

Representative Jeffrey D. Stenquist proposes the following substitute bill:

COSMETIC PROCEDURE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jeffrey D. Stenquist

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions relating to cosmetic procedures.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows a telemedicine service to be used for an initial consult before the initiation of a treatment protocol or series of treatments; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-1-102, as last amended by Laws of Utah 2022, Chapter 415

58-1-302.1, as enacted by Laws of Utah 2023, Chapter 278

58-1-506, as last amended by Laws of Utah 2023, Chapter 223

58-67-102, as last amended by Laws of Utah 2023, Chapter 2



26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56

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

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

58-1-102. Definitions.

~~[For purposes of]~~ As used in this title:

(1) "Ablative procedure" ~~[is as defined in]~~ means the same as that term is defined in Section **58-67-102**.

(2) "Cosmetic medical procedure":

(a) ~~[is as defined in]~~ means the same as that term is defined in Section **58-67-102**; and
(b) except for Chapter 67, Utah Medical Practice Act, and Chapter 68, Utah Osteopathic Medical Practice Act, does not apply to the scope of practice of an individual licensed under this title if the individual's scope of practice includes the authority to operate or perform surgical procedures.

(3) "Department" means the Department of Commerce.

(4) "Director" means the director of the Division of Professional Licensing.

(5) "Division" means the Division of Professional Licensing created in Section **58-1-103**.

(6) "Executive director" means the executive director of the Department of Commerce.

(7) "Licensee" includes any holder of a license, certificate, registration, permit, student card, or apprentice card authorized under this title.

(8) (a) (i) "Nonablative procedure" means a procedure that is expected or intended to alter living tissue, but not intended or expected to excise, vaporize, disintegrate, or remove living tissue.

(ii) Notwithstanding Subsection (8)(a)(i), nonablative procedure includes hair removal.

(b) "Nonablative procedure" does not include:

(i) a superficial procedure;
(ii) the application of permanent make-up; or
(iii) the use of photo therapy and lasers for neuromusculoskeletal treatments that are performed by an individual licensed under this title who is acting within their scope of practice.

(9) "Pain clinic" means:

(a) a clinic that advertises its primary purpose is the treatment of chronic pain; or

57 (b) a clinic in which greater than 50% of the clinic's annual patient population receive
58 treatment primarily for non-terminal chronic pain using Schedule II-III controlled substances.

59 (10) "Superficial procedure" means a procedure that is expected or intended to
60 temporarily alter living skin tissue and may excise or remove stratum corneum but have no
61 appreciable risk of damage to any tissue below the stratum corneum.

62 (11) "Telemedicine service" means the same as that term is defined in Section
63 [26B-4-704](#).

64 ~~[(11)]~~ (12) "Unlawful conduct" ~~[has the meaning given in]~~ means the same as that term
65 is defined in Subsection [58-1-501](#)(1).

66 ~~[(12)]~~ (13) "Unprofessional conduct" ~~[has the meaning given in]~~ means the same as
67 that term is defined in Subsection [58-1-501](#)(2).

68 Section 2. Section **58-1-302.1** is amended to read:

69 **58-1-302.1. Temporary license for telemedicine.**

70 (1) As used in this section:

71 (a) "Nonresident health care license" means a health care license issued by another
72 state, district, or territory of the United States.

73 (b) "Telemedicine service" means the same as that term is defined in Section
74 ~~[26-60-102]~~ [26B-4-704](#).

75 (2) An individual with a temporary license issued under this section is authorized to
76 provide a telemedicine service if:

77 (a) the telemedicine service is a service the individual is licensed to perform under the
78 nonresident health care license of the state, district, or territory that issued the nonresident
79 health care license;

80 (b) at the time the telemedicine service is performed, the patient is located in Utah; and

81 (c) performing the telemedicine service would not otherwise violate state law.

82 (3) The division shall issue a temporary license described in Subsection (2) to an
83 individual who has a nonresident health care license in good standing if:

84 (a) the individual has completed an application for a license by endorsement in
85 accordance with Section [58-1-302](#); and

86 (b) the division determines that they will not be able to process the application within
87 15 days from the day on which the application is submitted.

88 (4) The division may not charge a fee for a temporary license issued under this section
89 beyond the fee required for a license issued under Section 58-1-302.

90 Section 3. Section 58-1-506 is amended to read:

91 **58-1-506. Supervision of cosmetic medical procedures.**

92 (1) For purposes of this section:

93 (a) "Delegation group A" means the following who are licensed under this title, acting
94 within their respective scopes of practice, and qualified under Subsections (2)(f)(i) and (iii):

95 (i) a physician assistant, if acting in accordance with Chapter 70a, Utah Physician
96 Assistant Act;

97 (ii) a registered nurse;

98 (iii) a master esthetician; and

99 (iv) an electrologist, if evaluating for or performing laser hair removal.

100 (b) "Delegation group B" means:

101 (i) a practical nurse or an esthetician who is licensed under this title, acting within their
102 respective scopes of practice, and qualified under Subsections (2)(f)(i) and (iii); and

103 (ii) a medical assistant who is qualified under Subsections (2)(f)(i) and (iii).

104 (c) "Direct cosmetic medical procedure supervision" means the supervisor:

105 (i) has authorized the procedure to be done on the patient by the supervisee; and

106 (ii) is present and available for a face-to-face communication with the supervisee when
107 and where a cosmetic medical procedure is performed.

108 (d) "General cosmetic medical procedure supervision" means the supervisor:

109 (i) has authorized the procedure to be done on the patient by the supervisee;

110 (ii) is available in a timely and appropriate manner in person to evaluate and initiate
111 care for a patient with a suspected adverse reaction or complication; and

112 (iii) is located within 60 minutes or 60 miles of the cosmetic medical facility.

113 (e) "Hair removal review" means:

114 (i) conducting an in-person, face-to-face interview of a patient based on the responses
115 provided by the patient to a detailed medical history assessment that was prepared by the
116 supervisor;

117 (ii) evaluating for contraindications and conditions that are part of the treatment plan;

118 and

119 (iii) if the patient history or patient presentation deviates in any way from the treatment
120 plan, referring the patient to the supervisor and receiving clearance from the supervisor before
121 starting the treatment.

122 (f) "Indirect cosmetic medical procedure supervision" means the supervisor:

123 (i) has authorized the procedure to be done on the patient by the supervisee;

124 (ii) has given written instructions to the person being supervised;

125 (iii) is present within the cosmetic medical facility in which the person being
126 supervised is providing services; and

127 (iv) is available to:

128 (A) provide immediate face-to-face communication with the person being supervised;

129 and

130 (B) evaluate the patient, as necessary.

131 (2) A supervisor supervising a nonablative cosmetic medical procedure for hair
132 removal shall:

133 (a) have an unrestricted license to practice medicine or advanced practice registered
134 nursing in the state;

135 (b) develop the medical treatment plan for the procedure;

136 (c) conduct a hair removal review, or delegate the hair removal review to a member of
137 delegation group A, of the patient prior to initiating treatment or a series of treatments;

138 (d) personally perform the nonablative cosmetic medical procedure for hair removal, or
139 authorize and delegate the procedure to a member of delegation group A or B;

140 (e) during the nonablative cosmetic medical procedure for hair removal provide general
141 cosmetic medical procedure supervision to individuals in delegation group A performing the
142 procedure, except physician assistants, who shall act in accordance with Chapter 70a, Utah
143 Physician Assistant Act, and indirect cosmetic medical procedure supervision to individuals in
144 delegation group B performing the procedure; and

145 (f) verify that a person to whom the supervisor delegates an evaluation under
146 Subsection (2)(c) or delegates a procedure under Subsection (2)(d) or (3)(c)(ii):

147 (i) has received appropriate training regarding the medical procedures developed under
148 Subsection (2)(b);

149 (ii) has an unrestricted license under this title or is performing under the license of the

150 supervising physician and surgeon; and

151 (iii) has maintained competence to perform the nonablative cosmetic medical
152 procedure through documented education and experience of at least 80 hours, as further
153 defined by rule, regarding:

154 (A) the appropriate standard of care for performing nonablative cosmetic medical
155 procedures;

156 (B) physiology of the skin;

157 (C) skin typing and analysis;

158 (D) skin conditions, disorders, and diseases;

159 (E) pre- and post-procedure care;

160 (F) infection control;

161 (G) laser and light physics training;

162 (H) laser technologies and applications;

163 (I) safety and maintenance of lasers;

164 (J) cosmetic medical procedures an individual is permitted to perform under this title;

165 (K) recognition and appropriate management of complications from a procedure; and

166 (L) cardiopulmonary resuscitation (CPR).

167 (3) For a nonablative cosmetic medical procedure for tattoo removal:

168 (a) a supervisor supervising a nonablative cosmetic medical procedure for tattoo
169 removal shall:

170 (i) have an unrestricted license to practice medicine or advanced practice registered
171 nursing in the state; and

172 (ii) develop the medical treatment plan for the procedure; and

173 (b) a nurse practitioner or physician assistant:

174 (i) shall conduct an in-person face-to-face evaluation of a patient before initiating a
175 treatment protocol or series of treatments for removing a tattoo;

176 (ii) shall inspect the patient's skin for any discoloration unrelated to the tattoo and any
177 other indication of cancer or other condition that should be treated or further evaluated before
178 the tattoo is removed;

179 (iii) shall refer a patient with a condition described in Subsection (3)(b)(ii) to a
180 physician for treatment or further evaluation; and

181 (iv) may not perform a nonablative cosmetic medical procedure to remove a tattoo on a
 182 patient unless the patient is approved for the tattoo removal by a physician after the physician
 183 evaluates the patient.

184 (4) For a nonablative cosmetic medical procedure other than hair removal under
 185 Subsection (2) or tattoo removal under Subsection (3):

186 (a) a physician who has an unrestricted license to practice medicine, a nurse
 187 practitioner who has an unrestricted license for advanced practice registered nursing, or a
 188 physician assistant acting in accordance with Chapter 70a, Utah Physician Assistant Act, who
 189 has an unrestricted license to practice as a physician assistant, shall:

190 (i) develop a treatment plan for the nonablative cosmetic medical procedure; and

191 (ii) conduct an ~~[in-person face-to-face]~~ evaluation of the patient ~~[prior to]~~ either
 192 in-person or utilizing a live telemedicine visit before the initiation of a treatment protocol or
 193 series of treatments; and

194 ~~Ŝ→ [(iii) if the evaluation is conducted via telemedicine, ensure that the registered nurse or~~
 195 ~~master aesthetician performing the procedure is in-person with the patient during the evaluation~~
 196 ~~and the supervisor is on the telemedicine visit at the same time conducting the evaluation:] ←Ŝ~~

197 ~~[(b) a nurse practitioner or physician assistant conducting an in-person face-to-face~~
 198 ~~evaluation of a patient under Subsection (3)(a)(ii) prior to removing a tattoo shall:]~~

199 ~~[(i) inspect the patient's skin for any discoloration unrelated to the tattoo and any other~~
 200 ~~indication of cancer or other condition that should be treated or further evaluated before the~~
 201 ~~tattoo is removed;]~~

202 ~~[(ii) refer a patient with any such condition to a physician for treatment or further~~
 203 ~~evaluation; and]~~

204 ~~[(iii) shall not supervise a nonablative cosmetic medical procedure to remove a tattoo~~
 205 ~~on the patient until the patient has been approved for the tattoo removal by a physician who has~~
 206 ~~evaluated the patient; and]~~

207 ~~[(c)]~~ (b) the supervisor supervising the procedure shall:

208 (i) have an unrestricted license to practice medicine or advanced practice registered
 209 nursing;

210 (ii) personally perform the nonablative cosmetic medical procedure or:

211 (A) authorize and provide general cosmetic medical procedure supervision for the

212 nonablative cosmetic medical procedure that is performed by a registered nurse or a master
213 esthetician;

214 (B) authorize and provide supervision as provided in Chapter 70a, Utah Physician
215 Assistant Act, for the nonablative cosmetic medical procedure that is performed by a physician
216 assistant; or

217 (C) authorize and provide direct cosmetic medical procedure supervision for the
218 nonablative cosmetic medical procedure that is performed by an esthetician; and

219 (iii) verify that a person to whom the supervisor delegates a procedure under
220 Subsection (3)(c):

221 (A) has received appropriate training regarding the medical procedures to be
222 performed;

223 (B) has an unrestricted license and is acting within the person's scope of practice under
224 this title; and

225 (C) is qualified under Subsection (2)(f)(iii).

226 [~~(4)~~] (5) A supervisor performing or supervising a cosmetic medical procedure under
227 Subsection (2) or (3) or (4) shall ensure that:

228 (a) the supervisor's name is prominently posted at the cosmetic medical facility
229 identifying the supervisor;

230 (b) a copy of the supervisor's license is displayed on the wall of the cosmetic medical
231 facility;

232 (c) the patient receives written information with the name and licensing information of
233 the supervisor who is supervising the nonablative cosmetic medical procedure and the person
234 who is performing the nonablative cosmetic medical procedure;

235 (d) the patient is provided with a telephone number that is answered within 24 hours
236 for follow-up communication; and

237 (e) the cosmetic medical facility's contract with a master esthetician who performs a
238 nonablative cosmetic medical procedure at the facility is kept on the premises of the facility.

239 [~~(5)~~] (6) Failure to comply with the provisions of this section is unprofessional
240 conduct.

241 [~~(6)~~] (7) A chiropractic physician licensed under Chapter 73, Chiropractic Physician
242 Practice Act, is not subject to the supervision requirements in this section for a nonablative

243 cosmetic medical procedure for hair removal if the chiropractic physician is acting within the
244 scope of practice of a chiropractic physician and with training specific to nonablative hair
245 removal.

246 Section 4. Section **58-67-102** is amended to read:

247 **58-67-102. Definitions.**

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

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

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

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

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

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

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

264 (6) "Biological sex at birth" means an individual's sex, as being male or female,
265 according to distinct reproductive roles as manifested by:

266 (a) sex and reproductive organ anatomy;

267 (b) chromosomal makeup; and

268 (c) endogenous hormone profiles.

269 (7) "Board" means the Physicians Licensing Board created in Section **58-67-201**.

270 (8) "Collaborating physician" means an individual licensed under Section **58-67-302**
271 who enters into a collaborative practice arrangement with an associate physician.

272 (9) "Collaborative practice arrangement" means the arrangement described in Section
273 **58-67-807**.

274 (10) (a) "Cosmetic medical device" means tissue altering energy based devices that
275 have the potential for altering living tissue and that are used to perform ablative or nonablative
276 procedures, such as American National Standards Institute (ANSI) designated Class IIIb and
277 Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic devices, and
278 excludes ANSI designated Class IIIa and lower powered devices.

279 (b) Notwithstanding Subsection (10)(a), if an ANSI designated Class IIIa and lower
280 powered device is being used to perform an ablative procedure, the device is included in the
281 definition of cosmetic medical device under Subsection (10)(a).

282 (11) (a) "Cosmetic medical procedure" includes:

283 [~~(a)~~] (i) includes the use of cosmetic medical devices to perform ablative or
284 nonablative procedures; [~~and~~] or

285 (ii) the injection of medication or substance, including a neurotoxin or a filler, for
286 cosmetic purposes.

287 (b) "Cosmetic medical procedure" does not include a treatment of the ocular globe
288 [~~such as~~] including refractive surgery.

289 (12) "Diagnose" means:

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

294 (b) to attempt to conduct an examination or determination described under Subsection
295 (12)(a);

296 (c) to hold oneself out as making or to represent that one is making an examination or
297 determination as described in Subsection (12)(a); or

298 (d) to make an examination or determination as described in Subsection (12)(a) upon
299 or from information supplied directly or indirectly by another person, whether or not in the
300 presence of the person making or attempting the diagnosis or examination.

301 (13) "LCME" means the Liaison Committee on Medical Education of the American
302 Medical Association.

303 (14) "Medical assistant" means an unlicensed individual who may perform tasks as
304 described in Subsection [58-67-305\(6\)](#).

305 (15) "Medically underserved area" means a geographic area in which there is a
306 shortage of primary care health services for residents, as determined by the Department of
307 Health and Human Services.

308 (16) "Medically underserved population" means a specified group of people living in a
309 defined geographic area with a shortage of primary care health services, as determined by the
310 Department of Health and Human Services.

311 (17) (a) (i) "Nonablative procedure" means a procedure that is expected or intended to
312 alter living tissue, but is not intended or expected to excise, vaporize, disintegrate, or remove
313 living tissue.

314 (ii) Notwithstanding Subsection (17)(a)(i) nonablative procedure includes hair
315 removal.

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

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

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

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

322 (18) "Physician" means both physicians and surgeons licensed under Section
323 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
324 Section 58-68-301, Utah Osteopathic Medical Practice Act.

325 (19) (a) "Practice of medicine" means:

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

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

333 (iii) to maintain an office or place of business for the purpose of doing any of the acts
334 described in Subsection (19)(a)(i) or (ii) whether or not for compensation; or

335 (iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or

336 treatment of human diseases or conditions in any printed material, stationery, letterhead,
337 envelopes, signs, or advertisements, the designation "doctor," "doctor of medicine,"
338 "physician," "surgeon," "physician and surgeon," "Dr.," "M.D.," or any combination of these
339 designations in any manner which might cause a reasonable person to believe the individual
340 using the designation is a licensed physician and surgeon, and if the party using the designation
341 is not a licensed physician and surgeon, the designation must additionally contain the
342 description of the branch of the healing arts for which the person has a license, provided that an
343 individual who has received an earned degree of doctor of medicine degree but is not a licensed
344 physician and surgeon in Utah may use the designation "M.D." if it is followed by "Not
345 Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

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

347 (i) except for an ablative medical procedure as provided in Subsection (19)(b)(ii) the
348 conduct described in Subsection (19)(a)(i) that is performed in accordance with a license issued
349 under another chapter of this title;

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

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

354 (20) "Prescription device" means an instrument, apparatus, implement, machine,
355 contrivance, implant, in vitro reagent, or other similar or related article, and any component
356 part or accessory, which is required under federal or state law to be prescribed by a practitioner
357 and dispensed by or through a person or entity licensed under this chapter or exempt from
358 licensure under this chapter.

359 (21) "Prescription drug" means a drug that is required by federal or state law or rule to
360 be dispensed only by prescription or is restricted to administration only by practitioners.

361 (22) (a) "Primary sex characteristic surgical procedure" means any of the following if
362 done for the purpose of effectuating or facilitating an individual's attempted sex change:

363 (i) for an individual whose biological sex at birth is male, castration, orchiectomy,
364 penectomy, vaginoplasty, or vulvoplasty;

365 (ii) for an individual whose biological sex at birth is female, hysterectomy,
366 oophorectomy, metoidioplasty, or phalloplasty; or

367 (iii) any surgical procedure that is related to or necessary for a procedure described in
368 Subsection (22)(a)(i) or (ii), that would result in the sterilization of an individual who is not
369 sterile.

370 (b) "Primary sex characteristic surgical procedure" does not include:

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

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

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

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

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

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

379 (ii) removing a body part:

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

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

383 (23) (a) "Secondary sex characteristic surgical procedure" means any of the following
384 if done for the purpose of effectuating or facilitating an individual's attempted sex change:

385 (i) for an individual whose biological sex at birth is male, breast augmentation surgery,
386 chest feminization surgery, or facial feminization surgery; or

387 (ii) for an individual whose biological sex at birth is female, mastectomy, breast
388 reduction surgery, chest masculinization surgery, or facial masculinization surgery.

389 (b) "Secondary sex characteristic surgical procedure" does not include:

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

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

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

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

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

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

398 (ii) removing a body part:

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

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

402 (24) "SPEX" means the Special Purpose Examination of the Federation of State
403 Medical Boards.

404 (25) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
405 and 58-67-501.

406 (26) "Unprofessional conduct" means the same as that term is defined in Sections
407 58-1-501 and 58-67-502, and as may be further defined by division rule.

408 Section 5. **Effective date.**

409 This bill takes effect on May 1, 2024.