

**PODIATRIC PHYSICIAN AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: David P. Hinkins**

House Sponsor: Justin L. Fawson

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**LONG TITLE**

**General Description:**

This bill amends provisions related to podiatric physicians.

**Highlighted Provisions:**

This bill:

- ▶ modifies qualifications for licensure as a podiatric physician;
- ▶ modifies the scope of practice of a podiatric physician; and
- ▶ provides for the supervision of a licensed physician's assistant by a licensed podiatric physician.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**58-5a-102**, as last amended by Laws of Utah 1996, Chapter 232

**58-5a-302**, as last amended by Laws of Utah 2009, Chapter 183

**58-5a-306**, as last amended by Laws of Utah 1996, Chapter 232

**58-5a-501**, as enacted by Laws of Utah 1993, Chapter 211

**58-70a-102**, as enacted by Laws of Utah 1997, Chapter 229

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

29 Section 1. Section **58-5a-102** is amended to read:

30 **58-5a-102. Definitions.**

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

32 (1) "Board" means the Podiatric Physician Board created in Section **58-5a-201**.

33 (2) "Indirect supervision" means the same as that term is defined by the division by  
34 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

35 (3) "Medical assistant" means an unlicensed individual working under the indirect  
36 supervision of a licensed podiatric physician and engaging in specific tasks assigned by the  
37 licensed podiatric physician in accordance with the standards and ethics of the podiatry  
38 profession.

39 ~~[(2)]~~ (4) "Practice of podiatry" means the diagnosis and treatment of conditions  
40 affecting the human foot and ankle and their manifestations of systemic conditions by all  
41 appropriate and lawful means, ~~[subject to the following provisions]~~ including:

42 ~~[(a) surgical procedures may be performed upon all bones of the foot and ankle, with~~  
43 ~~the exception of the following procedures:]~~

44 ~~[(i) ankle fusion;]~~

45 ~~[(ii) massive ankle reconstruction; and]~~

46 ~~[(iii) reduction of trimalleolar fractures of the ankle;]~~

47 (a) performing surgical procedures on a foot or ankle bone;

48 (b) [surgical treatment of any] surgically treating a condition of the ankle [and], or  
49 governing and related structures of the foot and ankle above the ankle [shall be], if the  
50 treatment is:

51 (i) performed in an ambulatory surgical facility, general acute hospital, or a specialty  
52 hospital, as defined in Section **26-21-2**; and

53 (ii) subject to review by a quality care review body ~~[which]~~ that includes qualified  
54 licensed physicians and surgeons~~[-]; and~~

55 (c) (i) administering general anesthesia; and

56 (ii) supervising an individual licensed as an advanced practice registered nurse  
57 specializing as a certified registered nurse anesthetist under Title 58, Chapter 31b, Nurse  
58 Practice Act, to administer general anesthesia as provided in Subsection **58-31b-102(13)(d)**.

59 ~~[(3)(a)]~~ (5) "Unlawful conduct" ~~[as defined in Section 58-1-501 includes the following~~  
 60 ~~conduct by a person not licensed under this chapter]~~ includes:

61 (a) the conduct that constitutes unlawful conduct under Section 58-1-501; and

62 (b) for an individual who is not licensed under this chapter:

63 (i) using the title or name podiatric physician, podiatrist, podiatric surgeon, foot doctor,  
 64 foot specialist, or D.P.M.; or

65 (ii) implying or representing ~~[he]~~ that the individual is qualified to practice podiatry.

66 ~~[(b) "Unlawful conduct" as defined in Section 58-1-501 includes the following conduct~~  
 67 ~~by a person licensed under this chapter:]~~

68 ~~[(i) administering general anesthesia; or]~~

69 ~~[(ii) amputating the foot.]~~

70 ~~[(4) (6) "Unprofessional conduct" [as defined in Section 58-1-501 and as may be~~  
 71 ~~further defined by rule,] includes, for an individual licensed under this chapter:~~

72 (a) the conduct that constitutes unprofessional conduct under Section 58-1-501;

73 ~~[(a)]~~ (b) communicating to a third party, without the consent of the patient, information  
 74 [~~acquired]~~ the individual acquires in treating the patient ~~[that is necessary to enable the~~  
 75 ~~podiatric physician to treat the patient],~~ except as necessary for professional consultation  
 76 regarding treatment of [a] the patient;

77 ~~[(b)]~~ (c) allowing [~~one's]~~ the individual's name or license ~~[as a podiatric physician] to~~  
 78 be used by [~~another person]~~ an individual who is not licensed to practice podiatry ~~[in this state]~~  
 79 under this chapter;

80 ~~[(c)]~~ (d) except as described in Section 58-5a-306, employing, directly or indirectly,  
 81 any unlicensed [~~person]~~ individual to practice podiatry;

82 ~~[(d) use of]~~ (e) using alcohol or drugs, to the extent [~~a licensee's ability to safely~~  
 83 ~~engage in the practice of podiatry is impaired]~~ the individual's use of alcohol or drugs impairs  
 84 the individual's ability to practice podiatry;

85 ~~[(e)]~~ (f) unlawfully prescribing, selling, or giving away any prescription drug, including  
 86 controlled substances, as defined in Section 58-37-2;

87 ~~[(f)]~~ (g) gross incompetency in the practice of podiatry;

88 ~~[(g)]~~ (h) willfully and intentionally making a false statement or entry in hospital  
 89 records, medical records, or reports;

90 [th] (i) willfully making a false statement in reports or claim forms to governmental  
91 agencies or insurance companies with the intent to secure payment not rightfully due; [or]

92 [t] (j) willfully using false or fraudulent advertising[-]; and

93 (k) conduct the division defines as unprofessional conduct by rule made in accordance  
94 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

95 Section 2. Section **58-5a-302** is amended to read:

96 **58-5a-302. Qualifications to practice podiatry.**

97 An applicant for licensure to practice podiatry shall:

98 (1) submit an application in a form as prescribed by the division;

99 (2) pay a fee as determined by the department under Section [63J-1-504](#);

100 (3) be of good moral character;

101 (4) be a graduate of a college of podiatric medicine accredited by the Council of  
102 Podiatric Education;

103 (5) if licensed on or after July 1, 2015, have completed [~~one year~~] two years of  
104 postgraduate training in a residency program recognized by the board; and

105 (6) pass examinations required by rule.

106 Section 3. Section **58-5a-306** is amended to read:

107 **58-5a-306. Exemptions from licensure.**

108 The following persons may practice podiatry, subject to stated circumstances and  
109 limitations, without being licensed under this chapter:

110 (1) a podiatric physician serving in the armed forces of the United States, the United  
111 States Public Health Service, the United States Department of Veterans Affairs, or other federal  
112 agencies while engaged in activities regulated under this chapter as a part of his employment  
113 with that federal agency if the individual holds a valid license to practice podiatry issued by any  
114 other state or jurisdiction recognized by the division;

115 (2) a student engaged in activities that constitute the practice of podiatry while in  
116 training in a recognized school approved by the division to the extent the activities are under  
117 the supervision of qualified faculty or staff and the activities are a defined part of the training  
118 program;

119 (3) a person engaged in an internship, residency, preceptorship, postceptorship,  
120 fellowship, apprenticeship, or on-the-job training program approved by the division while

121 under the supervision of qualified persons;

122 (4) a person residing in another state and licensed to practice podiatry there, who is  
 123 called in for a consultation by a person licensed in this state and services provided are limited  
 124 to that consultation or who is invited by a recognized school, association, society, or other body  
 125 approved by the division to conduct a lecture, clinic, or demonstration of the practice of  
 126 podiatry so long as that individual does not establish a place of business or regularly engage in  
 127 the practice of podiatry in the state;

128 (5) a person licensed under the laws of this state to practice or engage in any other  
 129 occupation or profession while engaged in the lawful, professional, and competent practice of  
 130 that occupation or profession; ~~and~~

131 (6) persons who fit or sell corrective shoes, arch supports, or similar devices, to the  
 132 extent their acts and practices involve only the fitting and selling of these items~~[-]; or~~

133 (7) a medical assistant working under the indirect supervision of a licensed podiatric  
 134 physician, if the medical assistant:

135 (a) engages only in tasks appropriately delegated by the licensed podiatric physician in  
 136 accordance with the standards and ethics of the practice of podiatry, and consistent with this  
 137 chapter;

138 (b) does not perform surgical procedures;

139 (c) does not prescribe prescription medications;

140 (d) does not administer anesthesia, except for a local anesthetic; and

141 (e) does not engage in other practices or procedures defined by the division by rule  
 142 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in  
 143 collaboration with the board.

144 Section 4. Section **58-5a-501** is amended to read:

145 **58-5a-501. Unlawful conduct -- Penalties.**

146 Any person who engages in unlawful conduct as defined in this chapter is guilty of a  
 147 third degree felony, except that a violation of Subsection **58-5a-102**~~(3)(a)~~(5) is a class A  
 148 misdemeanor.

149 Section 5. Section **58-70a-102** is amended to read:

150 **58-70a-102. Definitions.**

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

152 (1) "Board" means the Physician Assistant Licensing Board created in Section  
153 58-70a-201.

154 (2) (a) "Delegation of services agreement" means written criteria jointly developed by a  
155 physician assistant's supervising physician and any substitute supervising physicians and the  
156 physician assistant, that permits a physician assistant, working under the direction or review of  
157 the supervising physician, to assist in the management of common illnesses and injuries.

158 (b) The agreement defines the working relationship and delegation of duties between  
159 the supervising physician and the physician assistant as specified by division rule and shall  
160 include:

- 161 (i) the prescribing of controlled substances;
- 162 (ii) the degree and means of supervision;
- 163 (iii) the frequency and mechanism of chart review;
- 164 (iv) procedures addressing situations outside the scope of practice of the physician  
165 assistant; and
- 166 (v) procedures for providing backup for the physician assistant in emergency situations.

167 (3) "Direct supervision" means the supervising physician is:

168 (a) physically present at the point of patient treatment on site where the physician  
169 assistant he is supervising is practicing; and

170 (b) immediately available for consultation with the physician assistant.

171 (4) "Practice as a physician assistant" means:

172 (a) the professional activities and conduct of a physician assistant in diagnosing,  
173 treating, advising, or prescribing for any human disease, ailment, injury, infirmity, deformity,  
174 pain, or other condition, dependent upon and under the supervision of a supervising physician  
175 or substitute supervising physician in accordance with a delegation of services agreement; and

176 (b) the physician assistant acts as the agent of the supervising physician or substitute  
177 supervising physician when acting in accordance with a delegation of services agreement.

178 (5) "Substitute supervising physician" means an individual who meets the requirements  
179 of a supervising physician under this chapter and acts as the supervising physician in the  
180 absence of the supervising physician.

181 (6) "Supervising physician" means an individual who:

182 (a) is currently licensed to practice under Title 58, Chapter 67, Utah Medical Practice

183 Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 5a,  
184 Podiatric Physician Licensing Act;

185 (b) acts as the primary supervisor of a physician assistant and takes responsibility for  
186 the professional practice and conduct of a physician assistant in accordance with this chapter;  
187 and

188 (c) is not an employee of the physician assistant he supervises.

189 (7) "Supervision" means the supervising physician is available for consultation with  
190 the physician assistant, either personally or by other means permitting direct verbal  
191 communication between the physician and physician assistant.

192 (8) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-70a-502.

193 (9) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-70a-503 and as  
194 may be further defined by rule.

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**Legislative Review Note**

as of 1-30-15 7:20 AM

**Office of Legislative Research and General Counsel**