 (i) to an individual whose biological sex at birth is female, a dose of testosterone or
40 other androgens at levels above those normally found in an individual whose biological sex at
41 birth is female; or

42 (ii) to an individual whose biological sex at birth is male, a dose of estrogen or a
43 synthetic compound with estrogenic activity or effect at levels above those normally found in
44 an individual whose biological sex at birth is male.

45 (b) "Health care provider" means:

46 (i) a physician licensed under:

47 (A) Chapter 67, Utah Medical Practice Act; or

48 (B) Chapter 68, Utah Osteopathic Medical Practice Act;

49 (ii) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act; or

50 (iii) an advanced practice registered nurse licensed under Subsection [58-31b-301\(2\)\(e\)](#).

51 (c) "Hormonal transgender procedure" means:

52 (i) administration of cross-sex hormones; or

53 (ii) performing a puberty inhibition procedure.

54 (d) "Minor" means an individual who:

55 (i) is less than 18 years old; and

56 (ii) is not emancipated under Title 80, Chapter 7, Emancipation.

57 (e) (i) "Puberty inhibition procedure" means administering or supplying, alone or in
58 combination with aromatase inhibitors:

- 59 (A) gonadotropin-releasing hormone agonists;
60 (B) progestins; or
61 (C) androgen receptor inhibitors.
62 (ii) "Puberty inhibition procedure" does not include administering or supplying a
63 treatment described in Subsection (1)(e)(i) to an individual if the treatment is medically
64 necessary as a treatment for:
65 (A) precocious puberty;
66 (B) idiopathic short stature;
67 (C) endometriosis; or
68 (D) a sex hormone-stimulated cancer.
69 (2) A health care provider may not perform a hormonal transgender procedure on a
70 minor.

71 Section 2. Section **58-31b-502** is amended to read:

72 **58-31b-502. Unprofessional conduct.**

73 (1) "Unprofessional conduct" includes:

74 (a) failure to safeguard a patient's right to privacy as to the patient's person, condition,
75 diagnosis, personal effects, or any other matter about which the licensee is privileged to know
76 because of the licensee's or person with a certification's position or practice as a nurse or
77 practice as a medication aide certified;

78 (b) failure to provide nursing service or service as a medication aide certified in a
79 manner that demonstrates respect for the patient's human dignity and unique personal character
80 and needs without regard to the patient's race, religion, ethnic background, socioeconomic
81 status, age, sex, or the nature of the patient's health problem;

82 (c) engaging in sexual relations with a patient during any:

83 (i) period when a generally recognized professional relationship exists between the
84 person licensed or certified under this chapter and the patient; or

85 (ii) extended period when a patient has reasonable cause to believe a professional
86 relationship exists between the person licensed or certified under the provisions of this chapter
87 and the patient;

88 (d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using
89 information about a patient or exploiting the licensee's or the person with a certification's

90 professional relationship between the licensee or holder of a certification under this chapter and
91 the patient; or

92 (ii) exploiting the patient by use of the licensee's or person with a certification's
93 knowledge of the patient obtained while acting as a nurse or a medication aide certified;

94 (e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

95 (f) unauthorized taking or personal use of nursing supplies from an employer;

96 (g) unauthorized taking or personal use of a patient's personal property;

97 (h) unlawful or inappropriate delegation of nursing care;

98 (i) failure to exercise appropriate supervision of persons providing patient care services
99 under supervision of the licensed nurse;

100 (j) employing or aiding and abetting the employment of an unqualified or unlicensed
101 person to practice as a nurse;

102 (k) failure to file or record any medical report as required by law, impeding or
103 obstructing the filing or recording of such a report, or inducing another to fail to file or record
104 such a report;

105 (l) breach of a statutory, common law, regulatory, or ethical requirement of
106 confidentiality with respect to a person who is a patient, unless ordered by a court;

107 (m) failure to pay a penalty imposed by the division;

108 (n) prescribing a Schedule II controlled substance without complying with the
109 requirements in Section 58-31b-803, if applicable;

110 (o) violating Section 58-31b-801;

111 (p) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part
112 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if
113 applicable;

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

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

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

118 (r) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act[-];

119 or

120 (s) performing, or causing to be performed, a hormonal transgender procedure in

121 violation of Section 58-1-511.

122 (2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter
123 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, or acting as
124 a limited medical provider, as those terms are defined in Section 26-61a-102, recommending
125 the use of medical cannabis.

126 (3) Notwithstanding Subsection (2), the division, in consultation with the board and in
127 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
128 unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

129 Section 3. Section 58-67-102 is amended to read:

130 **58-67-102. Definitions.**

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

132 (1) (a) "Ablative procedure" means a procedure that is expected to excise, vaporize,
133 disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium:
134 YAG lasers.

135 (b) "Ablative procedure" does not include hair removal.

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

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

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

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

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

150 [~~5~~] (7) "Board" means the Physicians Licensing Board created in Section 58-67-201.

151 [~~6~~] (8) "Collaborating physician" means an individual licensed under Section

152 58-67-302 who enters into a collaborative practice arrangement with an associate physician.

153 ~~[(7)]~~ (9) "Collaborative practice arrangement" means the arrangement described in
154 Section 58-67-807.

155 (10) "Cosmetic breast surgical procedure" means a breast reduction surgery or a breast
156 augmentation surgery that is performed for a purpose other than:

157 (a) medical necessity; or

158 (b) to address a musculoskeletal problem.

159 ~~[(8)]~~ (11) (a) "Cosmetic medical device" means tissue altering energy based devices
160 that have the potential for altering living tissue and that are used to perform ablative or
161 nonablative procedures, such as American National Standards Institute (ANSI) designated
162 Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic
163 devices, and excludes ANSI designated Class IIIa and lower powered devices.

164 (b) Notwithstanding Subsection ~~[(8)(a);~~ (11)(a), if an ANSI designated Class IIIa and
165 lower powered device is being used to perform an ablative procedure, the device is included in
166 the definition of cosmetic medical device under Subsection ~~[(8)(a);~~ (11)(a).

167 ~~[(9)]~~ (12) "Cosmetic medical procedure":

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

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

171 ~~[(10)]~~ (13) "Diagnose" means:

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

176 (b) to attempt to conduct an examination or determination described under Subsection
177 ~~[(10)(a);~~ (13)(a);

178 (c) to hold oneself out as making or to represent that one is making an examination or
179 determination as described in Subsection ~~[(10)(a);~~ (13)(a); or

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

183 ~~[(11)]~~ (14) "LCME" means the Liaison Committee on Medical Education of the
184 American Medical Association.

185 ~~[(12)]~~ (15) "Medical assistant" means an unlicensed individual who may perform tasks
186 as described in Subsection 58-67-305(6).

187 ~~[(13)]~~ (16) "Medically underserved area" means a geographic area in which there is a
188 shortage of primary care health services for residents, as determined by the Department of
189 Health.

190 ~~[(14)]~~ (17) "Medically underserved population" means a specified group of people
191 living in a defined geographic area with a shortage of primary care health services, as
192 determined by the Department of Health.

193 ~~[(15)]~~ (18) (a) (i) "Nonablative procedure" means a procedure that is expected or
194 intended to alter living tissue, but is not intended or expected to excise, vaporize, disintegrate,
195 or remove living tissue.

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

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

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

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

201 (iii) the use of photo therapy and lasers for neuromusculoskeletal treatments that are
202 performed by an individual licensed under this title who is acting within the individual's scope
203 of practice.

204 ~~[(16)]~~ (19) "Physician" means both physicians and surgeons licensed under Section
205 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
206 Section 58-68-301, Utah Osteopathic Medical Practice Act.

207 ~~[(17)]~~ (20) (a) "Practice of medicine" means:

208 (i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human
209 disease, ailment, injury, infirmity, deformity, pain or other condition, physical or mental, real
210 or imaginary, including to perform cosmetic medical procedures, or to attempt to do so, by any
211 means or instrumentality, and by an individual in Utah or outside the state upon or for any
212 human within the state;

213 (ii) when a person not licensed as a physician directs a licensee under this chapter to

214 withhold or alter the health care services that the licensee has ordered;

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

217 (iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
218 treatment of human diseases or conditions in any printed material, stationery, letterhead,
219 envelopes, signs, or advertisements, the designation "doctor," "doctor of medicine,"
220 "physician," "surgeon," "physician and surgeon," "Dr.," "M.D.," or any combination of these
221 designations in any manner which might cause a reasonable person to believe the individual
222 using the designation is a licensed physician and surgeon, and if the party using the designation
223 is not a licensed physician and surgeon, the designation must additionally contain the
224 description of the branch of the healing arts for which the person has a license, provided that an
225 individual who has received an earned degree of doctor of medicine degree but is not a licensed
226 physician and surgeon in Utah may use the designation "M.D." if it is followed by "Not
227 Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

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

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

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

235 (iii) conduct under Subsection [58-67-501\(2\)](#).

236 ~~[(18)]~~ (21) "Prescription device" means an instrument, apparatus, implement, machine,
237 contrivance, implant, in vitro reagent, or other similar or related article, and any component
238 part or accessory, which is required under federal or state law to be prescribed by a practitioner
239 and dispensed by or through a person or entity licensed under this chapter or exempt from
240 licensure under this chapter.

241 ~~[(19)]~~ (22) "Prescription drug" means a drug that is required by federal or state law or
242 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

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

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

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

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

252 (iv) removing any otherwise healthy or non-diseased body part or tissue.

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

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

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

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

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

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

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

262 (ii) removing a body part:

263 (A) because the body part is cancerous or diseased; or

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

266 ~~[(20)]~~ (24) "SPEX" means the Special Purpose Examination of the Federation of State
267 Medical Boards.

268 ~~[(21)]~~ (25) "Unlawful conduct" means the same as that term is defined in Sections
269 58-1-501 and 58-67-501.

270 ~~[(22)]~~ (26) "Unprofessional conduct" means the same as that term is defined in
271 Sections 58-1-501 and 58-67-502, and as may be further defined by division rule.

272 Section 4. Section 58-67-502 is amended to read:

273 **58-67-502. Unprofessional conduct.**

274 (1) "Unprofessional conduct" includes, in addition to the definition in Section
275 58-1-501:

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

279 (b) making a material misrepresentation regarding the qualifications for licensure under
280 Section [58-67-302.7](#) or Section [58-67-302.8](#);

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

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

284 [or]

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

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

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

289 or

290 (f) performing, or causing to be performed, upon a minor as defined in Section
291 [58-1-603](#):

292 (i) a hormonal transgender procedure in violation of Section [58-1-511](#);

293 (ii) a sex characteristic-altering surgical procedure; or

294 (iii) a cosmetic breast surgical procedure.

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

296 (a) in compliance with Section [58-85-103](#):

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

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

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

300 or

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

302 (i) when registered as a qualified medical provider or acting as a limited medical
303 provider, as those terms are defined in Section [26-61a-102](#), recommending the use of medical
304 cannabis;

305 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
306 [26-61a-102](#), providing pharmacy medical provider services in a medical cannabis pharmacy; or

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

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

312 Section 5. Section 58-68-102 is amended to read:

313 **58-68-102. Definitions.**

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

315 (1) (a) "Ablative procedure" means a procedure that is expected to excise, vaporize,
316 disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium:
317 YAG lasers.

318 (b) "Ablative procedure" does not include hair removal.

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

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

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

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

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

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

333 [~~(6)~~] (8) "Board" means the Osteopathic Physician and Surgeon's Licensing Board
334 created in Section 58-68-201.

335 [~~(7)~~] (9) "Collaborating physician" means an individual licensed under Section
336 58-68-302 who enters into a collaborative practice arrangement with an associate physician.

337 [~~(8)~~] (10) "Collaborative practice arrangement" means the arrangement described in

338 Section [58-68-807](#).

339 (11) "Cosmetic breast surgical procedure" means a breast reduction surgery or a breast
340 augmentation surgery for reasons other than:

341 (a) medical necessity; or

342 (b) to address a musculoskeletal problem.

343 ~~[(9)]~~ (12) (a) "Cosmetic medical device" means tissue altering energy based devices
344 that have the potential for altering living tissue and that are used to perform ablative or
345 nonablative procedures, such as American National Standards Institute (ANSI) designated
346 Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic
347 devices and excludes ANSI designated Class IIIa and lower powered devices.

348 (b) Notwithstanding Subsection ~~[(9)(a)]~~ (12)(a), if an ANSI designated Class IIIa and
349 lower powered device is being used to perform an ablative procedure, the device is included in
350 the definition of cosmetic medical device under Subsection ~~[(9)(a)]~~ (12)(a).

351 ~~[(10)]~~ (13) "Cosmetic medical procedure":

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

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

355 ~~[(11)]~~ (14) "Diagnose" means:

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

360 (b) to attempt to conduct an examination or determination described under Subsection
361 ~~[(11)(a)]~~ (14)(a);

362 (c) to hold oneself out as making or to represent that one is making an examination or
363 determination as described in Subsection ~~[(11)(a)]~~ (14)(a); or

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

367 ~~[(12)]~~ (15) "Medical assistant" means an unlicensed individual who may perform tasks
368 as described in Subsection [58-68-305\(6\)](#).

369 ~~[(13)]~~ (16) "Medically underserved area" means a geographic area in which there is a
370 shortage of primary care health services for residents, as determined by the Department of
371 Health.

372 ~~[(14)]~~ (17) "Medically underserved population" means a specified group of people
373 living in a defined geographic area with a shortage of primary care health services, as
374 determined by the Department of Health.

375 ~~[(15)]~~ (18) (a) (i) "Nonablative procedure" means a procedure that is expected or
376 intended to alter living tissue, but is not expected or intended to excise, vaporize, disintegrate,
377 or remove living tissue.

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

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

381 (i) a superficial procedure as defined in Section [58-1-102](#);

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

383 (iii) the use of photo therapy lasers for neuromusculoskeletal treatments that are
384 performed by an individual licensed under this title who is acting within the individual's scope
385 of practice.

386 ~~[(16)]~~ (19) "Physician" means both physicians and surgeons licensed under Section
387 [58-67-301](#), Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
388 Section [58-68-301](#), Utah Osteopathic Medical Practice Act.

389 ~~[(17)]~~ (20) (a) "Practice of osteopathic medicine" means:

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

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

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

400 (iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
401 treatment of human diseases or conditions, in any printed material, stationery, letterhead,
402 envelopes, signs, or advertisements, the designation "doctor," "doctor of osteopathic medicine,"
403 "osteopathic physician," "osteopathic surgeon," "osteopathic physician and surgeon," "Dr.,"
404 "D.O.," or any combination of these designations in any manner which might cause a
405 reasonable person to believe the individual using the designation is a licensed osteopathic
406 physician, and if the party using the designation is not a licensed osteopathic physician, the
407 designation must additionally contain the description of the branch of the healing arts for which
408 the person has a license, provided that an individual who has received an earned degree of
409 doctor of osteopathic medicine but is not a licensed osteopathic physician and surgeon in Utah
410 may use the designation "D.O." if it is followed by "Not Licensed" or "Not Licensed in Utah"
411 in the same size and style of lettering.

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

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

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

419 (iii) conduct under Subsection 58-68-501(2).

420 [~~(18)~~] (21) "Prescription device" means an instrument, apparatus, implement, machine,
421 contrivance, implant, in vitro reagent, or other similar or related article, and any component
422 part or accessory, which is required under federal or state law to be prescribed by a practitioner
423 and dispensed by or through a person or entity licensed under this chapter or exempt from
424 licensure under this chapter.

425 [~~(19)~~] (22) "Prescription drug" means a drug that is required by federal or state law or
426 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

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

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

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

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

436 (iv) removing any otherwise healthy or non-diseased body part or tissue.

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

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

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

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

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

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

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

446 (ii) removing a body part:

447 (A) because the body part is cancerous or diseased; or

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

450 ~~[(20)]~~ (24) "SPEX" means the Special Purpose Examination of the Federation of State
 451 Medical Boards.

452 ~~[(21)]~~ (25) "Unlawful conduct" means the same as that term is defined in Sections
 453 58-1-501 and 58-68-501.

454 ~~[(22)]~~ (26) "Unprofessional conduct" means the same as that term is defined in
 455 Sections 58-1-501 and 58-68-502 and as may be further defined by division rule.

456 Section 6. Section 58-68-502 is amended to read:

457 **58-68-502. Unprofessional conduct.**

458 (1) "Unprofessional conduct" includes, in addition to the definition in Section
 459 58-1-501:

460 (a) using or employing the services of any individual to assist a licensee in any manner
 461 not in accordance with the generally recognized practices, standards, or ethics of the

462 profession, state law, or division rule;

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

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

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

468 [or]

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

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

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

473 or

474 (f) performing, or causing to be performed, upon a minor as defined in 58-1-511:

475 (i) a hormonal transgender procedure in violation of Section 58-1-511;

476 (ii) a sex characteristic-altering surgical procedure; or

477 (iii) a cosmetic breast surgical procedure.

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

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

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

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

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

483 or

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

485 (i) when registered as a qualified medical provider or acting as a limited medical
486 provider, as those terms are defined in Section 26-61a-102, recommending the use of medical
487 cannabis;

488 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
489 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

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

492 (3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and

493 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
494 unprofessional conduct for a physician described in Subsection (2)(b).

495 Section 7. Section **58-70a-503** is amended to read:

496 **58-70a-503. Unprofessional conduct.**

497 (1) "Unprofessional conduct" includes:

498 (a) violation of a patient confidence to any person who does not have a legal right and a
499 professional need to know the information concerning the patient;

500 (b) knowingly prescribing, selling, giving away, or directly or indirectly administering,
501 or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for
502 a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts
503 prescribed or provided;

504 (c) prescribing prescription drugs for oneself or administering prescription drugs to
505 oneself, except those that have been legally prescribed for the physician assistant by a licensed
506 practitioner and that are used in accordance with the prescription order for the condition
507 diagnosed;

508 (d) in a practice that has physician assistant ownership interests, failure to allow a
509 physician the independent final decision making authority on treatment decisions for the
510 physician's patient;

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

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

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

516 (ii) conduct described in Subsections (1)(a) through (e) or Subsection [58-1-501\(1\)](#);

517 [and]

518 (g) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act~~[-]~~;

519 or

520 (h) performing, or causing to be performed, a hormonal transgender procedure in
521 violation of Section [58-1-511](#).

522 (2) (a) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter
523 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider or acting as a

524 limited medical provider, as those terms are defined in Section [26-61a-102](#), recommending the
525 use of medical cannabis.

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