

1 **MEDICAL SCHOOL GRADUATES ASSOCIATE PHYSICIAN**

2 **LICENSURE**

3 2017 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Stewart E. Barlow**

6 Senate Sponsor: Brian E. Shiozawa

7	Cosponsors:	Michael S. Kennedy	Scott D. Sandall
8	Susan Duckworth	Paul Ray	Robert M. Spendlove
9	Stephen G. Handy	Edward H. Redd	
10	Sandra Hollins	Douglas V. Sagers	

11

12 **LONG TITLE**

13 **General Description:**

14 This bill creates a restricted license enabling a medical school graduate to practice
15 medicine under certain conditions.

16 **Highlighted Provisions:**

- 17 This bill:
- 18 ▶ defines terms;
 - 19 ▶ creates the restricted associate physician license;
 - 20 ▶ describes licensure requirements;
 - 21 ▶ describes the scope of practice of a restricted associate physician license;
 - 22 ▶ permits a qualified physician to enter into a cooperative practice arrangement with a
23 licensed associate physician;
 - 24 ▶ describes a cooperative practice arrangement;
 - 25 ▶ requires the Division of Occupational and Professional Licensing to make rules
26 regarding:
 - 27 • the approval of cooperative practice arrangements; and
 - 28 • educational methods and programs for associate physicians; and

29 ▶ makes technical changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 This bill provides a special effective date.

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **58-67-102**, as last amended by Laws of Utah 2013, Chapter 262

37 **58-67-303**, as last amended by Laws of Utah 2011, Chapter 206

38 **58-67-304**, as last amended by Laws of Utah 2011, Chapters 161 and 214

39 **58-67-502**, as last amended by Laws of Utah 2015, Chapters 110 and 206

40 **58-67-601**, as last amended by Laws of Utah 2013, Chapter 364

41 **58-68-102**, as last amended by Laws of Utah 2013, Chapter 262

42 **58-68-303**, as last amended by Laws of Utah 2005, Chapter 94

43 **58-68-304**, as last amended by Laws of Utah 2011, Chapters 161 and 214

44 **58-68-502**, as last amended by Laws of Utah 2015, Chapters 110 and 206

45 **58-68-601**, as last amended by Laws of Utah 2013, Chapter 364

46 ENACTS:

47 **58-67-302.8**, Utah Code Annotated 1953

48 **58-67-807**, Utah Code Annotated 1953

49 **58-68-302.5**, Utah Code Annotated 1953

50 **58-68-807**, Utah Code Annotated 1953

51

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

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

54 **58-67-102. Definitions.**

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

56 (1) "Ablative procedure" means a procedure that is expected to excise, vaporize,

57 disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium:
58 YAG lasers, and excluding hair removal.

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

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

66 (4) "Associate physician" means an individual licensed under Section [58-67-302.8](#).

67 [~~4~~] (5) "Board" means the Physicians Licensing Board created in Section [58-67-201](#).

68 (6) "Collaborating physician" means an individual licensed under Section [58-67-302](#)
69 who enters into a collaborative practice arrangement with an associate physician.

70 (7) "Collaborative practice arrangement" means the arrangement described in Section
71 [58-67-807](#).

72 [~~5~~] (8) (a) "Cosmetic medical device" means tissue altering energy based devices that
73 have the potential for altering living tissue and that are used to perform ablative or nonablative
74 procedures, such as American National Standards Institute (ANSI) designated Class IIIb and
75 Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic devices, and
76 excludes ANSI designated Class IIIa and lower powered devices.

77 (b) Notwithstanding Subsection [~~5~~] (8)(a), if an ANSI designated Class IIIa and lower
78 powered device is being used to perform an ablative procedure, the device is included in the
79 definition of cosmetic medical device under Subsection [~~5~~] (8)(a).

80 [~~6~~] (9) "Cosmetic medical procedure":

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

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

84 [~~7~~] (10) "Diagnose" means:

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

89 (b) to attempt to conduct an examination or determination described under Subsection
90 ~~[(7)]~~ (10)(a);

91 (c) to hold oneself out as making or to represent that one is making an examination or
92 determination as described in Subsection ~~[(7)]~~ (10)(a); or

93 (d) to make an examination or determination as described in Subsection ~~[(7)]~~ (10)(a)
94 upon or from information supplied directly or indirectly by another person, whether or not in
95 the presence of the person making or attempting the diagnosis or examination.

96 ~~[(8)]~~ (11) "LCME" means the Liaison Committee on Medical Education of the
97 American Medical Association.

98 ~~[(9)]~~ (12) "Medical assistant" means an unlicensed individual working under the
99 indirect supervision of a licensed physician and surgeon and engaged in specific tasks assigned
100 by the licensed physician and surgeon in accordance with the standards and ethics of the
101 profession.

102 (13) "Medically underserved area" means a geographic area in which there is a
103 shortage of primary care health services for residents, as determined by the Department of
104 Health.

105 (14) "Medically underserved population" means a specified group of people living in a
106 defined geographic area with a shortage of primary care health services, as determined by the
107 Department of Health.

108 ~~[(10)]~~ (15) (a) (i) "Nonablative procedure" means a procedure that is expected or
109 intended to alter living tissue, but is not intended or expected to excise, vaporize, disintegrate,
110 or remove living tissue.

111 (ii) Notwithstanding Subsection ~~[(10)]~~ (15)(a)(i), nonablative procedure includes hair
112 removal.

113 (b) "Nonablative procedure" does not include:
114 (i) a superficial procedure as defined in Section 58-1-102;
115 (ii) the application of permanent make-up; or
116 (iii) the use of photo therapy and lasers for neuromusculoskeletal treatments that are
117 performed by an individual licensed under this title who is acting within the individual's scope
118 of practice.

119 ~~[(11)]~~ (16) "Physician" means both physicians and surgeons licensed under Section
120 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
121 Section 58-68-301, Utah Osteopathic Medical Practice Act.

122 ~~[(12)]~~ (17) (a) "Practice of medicine" means:

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

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

130 (iii) to maintain an office or place of business for the purpose of doing any of the acts
131 described in Subsection ~~[(12)]~~ (17)(a) whether or not for compensation; or

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

141 physician and surgeon in Utah may use the designation "M.D." if it is followed by "Not
142 Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

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

144 (i) except for an ablative medical procedure as provided in Subsection [~~12~~]
145 (17)(b)(ii), the conduct described in Subsection [~~12~~] (17)(a)(i) that is performed in
146 accordance with a license issued under another chapter of this title;

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

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

151 [~~13~~] (18) "Prescription device" means an instrument, apparatus, implement, machine,
152 contrivance, implant, in vitro reagent, or other similar or related article, and any component
153 part or accessory, which is required under federal or state law to be prescribed by a practitioner
154 and dispensed by or through a person or entity licensed under this chapter or exempt from
155 licensure under this chapter.

156 [~~14~~] (19) "Prescription drug" means a drug that is required by federal or state law or
157 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

158 [~~15~~] (20) "SPEX" means the Special Purpose Examination of the Federation of State
159 Medical Boards.

160 [~~16~~] (21) "Unlawful conduct" [~~is as~~] means the same as that term is defined in
161 Sections 58-1-501 and 58-67-501.

162 [~~17~~] (22) "Unprofessional conduct" [~~is as~~] means the same as that term is defined in
163 Sections 58-1-501 and 58-67-502, and as may be further defined by division rule.

164 Section 2. Section **58-67-302.8** is enacted to read:

165 **58-67-302.8. Restricted licensing of an associate physician.**

166 (1) An individual may apply for a restricted license as an associate physician if the
167 individual:

168 (a) meets the requirements described in Subsections 58-67-302(1)(a) through (c),

169 (1)(d)(i), and (1)(g) through (j);

170 (b) successfully completes Step 1 and Step 2 of the United States Medical Licensing
171 Examination or the equivalent steps of another board-approved medical licensing examination:

172 (i) within three years after the day on which the applicant graduates from a program
173 described in Subsection 58-67-302(1)(d)(i); and

174 (ii) within two years before applying for a restricted license as an associate physician;
175 and

176 (c) is not currently enrolled in and has not completed a residency program.

177 (2) Before a licensed associate physician may engage in the practice of medicine as
178 described in Subsection (3), the licensed associate physician shall:

179 (a) enter into a collaborative practice arrangement described in Section 58-67-807
180 within six months after the associate physician's initial licensure; and

181 (b) receive division approval of the collaborative practice arrangement.

182 (3) An associate physician's scope of practice is limited to primary care services to
183 medically underserved populations or in medically underserved areas within the state.

184 Section 3. Section **58-67-303** is amended to read:

185 **58-67-303. Term of license -- Expiration -- Renewal.**

186 (1) (a) Except as provided in Section 58-67-302.7, the division shall issue each license
187 under this chapter in accordance with a two-year renewal cycle established by division rule.

188 (b) The division may by rule extend or shorten a renewal period by as much as one year
189 to stagger the renewal cycles it administers.

190 (2) At the time of renewal, the licensee shall show compliance with:

191 (a) continuing education renewal requirements; and

192 (b) the requirement for designation of a contact person and alternate contact person for
193 access to medical records and notice to patients as required by Subsections 58-67-304(1)(b)
194 and (c).

195 (3) Each license issued under this chapter expires on the expiration date shown on the
196 license unless renewed in accordance with Section 58-1-308.

197 (4) An individual may not be licensed as an associate physician for more than a total of
198 four years.

199 Section 4. Section **58-67-304** is amended to read:

200 **58-67-304. License renewal requirements.**

201 (1) As a condition precedent for license renewal, each licensee shall, during each
202 two-year licensure cycle or other cycle defined by division rule:

203 (a) complete qualified continuing professional education requirements in accordance
204 with the number of hours and standards defined by division rule made in collaboration with the
205 board;

206 (b) appoint a contact person for access to medical records and an alternate contact
207 person for access to medical records in accordance with Subsection [58-67-302\(1\)\(i\)](#); ~~and~~

208 (c) if the licensee practices medicine in a location with no other persons licensed under
209 this chapter, provide some method of notice to the licensee's patients of the identity and
210 location of the contact person and alternate contact person for the licensee~~[-]; and~~

211 (d) if the licensee is an associate physician licensed under Section [58-67-302.8](#),
212 successfully complete the educational methods and programs described in Subsection
213 [58-67-807\(4\)](#).

214 (2) If a renewal period is extended or shortened under Section [58-67-303](#), the
215 continuing education hours required for license renewal under this section are increased or
216 decreased proportionally.

217 (3) An application to renew a license under this chapter shall:

218 (a) require a physician to answer the following question: "Do you perform elective
219 abortions in Utah in a location other than a hospital?"; and

220 (b) immediately following the question, contain the following statement: "For purposes
221 of the immediately preceding question, elective abortion means an abortion other than one of
222 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is
223 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of
224 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a

225 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where
226 the woman is pregnant as a result of rape or incest."

227 (4) In order to assist the Department of Health in fulfilling its responsibilities relating
228 to the licensing of an abortion clinic, if a physician responds positively to the question
229 described in Subsection (3)(a), the division shall, within 30 days after the day on which it
230 renews the physician's license under this chapter, inform the Department of Health in writing:

231 (a) of the name and business address of the physician; and

232 (b) that the physician responded positively to the question described in Subsection
233 (3)(a).

234 Section 5. Section **58-67-502** is amended to read:

235 **58-67-502. Unprofessional conduct.**

236 (1) "Unprofessional conduct" includes, in addition to the definition in Section
237 [58-1-501](#):

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

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

243 (c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
244 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable.

245 (2) "Unprofessional conduct" does not include, in compliance with Section [58-85-103](#):

246 (a) obtaining an investigational drug or investigational device;

247 (b) administering the investigational drug to an eligible patient; or

248 (c) treating an eligible patient with the investigational drug or investigational device.

249 Section 6. Section **58-67-601** is amended to read:

250 **58-67-601. Mentally incompetent or incapacitated physician.**

251 (1) As used in this section:

252 (a) "Incapacitated person" means a person who is incapacitated, as defined in Section

253 75-1-201.

254 (b) "Mental illness" [~~is as~~] means the same as that term is defined in Section
255 62A-15-602.

256 (c) "Physician" means an individual licensed under this chapter.

257 (2) If a court of competent jurisdiction determines a physician is an incapacitated
258 person or that the physician has a mental illness and is unable to safely engage in the practice
259 of medicine, the director shall immediately suspend the license of the physician upon the entry
260 of the judgment of the court, without further proceedings under Title 63G, Chapter 4,
261 Administrative Procedures Act, regardless of whether an appeal from the court's ruling is
262 pending. The director shall promptly notify the physician, in writing, of the suspension.

263 (3) (a) If the division and a majority of the board find reasonable cause to believe a
264 physician, who is not determined judicially to be an incapacitated person or to have a mental
265 illness, is incapable of practicing medicine with reasonable skill regarding the safety of
266 patients, because of illness, excessive use of drugs or alcohol, or as a result of any mental or
267 physical condition, the board shall recommend that the director file a petition with the division,
268 and cause the petition to be served upon the physician with a notice of hearing on the sole issue
269 of the capacity of the physician to competently and safely engage in the practice of medicine.

270 (b) The hearing shall be conducted under Section 58-1-109, and Title 63G, Chapter 4,
271 Administrative Procedures Act, except as provided in Subsection (4).

272 (4) (a) Every physician who accepts the privilege of being licensed under this chapter
273 gives consent to:

274 (i) submitting at the physician's own expense to an immediate mental or physical
275 examination when directed in writing by the division and a majority of the board to do so; and

276 (ii) the admissibility of the reports of the examining physician's testimony or
277 examination, and waives all objections on the ground the reports constitute a privileged
278 communication.

279 (b) The examination may be ordered by the division, with the consent of a majority of
280 the board, only upon a finding of reasonable cause to believe:

281 (i) the physician has a mental illness, is incapacitated, or otherwise unable to practice
282 medicine with reasonable skill and safety; and

283 (ii) immediate action by the division and the board is necessary to prevent harm to the
284 physician's patients or the general public.

285 (c) (i) Failure of a physician to submit to the examination ordered under this section is
286 a ground for the division's immediate suspension of the physician's license by written order of
287 the director.

288 (ii) The division may enter the order of suspension without further compliance with
289 Title 63G, Chapter 4, Administrative Procedures Act, unless the division finds the failure to
290 submit to the examination ordered under this section was due to circumstances beyond the
291 control of the physician and was not related directly to the illness or incapacity of the
292 physician.

293 (5) (a) A physician whose license is suspended under Subsection (2) or (3) has the right
294 to a hearing to appeal the suspension within 10 days after the license is suspended.

295 (b) The hearing held under this subsection shall be conducted in accordance with
296 Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists
297 for the continuance of the order of suspension in order to prevent harm to the physician's
298 patients or the general public.

299 (6) A physician whose license is revoked, suspended, or in any way restricted under
300 this section may request the division and the board to consider, at reasonable intervals,
301 evidence presented by the physician, under procedures established by division rule, regarding
302 any change in the physician's condition, to determine whether:

303 (a) the physician is or is not able to safely and competently engage in the practice of
304 medicine; and

305 (b) the physician is qualified to have the physician's license to practice under this
306 chapter restored completely or in part.

307 Section 7. Section 58-67-807 is enacted to read:

308 **58-67-807. Collaborative practice arrangement.**

309 (1) (a) The division, in consultation with the board, shall make rules in accordance
310 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the approval of a
311 collaborative practice arrangement.

312 (b) The division shall require a collaborative practice arrangement to:

313 (i) limit the associate physician to providing primary care services to medically
314 underserved populations or in medically underserved areas within the state;

315 (ii) be consistent with the skill, training, and competence of the associate physician;

316 (iii) specify jointly agreed-upon protocols, or standing orders for the delivery of health
317 care services by the associate physician;

318 (iv) provide complete names, home and business addresses, zip codes, and telephone
319 numbers of the collaborating physician and the associate physician;

320 (v) list all other offices or locations besides those listed in Subsection (1)(b)(iv) where
321 the collaborating physician authorizes the associate physician to prescribe;

322 (vi) require at every office where the associate physician is authorized to prescribe in
323 collaboration with a physician a prominently displayed disclosure statement informing patients
324 that patients may be seen by an associate physician and have the right to see the collaborating
325 physician;

326 (vii) specify all specialty or board certifications of the collaborating physician and all
327 certifications of the associate physician;

328 (viii) specify the manner of collaboration between the collaborating physician and the
329 associate physician, including how the collaborating physician and the associate physician
330 shall:

331 (A) engage in collaborative practice consistent with each professional's skill, training,
332 education, and competence;

333 (B) maintain geographic proximity, except as provided in Subsection (1)(d); and

334 (C) provide oversight of the associate physician during the absence, incapacity,
335 infirmity, or emergency of the collaborating physician;

336 (ix) describe the associate physician's controlled substance prescriptive authority in

337 collaboration with the collaborating physician, including:

338 (A) a list of the controlled substances the collaborating physician authorizes the
339 associate physician to prescribe; and

340 (B) documentation that the authorization to prescribe the controlled substances is
341 consistent with the education, knowledge, skill, and competence of the associate physician and
342 the collaborating physician;

343 (x) list all other written practice arrangements of the collaborating physician and the
344 associate physician;

345 (xi) specify the duration of the written practice arrangement between the collaborating
346 physician and the associate physician; and

347 (xii) describe the time and manner of the collaborating physician's review of the
348 associate physician's delivery of health care services, including provisions that the
349 collaborating physician, or another physician designated in the collaborative practice
350 arrangement, shall review every 14 days:

351 (A) a minimum of 10% of the charts documenting the associate physician's delivery of
352 health care services; and

353 (B) a minimum of 20% of the charts in which the associate physician prescribes a
354 controlled substance, which may be counted in the number of charts to be reviewed under
355 Subsection (1)(b)(xii)(A).

356 (c) An associate physician and the collaborating physician may modify a collaborative
357 practice arrangement, but the changes to the collaborative practice arrangement are not binding
358 unless:

359 (i) the associate physician notifies the division within 10 days after the day on which
360 the changes are made; and

361 (ii) the division approves the changes.

362 (d) If the collaborative practice arrangement provides for an associate physician to
363 practice in a medically underserved area:

364 (i) the collaborating physician shall document the completion of at least a two-month

365 period of time during which the associate physician shall practice with the collaborating
366 physician continuously present before practicing in a setting where the collaborating physician
367 is not continuously present; and

368 (ii) the collaborating physician shall document the completion of at least 120 hours in a
369 four-month period by the associate physician during which the associate physician shall
370 practice with the collaborating physician on-site before prescribing a controlled substance
371 when the collaborating physician is not on-site.

372 (2) An associate physician:

373 (a) shall clearly identify himself or herself as an associate physician;

374 (b) is permitted to use the title "doctor" or "Dr."; and

375 (c) if authorized under a collaborative practice arrangement to prescribe Schedule III
376 through V controlled substances, shall register with the United States Drug Enforcement
377 Administration as part of the drug enforcement administration's mid-level practitioner registry.

378 (3) (a) A physician or surgeon licensed and in good standing under Section [58-67-302](#)
379 may enter into a collaborative practice arrangement with an associate physician licensed under
380 Section [58-67-302.8](#).

381 (b) A physician or surgeon may not enter into a collaborative practice arrangement
382 with more than three full-time equivalent associate physicians.

383 (c) (i) No contract or other agreement shall:

384 (A) require a physician to act as a collaborating physician for an associate physician
385 against the physician's will;

386 (B) deny a collaborating physician the right to refuse to act as a collaborating
387 physician, without penalty, for a particular associate physician; or

388 (C) limit the collaborating physician's ultimate authority over any protocols or standing
389 orders or in the delegation of the physician's authority to any associate physician.

390 (ii) Subsection (3)(c)(i)(C) does not authorize a physician, in implementing protocols,
391 standing orders, or delegation, to violate a hospital's established applicable standards for safe
392 medical practice.

393 (d) A collaborating physician is responsible at all times for the oversight of the
394 activities of, and accepts responsibility for, the primary care services rendered by the associate
395 physician.

396 (4) The division shall make rules, in consultation with the board, the deans of medical
397 schools in the state, and primary care residency program directors in the state, and in
398 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing
399 educational methods and programs that:

400 (a) an associate physician shall complete throughout the duration of the collaborative
401 practice arrangement;

402 (b) shall facilitate the advancement of the associate physician's medical knowledge and
403 capabilities; and

404 (c) may lead to credit toward a future residency program.

405 Section 8. Section **58-68-102** is amended to read:

406 **58-68-102. Definitions.**

407 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

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

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

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

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

418 (5) "Associate physician" means an individual licensed under Section [58-68-302.5](#).

419 ~~(5)~~ (6) "Board" means the Osteopathic Physician and Surgeon's Licensing Board
420 created in Section [58-68-201](#).

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

423 (8) "Collaborative practice arrangement" means the arrangement described in Section
424 [58-68-807](#).

425 ~~[(6)]~~ (9) (a) "Cosmetic medical device" means tissue altering energy based devices that
426 have the potential for altering living tissue and that are used to perform ablative or nonablative
427 procedures, such as American National Standards Institute (ANSI) designated Class IIIb and
428 Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic devices and
429 excludes ANSI designated Class IIIa and lower powered devices.

430 (b) Notwithstanding Subsection ~~[(6)]~~ (9)(a), if an ANSI designated Class IIIa and lower
431 powered device is being used to perform an ablative procedure, the device is included in the
432 definition of cosmetic medical device under Subsection ~~[(6)]~~ (9)(a).

433 ~~[(7)]~~ (10) "Cosmetic medical procedure":

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

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

437 ~~[(8)]~~ (11) "Diagnose" means:

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

442 (b) to attempt to conduct an examination or determination described under Subsection
443 ~~[(8)]~~ (11)(a);

444 (c) to hold oneself out as making or to represent that one is making an examination or
445 determination as described in Subsection ~~[(8)]~~ (11)(a); or

446 (d) to make an examination or determination as described in Subsection ~~[(8)]~~ (11)(a)
447 upon or from information supplied directly or indirectly by another person, whether or not in
448 the presence of the person making or attempting the diagnosis or examination.

449 ~~[(9)]~~ (12) "Medical assistant" means an unlicensed individual working under the
450 indirect supervision of a licensed osteopathic physician and surgeon and engaged in specific
451 tasks assigned by the licensed osteopathic physician and surgeon in accordance with the
452 standards and ethics of the profession.

453 (13) "Medically underserved area" means a geographic area in which there is a
454 shortage of primary care health services for residents, as determined by the Department of
455 Health.

456 (14) "Medically underserved population" means a specified group of people living in a
457 defined geographic area with a shortage of primary care health services, as determined by the
458 Department of Health.

459 ~~[(10)]~~ (15) (a) (i) "Nonablative procedure" means a procedure that is expected or
460 intended to alter living tissue, but is not expected or intended to excise, vaporize, disintegrate,
461 or remove living tissue.

462 (ii) Notwithstanding Subsection ~~[(10)]~~ (15)(a)(i), nonablative procedure includes hair
463 removal.

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

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

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

467 (iii) the use of photo therapy lasers for neuromusculoskeletal treatments that are
468 preformed by an individual licensed under this title who is acting within the individual's scope
469 of practice.

470 ~~[(11)]~~ (16) "Physician" means both physicians and surgeons licensed under Section
471 [58-67-301](#), Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
472 Section [58-68-301](#), Utah Osteopathic Medical Practice Act.

473 ~~[(12)]~~ (17) (a) "Practice of osteopathic medicine" means:

474 (i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human
475 disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real
476 or imaginary, or to attempt to do so, by any means or instrumentality, which in whole or in part

477 is based upon emphasis of the importance of the musculoskeletal system and manipulative
478 therapy in the maintenance and restoration of health, by an individual in Utah or outside of the
479 state upon or for any human within the state;

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

482 (iii) to maintain an office or place of business for the purpose of doing any of the acts
483 described in Subsection [~~(12)~~] (17)(a) whether or not for compensation; or

484 (iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
485 treatment of human diseases or conditions, in any printed material, stationery, letterhead,
486 envelopes, signs, or advertisements, the designation "doctor," "doctor of osteopathic medicine,"
487 "osteopathic physician," "osteopathic surgeon," "osteopathic physician and surgeon," "Dr.,"
488 "D.O.," or any combination of these designations in any manner which might cause a
489 reasonable person to believe the individual using the designation is a licensed osteopathic
490 physician, and if the party using the designation is not a licensed osteopathic physician, the
491 designation must additionally contain the description of the branch of the healing arts for which
492 the person has a license, provided that an individual who has received an earned degree of
493 doctor of osteopathic medicine but is not a licensed osteopathic physician and surgeon in Utah
494 may use the designation "D.O." if it is followed by "Not Licensed" or "Not Licensed in Utah"
495 in the same size and style of lettering.

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

497 (i) except for an ablative medical procedure as provided in Subsection [~~(12)~~]
498 (17)(b)(ii), the conduct described in Subsection [~~(12)~~] (17)(a)(i) that is performed in
499 accordance with a license issued under another chapter of this title;

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

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

504 [~~(13)~~] (18) "Prescription device" means an instrument, apparatus, implement, machine,

505 contrivance, implant, in vitro reagent, or other similar or related article, and any component
506 part or accessory, which is required under federal or state law to be prescribed by a practitioner
507 and dispensed by or through a person or entity licensed under this chapter or exempt from
508 licensure under this chapter.

509 ~~[(14)]~~ (19) "Prescription drug" means a drug that is required by federal or state law or
510 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

511 ~~[(15)]~~ (20) "SPEX" means the Special Purpose Examination of the Federation of State
512 Medical Boards.

513 ~~[(16)]~~ (21) "Unlawful conduct" ~~[is-as]~~ means the same as that term is defined in
514 Sections [58-1-501](#) and [58-68-501](#).

515 ~~[(17)]~~ (22) "Unprofessional conduct" ~~[is-as]~~ means the same as that term is defined in
516 Sections [58-1-501](#) and [58-68-502](#) and as may be further defined by division rule.

517 Section 9. Section **58-68-302.5** is enacted to read:

518 **58-68-302.5. Restricted licensing of an associate physician.**

519 (1) An individual may apply for a restricted license as an associate physician if the
520 individual:

521 (a) meets the requirements described in Subsections [58-68-302\(1\)\(a\)](#) through (c),
522 (1)(d)(i), and (1)(g) through (j);

523 (b) successfully completes Step 1 and Step 2 of the United States Medical Licensing
524 Examination or the equivalent steps of another board-approved medical licensing examination:

525 (i) within three years after the day on which the applicant graduates from a program
526 described in Subsection [58-68-302\(1\)\(d\)\(i\)](#); and

527 (ii) within two years before applying for a restricted license as an associate physician;
528 and

529 (c) is not currently enrolled in and has not completed a residency program.

530 (2) Before a licensed associate physician may engage in the practice of medicine as
531 described in Subsection (3), the licensed associate physician shall:

532 (a) enter into a collaborative practice arrangement described in Section [58-68-807](#)

533 within six months after the associate physician's initial licensure; and

534 (b) receive division approval of the collaborative practice arrangement.

535 (3) An associate physician's scope of practice is limited to primary care services to
536 medically underserved populations or in medically underserved areas within the state.

537 Section 10. Section **58-68-303** is amended to read:

538 **58-68-303. Term of license -- Expiration -- Renewal.**

539 (1) (a) The division shall issue each license under this chapter in accordance with a
540 two-year renewal cycle established by division rule.

541 (b) The division may by rule extend or shorten a renewal period by as much as one year
542 to stagger the renewal cycles it administers.

543 (2) At the time of renewal, the licensee shall show compliance with:

544 (a) continuing education renewal requirements; and

545 (b) the requirement for designation of a contact person and alternate contact person for
546 access to medical records and notice to patients as required by Subsections **58-68-304**(1)(b)
547 and (c).

548 (3) Each license issued under this chapter expires on the expiration date shown on the
549 license unless renewed in accordance with Section **58-1-308**.

550 (4) An individual may not be licensed as an associate physician for more than a total of
551 four years.

552 Section 11. Section **58-68-304** is amended to read:

553 **58-68-304. License renewal requirements.**

554 (1) As a condition precedent for license renewal, each licensee shall, during each
555 two-year licensure cycle or other cycle defined by division rule:

556 (a) complete qualified continuing professional education requirements in accordance
557 with the number of hours and standards defined by division rule in collaboration with the
558 board;

559 (b) appoint a contact person for access to medical records and an alternate contact
560 person for access to medical records in accordance with Subsection **58-68-302**(1)(i); ~~and~~

561 (c) if the licensee practices osteopathic medicine in a location with no other persons
562 licensed under this chapter, provide some method of notice to the licensee's patients of the
563 identity and location of the contact person and alternate contact person for access to medical
564 records for the licensee in accordance with Subsection [58-68-302\(1\)\(j\)](#); and

565 (d) if the licensee is an associate physician licensed under Section [58-68-302.5](#),
566 successfully complete the educational methods and programs described in Subsection
567 [58-68-807\(4\)](#).

568 (2) If a renewal period is extended or shortened under Section [58-68-303](#), the
569 continuing education hours required for license renewal under this section are increased or
570 decreased proportionally.

571 (3) An application to renew a license under this chapter shall:

572 (a) require a physician to answer the following question: "Do you perform elective
573 abortions in Utah in a location other than a hospital?"; and

574 (b) immediately following the question, contain the following statement: "For purposes
575 of the immediately preceding question, elective abortion means an abortion other than one of
576 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is
577 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of
578 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a
579 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where
580 the woman is pregnant as a result of rape or incest."

581 (4) In order to assist the Department of Health in fulfilling its responsibilities relating
582 to the licensing of an abortion clinic, if a physician responds positively to the question
583 described in Subsection (3)(a), the division shall, within 30 days after the day on which it
584 renews the physician's license under this chapter, inform the Department of Health in writing:

585 (a) of the name and business address of the physician; and

586 (b) that the physician responded positively to the question described in Subsection
587 (3)(a).

588 Section 12. Section **58-68-502** is amended to read:

589 **58-68-502. Unprofessional conduct.**

590 (1) "Unprofessional conduct" includes, in addition to the definition in Section
591 58-1-501:

592 (a) using or employing the services of any individual to assist a licensee in any manner
593 not in accordance with the generally recognized practices, standards, or ethics of the
594 profession, state law, or division rule; ~~[or]~~

595 (b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
596 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable~~[-];~~ or

597 (c) making a material misrepresentation regarding the qualifications for licensure under
598 Section 58-68-302.5.

599 (2) "Unprofessional conduct" does not include, in compliance with Section 58-85-103:

600 (a) obtaining an investigational drug or investigational device;

601 (b) administering the investigational drug to an eligible patient; or

602 (c) treating an eligible patient with the investigational drug or investigational device.

603 Section 13. Section 58-68-601 is amended to read:

604 **58-68-601. Mentally incompetent or incapacitated osteopathic physician.**

605 (1) As used in this section:

606 (a) "Incapacitated person" means a person who is incapacitated, as defined in Section
607 75-1-201.

608 (b) "Licensee" means an individual licensed under this chapter.

609 ~~[(b)]~~ (c) "Mental illness" [is-as] means the same as that term is defined in Section
610 62A-15-602.

611 (2) If a court of competent jurisdiction determines ~~[an osteopathic physician and~~
612 ~~surgeon]~~ a licensee is an incapacitated person or that the ~~[physician or surgeon]~~ licensee has a
613 mental illness and is unable to safely engage in the practice of medicine, the director shall
614 immediately suspend the license of the ~~[osteopathic physician and surgeon]~~ licensee upon the
615 entry of the judgment of the court, without further proceedings under Title 63G, Chapter 4,
616 Administrative Procedures Act, regardless of whether an appeal from the court's ruling is

617 pending. The director shall promptly notify the [~~osteopathic physician and surgeon~~] licensee,
618 in writing, of the suspension.

619 (3) (a) If the division and a majority of the board find reasonable cause to believe [~~an~~
620 ~~osteopathic physician and surgeon~~] a licensee, who is not determined judicially to be an
621 incapacitated person or to have a mental illness, is incapable of practicing osteopathic medicine
622 with reasonable skill regarding the safety of patients, because of illness, excessive use of drugs
623 or alcohol, or as a result of any mental or physical condition, the board shall recommend that
624 the director file a petition with the division, and cause the petition to be served upon the
625 [~~osteopathic physician and surgeon~~] licensee with a notice of hearing on the sole issue of the
626 capacity of the [~~osteopathic physician and surgeon~~] licensee to competently and [~~safety~~] safely
627 engage in the practice of medicine.

628 (b) The hearing shall be conducted under Section 58-1-109, and Title 63G, Chapter 4,
629 Administrative Procedures Act, except as provided in Subsection (4).

630 (4) (a) Every [~~osteopathic physician and surgeon~~] individual who accepts the privilege
631 of being licensed under this chapter gives consent to:

632 (i) submitting at the [~~physician's or surgeon's~~] licensee's own expense to an immediate
633 mental or physical examination when directed in writing by the division and a majority of the
634 board to do so; and

635 (ii) the admissibility of the reports of the examining physician's testimony or
636 examination, and waives all objections on the ground the reports constitute a privileged
637 communication.

638 (b) The examination may be ordered by the division, with the consent of a majority of
639 the board, only upon a finding of reasonable cause to believe:

640 (i) the [~~osteopathic physician and surgeon~~] licensee has a mental illness, is
641 incapacitated, or otherwise unable to practice medicine with reasonable skill and safety; and

642 (ii) immediate action by the division and the board is necessary to prevent harm to the
643 [~~osteopathic physician and surgeon's~~] licensee's patients or the general public.

644 (c) (i) Failure of [~~an osteopathic physician and surgeon~~] a licensee to submit to the

645 examination ordered under this section is a ground for the division's immediate suspension of
646 the [~~osteopathic physician and surgeon's~~] licensee's license by written order of the director.

647 (ii) The division may enter the order of suspension without further compliance with
648 Title 63G, Chapter 4, Administrative Procedures Act, unless the division finds the failure to
649 submit to the examination ordered under this section was due to circumstances beyond the
650 control of the [~~osteopathic physician and surgeon~~] licensee and was not related directly to the
651 illness or incapacity of the [~~osteopathic physician and surgeon~~] licensee.

652 (5) (a) [~~An osteopathic physician and surgeon~~] A licensee whose license is suspended
653 under Subsection (2) or (3) has the right to a hearing to appeal the suspension within 10 days
654 after the license is suspended.

655 (b) The hearing held under this subsection shall be conducted in accordance with
656 Sections [58-1-108](#) and [58-1-109](#) for the sole purpose of determining if sufficient basis exists
657 for the continuance of the order of suspension in order to prevent harm to the [~~osteopathic~~
658 ~~physician and surgeon's~~] licensee's patients or the general public.

659 (6) [~~An osteopathic physician and surgeon~~] A licensee whose license is revoked,
660 suspended, or in any way restricted under this section may request the division and the board to
661 consider, at reasonable intervals, evidence presented by the [~~osteopathic physician and surgeon~~]
662 licensee, under procedures established by division rule, regarding any change in the
663 [~~osteopathic physician and surgeon's~~] licensee's condition, to determine whether:

664 (a) the [~~physician or surgeon~~] licensee is or is not able to safely and competently
665 engage in the practice of medicine; and

666 (b) the [~~physician or surgeon~~] licensee is qualified to have the [~~physician's or~~
667 ~~surgeon's~~] licensee's license to practice under this chapter restored completely or in part.

668 Section 14. Section ~~58-68-807~~ is enacted to read:

669 **58-68-807. Collaborative practice arrangement.**

670 (1) (a) The division, in consultation with the board, shall make rules in accordance
671 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the approval of a
672 collaborative practice arrangement.

673 (b) The division shall require a collaborative practice arrangement to:
674 (i) limit the associate physician to providing primary care services to medically
675 underserved populations or in medically underserved areas within the state;
676 (ii) be consistent with the skill, training, and competence of the associate physician;
677 (iii) specify jointly agreed-upon protocols, or standing orders for the delivery of health
678 care services by the associate physician;
679 (iv) provide complete names, home and business addresses, zip codes, and telephone
680 numbers of the collaborating physician and the associate physician;
681 (v) list all other offices or locations besides those listed in Subsection (1)(b)(iv) where
682 the collaborating physician authorizes the associate physician to prescribe;
683 (vi) require at every office where the associate physician is authorized to prescribe in
684 collaboration with a physician a prominently displayed disclosure statement informing patients
685 that patients may be seen by an associate physician and have the right to see the collaborating
686 physician;
687 (vii) specify all specialty or board certifications of the collaborating physician and all
688 certifications of the associate physician;
689 (viii) specify the manner of collaboration between the collaborating physician and the
690 associate physician, including how the collaborating physician and the associate physician
691 shall:
692 (A) engage in collaborative practice consistent with each professional's skill, training,
693 education, and competence;
694 (B) maintain geographic proximity, except as provided in Subsection (1)(d); and
695 (C) provide oversight of the associate physician during the absence, incapacity,
696 infirmity, or emergency of the collaborating physician;
697 (ix) describe the associate physician's controlled substance prescriptive authority in
698 collaboration with the collaborating physician, including:
699 (A) a list of the controlled substances the collaborating physician authorizes the
700 associate physician to prescribe; and

701 (B) documentation that the authorization to prescribe the controlled substances is
702 consistent with the education, knowledge, skill, and competence of the associate physician and
703 the collaborating physician;

704 (x) list all other written practice arrangements of the collaborating physician and the
705 associate physician;

706 (xi) specify the duration of the written practice arrangement between the collaborating
707 physician and the associate physician; and

708 (xii) describe the time and manner of the collaborating physician's review of the
709 associate physician's delivery of health care services, including provisions that the
710 collaborating physician, or another physician designated in the collaborative practice
711 arrangement, shall review every 14 days:

712 (A) a minimum of 10% of the charts documenting the associate physician's delivery of
713 health care services; and

714 (B) a minimum of 20% of the charts in which the associate physician prescribes a
715 controlled substance, which may be counted in the number of charts to be reviewed under
716 Subsection (1)(b)(xii)(A).

717 (c) An associate physician and the collaborating physician may modify a collaborative
718 practice arrangement, but the changes to the collaborative practice arrangement are not binding
719 unless:

720 (i) the associate physician notifies the division within 10 days after the day on which
721 the changes are made; and

722 (ii) the division approves the changes.

723 (d) If the collaborative practice arrangement provides for an associate physician to
724 practice in a medically underserved area:

725 (i) the collaborating physician shall document the completion of at least a two-month
726 period of time during which the associate physician shall practice with the collaborating
727 physician continuously present before practicing in a setting where the collaborating physician
728 is not continuously present; and

729 (ii) the collaborating physician shall document the completion of at least 120 hours in a
730 four-month period by the associate physician during which the associate physician shall
731 practice with the collaborating physician on-site before prescribing a controlled substance
732 when the collaborating physician is not on-site.

733 (2) An associate physician:

734 (a) shall clearly identify himself or herself as an associate physician;

735 (b) is permitted to use the title "doctor" or "Dr."; and

736 (c) if authorized under a collaborative practice arrangement to prescribe Schedule III
737 through V controlled substances, shall register with the United States Drug Enforcement
738 Administration as part of the drug enforcement administration's mid-level practitioner registry.

739 (3) (a) A physician or surgeon licensed and in good standing under Section [58-68-302](#)
740 may enter into a collaborative practice arrangement with an associate physician licensed under
741 Section [58-68-302.5](#).

742 (b) A physician or surgeon may not enter into a collaborative practice arrangement
743 with more than three full-time equivalent associate physicians.

744 (c) (i) No contract or other agreement shall:

745 (A) require a physician to act as a collaborating physician for an associate physician
746 against the physician's will;

747 (B) deny a collaborating physician the right to refuse to act as a collaborating
748 physician, without penalty, for a particular associate physician; or

749 (C) limit the collaborating physician's ultimate authority over any protocols or standing
750 orders or in the delegation of the physician's authority to any associate physician.

751 (ii) Subsection (3)(c)(i)(C) does not authorize a physician, in implementing such
752 protocols, standing orders, or delegation, to violate a hospital's established applicable standards
753 for safe medical practice.

754 (d) A collaborating physician is responsible at all times for the oversight of the
755 activities of, and accepts responsibility for, the primary care services rendered by the associate
756 physician.

757 (4) The division shall make rules, in consultation with the board, the deans of medical
758 schools in the state, and primary care residency program directors in the state, and in
759 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing
760 educational methods and programs that:

761 (a) an associate physician shall complete throughout the duration of the collaborative
762 practice arrangement;

763 (b) shall facilitate the advancement of the associate physician's medical knowledge and
764 capabilities; and

765 (c) may lead to credit toward a future residency program.

766 Section 15. **Effective date.**

767 This bill takes effect on July 1, 2018.