

ANESTHESIA AND SEDATION AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Suzanne Harrison

Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill amends and enacts provisions related to anesthesia and sedation.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies reporting requirements for anesthesia or sedation adverse events;
- ▶ requires the Department of Health to have a health care provider provide information after an emergency medical provider responds to an anesthesia or sedation adverse event;
- ▶ consolidates and modifies requirements that an anesthesia or sedation provider must perform before, during, and after a patient undergoes anesthesia or sedation in outpatient settings;
- ▶ gives authority to the Division of Occupational and Professional Licensing to establish safety standards for sedation and anesthesia;
- ▶ eliminates repeal dates related to anesthesia and sedation administration and reporting; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **26-1-40**, as enacted by Laws of Utah 2017, Chapter 177

32 **63I-1-226**, as last amended by Laws of Utah 2021, Chapters 13, 50, 64, 163, 182, 234,
33 and 417

34 **63I-1-258**, as last amended by Laws of Utah 2021, Chapter 32

35 ENACTS:

36 **58-1-510**, Utah Code Annotated 1953

37 REPEALS:

38 **58-5a-502**, as enacted by Laws of Utah 2017, Chapter 177

39 **58-31b-502.5**, as enacted by Laws of Utah 2017, Chapter 177

40 **58-67-502.5**, as enacted by Laws of Utah 2017, Chapter 177

41 **58-68-502.5**, as enacted by Laws of Utah 2017, Chapter 177

42 **58-69-502.5**, as enacted by Laws of Utah 2017, Chapter 177



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

45 Section 1. Section **26-1-40** is amended to read:

46 **26-1-40. Reports of anesthesia adverse events -- Whistle blower protections.**

47 (1) (a) [~~Beginning January 1, 2018, the~~] The department shall create a database of
48 deaths and adverse events from the administration of sedation or anesthesia in outpatient
49 settings that are not emergency departments in the state.

50 (b) The database required by Subsection (1)(a) shall include reports submitted by
51 health care providers under [~~Sections 58-5a-502, 58-31b-502.5, 58-67-502.5, 58-68-502.5, and~~
52 ~~58-69-502.5~~] Section 58-1-510.

53 (2) (a) The department shall adopt administrative rules under Title 63G, Chapter 3,
54 Utah Administrative Rulemaking Act, regarding:

55 [~~(a)~~] (i) the format of the reports; and

56 [~~(b) what constitutes a reportable adverse event, which shall include at least the~~
57 ~~administration of intravenous sedation or anesthesia when there is:~~]

58 (ii) the circumstances that constitute a reportable adverse event.

59 (b) In addition to any other circumstances established by rule as constituting a
 60 reportable adverse event, a reportable adverse event shall include a situation where:

61 (i) an individual is under moderate sedation, deep sedation, or general anesthesia, as
 62 those terms are defined in Section 58-1-510; and

63 (ii) there is:

64 [(i)] (A) an escalation of care required for the patient ~~H→~~ , **including contacting an**
 64a **emergency medical service provider as defined in Section 26-8a-102, transferring the patient to**
 64b **an emergency room or hospital, or administering to the patient a vasopressor or an**
 64c **inotrope ←H ; or**

65 [(ii)] (B) a rescue of a patient from a deeper level of sedation than was intended ~~H→~~ , **which**
 65a **resulted in an unplanned invasive airway procedure ←H .**

66 (3) (a) Information the department receives under this section that identifies a
 67 particular individual is subject to Title 63G, Chapter 2, Government Records Access and
 68 Management Act, and the federal Health Insurance Portability and Accountability Act of 1996.

69 (b) ~~[Beginning July 1, 2018, and on]~~ On or before July 1 of each year ~~[thereafter]~~, the
 70 department shall:

71 (i) publicly report:

72 (A) the number of deaths and adverse events reported under Subsection (1);

73 (B) the type of health care providers, by license category and specialty, who submitted
 74 reports under Subsection (1) and who administered the sedation or anesthesia that resulted in
 75 an adverse event; and

76 (C) the type of facility in which the death or adverse event took place; and

77 (ii) submit a report to the Health and Human Services Interim Committee with the
 78 information required by this Subsection (3).

79 (4) An employer of a health care provider who submits a report under this section may
 80 not take an adverse employment action against the reporting health care provider if the
 81 employment action is based on the provider submitting a report under this section.

82 ~~[(5) (a) This section sunsets in accordance with Section 63I-1-226.]~~

83 ~~[(b) The sunset review of this section shall include an analysis of:]~~

84 ~~[(i) the number and types of adverse events reported under this section;]~~

85 ~~[(ii) the types of health care providers and locations involved in the adverse events;]~~

86 ~~[(iii) the adequacy of sedation and anesthesia requirements in Sections 58-5a-502,~~

87 ~~58-31b-502.5, 58-67-502.5, 58-68-502.5, and 58-69-502.5 related to the adverse events~~

88 ~~reported under this section; and]~~

89 ~~[(iv) the adequacy of the reporting requirements under this section and the need for~~

90 additional protections for health care providers who report events under this section.]

91 (5) If the department identifies that an emergency medical ~~H~~→ service ←~~H~~ provider as
91a defined in

92 Section 26-8a-102 responds to an event that meets the criteria for a reportable adverse event,
93 the department shall require the individual who administered the sedation or anesthesia that led
94 to the adverse event to report on the adverse event.

95 Section 2. Section **58-1-510** is enacted to read:

96 **58-1-510. Anesthesia and sedation requirements -- Unprofessional conduct.**

97 (1) As used in this section:

98 (a) "Anesthesia or sedation provider" means an individual who is licensed:

99 (i) under Chapter 5a, Podiatric Physician Licensing Act;

100 (ii) under Subsection 58-31b-301(2)(e);

101 (iii) under Chapter 67, Utah Medical Practice Act;

102 (iv) under Chapter 68, Utah Osteopathic Medical Practice Act; or

103 (v) as a dentist under Chapter 69, Dentist and Dental Hygienist Practice Act, and who
104 has obtained the appropriate permit established by the division under Subsection 58-69-301(4).

105 (b) "Deep sedation" means a drug-induced depression of consciousness where an
106 individual:

107 (i) cannot be easily aroused;

108 (ii) responds purposefully following repeated or painful stimulation;

109 (iii) may not be able to independently maintain ventilatory function;

110 (iv) may require assistance in maintaining a patent airway; and

111 (v) usually maintains cardiovascular function.

112 (c) "General anesthesia" means a drug-induced loss of consciousness where an
113 individual:

114 (i) cannot be aroused, even by painful stimulation;

115 (ii) is often unable to maintain ventilatory function;

116 (iii) often requires assistance in maintaining a patent airway and positive pressure
117 ventilation may be required because of depressed spontaneous ventilation or drug-induced
118 depression of neuromuscular function; and

119 (iv) may not be able to maintain cardiovascular function.

120 (d) "General anesthetic" means a drug identified as a general anesthetic by the federal

121 Food and Drug Administration.122 (e) "Minimal sedation" means a drug-induced state where an individual:123 (i) responds normally to verbal commands;124 (ii) may have reduced cognitive function and physical coordination; and125 (iii) maintains airway reflexes, ventilatory function, and cardiovascular function.126 (f) "Moderate sedation" means a drug-induced depression of consciousness where an
127 individual:128 (i) responds purposefully to verbal commands, either alone or accompanied by light
129 tactile stimulation;130 (ii) maintains a patent airway;131 (iii) maintains spontaneous ventilation; and132 (iv) usually maintains cardiovascular function.133 (2) An anesthesia or sedation provider may not cause a patient to undergo moderate
134 sedation, deep sedation, or general anesthesia, in an outpatient setting that is not an emergency
135 department without:136 (a) first providing the following information in writing and verbally:137 (i) the level of anesthesia or sedation being administered;138 (ii) the identity, type of license, and training of the provider who is performing the
139 procedure for which the anesthesia or sedation will be administered;140 (iii) the identity, type of license, and a description of the training described in141 Subsection (4) of the anesthesia or sedation provider who will be administering the anesthesia
142 or sedation; and143 (iv) a description of the monitoring that will occur during the sedation or anesthesia,
144 including descriptions related to the monitoring of the patient's oxygenation, ventilation, and
145 circulation;146 (b) after complying with Subsection (2)(a), obtaining the patient's written and verbal
147 consent regarding the procedure;148 (c) having the training described in Subsection (4);149 (d) directly supervising the patient;150 (e) if the patient is a minor, having a current pediatric advanced life support
151 certification;

152 (f) if the patient is an adult, having a current advanced cardiovascular life support
153 certification;

154 (g) having at least one individual in the procedure room who has advanced airway
155 training and the knowledge and skills to recognize and treat airway complications and rescue a
156 patient who entered a deeper than intended level of sedation;

157 (h) having access during the procedure to an advanced cardiac life support crash cart in
158 the office with equipment that:

159 (i) is regularly maintained according to guidelines established by the American Heart
160 Association; and

161 (ii) includes:

162 (A) a defibrillator;

163 (B) administrable oxygen;

164 (C) age appropriate airway equipment;

165 (D) positive pressure ventilation equipment; and

166 (E) unexpired emergency and reversal medications including naloxone for opioid
167 sedation and flumazenil for benzodiazepine sedation;

168 (i) using monitors that meet basic standards set by the American Society of
169 Anesthesiologists and continually monitoring ventilatory function with capnography unless
170 precluded or invalidated by the nature of the patient, procedure, or equipment;

171 (j) entering appropriate information into the patient's chart or medical record, which
172 shall include:

173 (i) the patient's name;

174 (ii) route and site the anesthesia or sedation was administered;

175 (iii) the time of anesthesia or sedation administration and the dosage;

176 (iv) the patient's periodic vital signs during the procedure; and

177 (v) the name of the individual who monitored the patient's oxygenation and ventilation;

178 and

179 (k) reporting any adverse event under Section [26-1-40](#).

180 (3) An individual commits unprofessional conduct if the individual administers
181 anesthesia or sedation for which the individual is not appropriately trained.

182 (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

183 the division shall make rules to create training and safety standards regarding the inducing of
 184 general anesthesia, deep sedation, and moderate sedation:

185 (i) for each license described in Subsection (1)(a);

186 (ii) that are based on standards created by nationally recognized organizations, such as
 187 the American Society of Anesthesiologists ~~and~~, ~~the~~ the American Dental Association
 187a ~~and~~, or the American Association of Oral and Maxillofacial Surgeons ~~and~~; and

188 (iii) that include safety standards for general anesthetic use that are consistent with
 189 federal Food and Drug Administration guidance.

190 (b) For making rules described in Subsection (4)(a), the division shall consult with the
 191 applicable licensing boards and a board described in Section [58-67-201](#) ~~or~~, ~~and~~ [58-68-201](#)
 191a ~~and~~ [58-69-201](#) ~~and~~.

192 (5) The requirements of Subsection (2) do not apply to the practice of inducing
 193 minimal sedation.

194 Section 3. Section **63I-1-226** is amended to read:

195 **63I-1-226. Repeal dates, Title 26.**

196 (1) Subsection [26-1-7\(1\)\(f\)](#), related to the Residential Child Care Licensing Advisory
 197 Committee, is repealed July 1, 2024.

198 (2) Subsection [26-1-7\(1\)\(h\)](#), related to the Primary Care Grant Committee, is repealed
 199 July 1, 2025.

200 (3) Section [26-1-7.5](#), which creates the Utah Health Advisory Council, is repealed July
 201 1, 2025.

202 [~~(4)~~ Section [26-1-40](#) is repealed July 1, 2022.]

203 [~~(5)~~ (4) Section [26-1-41](#) is repealed July 1, 2026.

204 [~~(6)~~ (5) Section [26-7-10](#) is repealed July 1, 2025.

205 [~~(7)~~ (6) Subsection [26-7-11\(5\)](#), regarding reports to the Legislature, is repealed July 1,
 206 2028.

207 [~~(8)~~ (7) Section [26-7-14](#) is repealed December 31, 2027.

208 [~~(9)~~ (8) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed
 209 July 1, 2025.

210 [~~(10)~~ (9) Subsection [26-10-6\(5\)](#), which creates the Newborn Hearing Screening
 211 Committee, is repealed July 1, 2026.

212 [~~(11)~~ (10) Section [26-10b-106](#), which creates the Primary Care Grant Committee, is
 213 repealed July 1, 2025.

214 ~~[(12)]~~ (11) Subsection [26-15c-104\(3\)](#), relating to a limitation on the number of
215 microenterprise home kitchen permits that may be issued, is repealed on July 1, 2022.

216 ~~[(13)]~~ (12) Subsection [26-18-2.6\(9\)](#), which addresses reimbursement for dental
217 hygienists, is repealed July 1, 2028.

218 ~~[(14)]~~ (13) Section [26-18-27](#) is repealed July 1, 2025.

219 ~~[(15)]~~ (14) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed
220 July 1, 2027.

221 ~~[(16)]~~ (15) Subsection [26-18-418\(2\)](#), the language that states "and the Behavioral
222 Health Crisis Response Commission created in Section [63C-18-202](#)" is repealed July 1, 2023.

223 ~~[(17)]~~ (16) Section [26-33a-117](#) is repealed on December 31, 2023.

224 ~~[(18)]~~ (17) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1,
225 2024.

226 ~~[(19)]~~ (18) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July
227 1, 2024.

228 ~~[(20)]~~ (19) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is
229 repealed July 1, 2024.

230 ~~[(21)]~~ (20) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July
231 1, 2024.

232 ~~[(22)]~~ (21) Section [26-39-201](#), which creates the Residential Child Care Licensing
233 Advisory Committee, is repealed July 1, 2024.

234 ~~[(23)]~~ (22) Section [26-40-104](#), which creates the Utah Children's Health Insurance
235 Program Advisory Council, is repealed July 1, 2025.

236 ~~[(24)]~~ (23) Section [26-50-202](#), which creates the Traumatic Brain Injury Advisory
237 Committee, is repealed July 1, 2025.

238 ~~[(25)]~~ (24) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and
239 Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

240 ~~[(26)]~~ (25) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is
241 repealed July 1, 2026.

242 ~~[(27)]~~ (26) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed
243 July 1, 2026.

244 ~~[(28)]~~ (27) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July

245 1, 2024.

246 Section 4. Section **63I-1-258** is amended to read:

247 **63I-1-258. Repeal dates, Title 58.**

248 (1) Section **58-3a-201**, which creates the Architects Licensing Board, is repealed July
249 1, 2026.

250 (2) Section **58-11a-302.5** is repealed July 1, 2022.

251 (3) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is
252 repealed July 1, 2026.

253 (4) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

254 (5) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1, 2028.

255 (6) Subsection **58-37-6(7)(f)(iii)** is repealed July 1, 2022, and the Office of Legislative
256 Research and General Counsel is authorized to renumber the remaining subsections
257 accordingly.

258 (7) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

259 (8) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is
260 repealed July 1, 2029.

261 (9) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

262 (10) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed
263 July 1, 2023.

264 (11) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

265 (12) Subsection **58-55-201(2)**, which creates the Alarm System and Security Licensing
266 Advisory Board, is repealed July 1, 2027.

267 (13) Subsection **58-60-405(3)**, regarding certain educational qualifications for licensure
268 and reporting, is repealed July 1, 2022.

269 (14) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1,
270 2026.

271 (15) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.

272 [~~(16) The following sections are repealed on July 1, 2022:~~]

273 [~~(a) Section **58-5a-502;**~~]

274 [~~(b) Section **58-31b-502.5;**~~]

275 [~~(c) Section **58-67-502.5;**~~]

276 [~~(d) Section 58-68-502.5; and~~]

277 [~~(e) Section 58-69-502.5.~~]

278 Section 5. **Repealer.**

279 This bill repeals:

280 Section **58-5a-502, Unprofessional conduct.**

281 Section **58-31b-502.5, Anesthesia and sedation -- Unprofessional conduct.**

282 Section **58-67-502.5, Anesthesia and sedation -- Unprofessional conduct.**

283 Section **58-68-502.5, Anesthesia and sedation -- Unprofessional conduct.**

284 Section **58-69-502.5, Anesthesia and sedation -- Unprofessional conduct.**