

1 **PODIATRIC PHYSICIAN AMENDMENTS**

2 2015 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: David P. Hinkins**

5 House Sponsor: Justin L. Fawson

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions related to podiatric physicians.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ modifies qualifications for licensure as a podiatric physician; and
- 13 ▶ modifies the scope of practice of a podiatric physician.

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 None

18 **Utah Code Sections Affected:**

19 AMENDS:

20 **58-5a-102**, as last amended by Laws of Utah 1996, Chapter 232

21 **58-5a-302**, as last amended by Laws of Utah 2009, Chapter 183

22 **58-5a-306**, as last amended by Laws of Utah 1996, Chapter 232

23 **58-5a-501**, as enacted by Laws of Utah 1993, Chapter 211

24 ENACTS:

25 **58-5a-103**, Utah Code Annotated 1953

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

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

29 **58-5a-102. Definitions.**

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

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

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

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

38 [~~(2)~~] (4) "Practice of podiatry" means the diagnosis and treatment of conditions
39 affecting the human foot and ankle and their manifestations of systemic conditions by all
40 appropriate and lawful means, subject to [~~the following provisions:~~] Section 58-5a-103.

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

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

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

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

46 [~~(b) surgical treatment of any condition of the ankle and governing and related~~
47 ~~structures of the foot and ankle above the ankle shall be:~~]

48 [~~(i) performed in an ambulatory surgical facility, general acute hospital, or a specialty~~
49 ~~hospital, as defined in Section 26-21-2; and~~]

50 [~~(ii) subject to review by a quality care review body which includes qualified licensed~~
51 ~~physicians and surgeons:~~]

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

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

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

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

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

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

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

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

63 [~~(4)~~] (6) "Unprofessional conduct" [~~as defined in Section 58-1-501 and as may be~~
64 ~~further defined by rule;~~] includes, for an individual licensed under this chapter:

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

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

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

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

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

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

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

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

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

85 [~~(i)~~] (j) willfully using false or fraudulent advertising[-]; and

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

88 Section 2. Section **58-5a-103** is enacted to read:

89 **58-5a-103. Scope of practice.**

90 (1) Subject to Subsections (4) and (5), an individual licensed as a podiatric physician
91 under this chapter may perform a surgical procedure on a bone of the foot or ankle, except that
92 the individual may not perform:

93 (a) ankle fusion;

94 (b) massive ankle reconstruction; or

95 (c) reduction of a trimalleolar ankle fracture.

96 (2) Notwithstanding Subsections (1)(a), (b), and (c), and subject to Subsections (4) and
97 (5), an individual licensed as a podiatric physician under this chapter that meets the additional
98 training requirements described in Subsection (3) may perform a surgical procedure that is
99 related to the treatment of a foot or ankle condition, including the treatment of a foot or ankle
100 condition that involves the soft tissues, including tendons, ligaments, and nerves, of the foot or
101 ankle, except that the individual may only:

102 (a) treat a fracture of the tibia if at least one portion of the fracture line enters the ankle
103 joint;

104 (b) treat a foot or ankle condition using hardware, including screws, plates, staples,
105 pins, and wires, if at least one portion of the hardware system is attached to a bony structure at
106 or below the ankle mortise; and

107 (c) place hardware for the treatment of soft tissues in the foot or ankle no more
108 proximal than the distal 10 centimeters of the tibia.

109 (3) An individual licensed as a podiatric physician under this chapter may not perform
110 the procedures described in Subsection (2) unless the individual:

111 (a) (i) graduated on or after June 1, 2006, from a three-year residency program in
112 podiatric medicine and surgery that was accredited, at the time of graduation, by the Council on
113 Podiatric Medical Education; and

114 (ii) is board certified in reconstructive rearfoot and ankle surgery by the American
115 Board of Foot and Ankle Surgery;

116 (b) (i) graduated on or after June 1, 2006, from a three-year residency program in
117 podiatric medicine and surgery that was accredited, at the time of graduation, by the Council on
118 Podiatric Medical Education;

119 (ii) is board qualified in reconstructive rearfoot ankle surgery by the American Board
120 of Foot and Ankle Surgery; and

121 (iii) provides the division documentation that the podiatric physician has completed
122 training or experience, which the division determines is acceptable, in standard or advanced
123 midfoot, rearfoot, and ankle procedures; or

124 (c) (i) graduated before June 1, 2006, from a residency program in podiatric medicine
125 and surgery that was at least two years in length and that was accredited, at the time of
126 graduation, by the Council on Podiatric Medical Education;

127 (ii) (A) is board certified in reconstructive rearfoot ankle surgery by the American
128 Board of Foot and Ankle Surgery;

129 (B) if the residency described in Subsection (3)(c)(i) is a PSR-24 24-month podiatric
130 surgical residency, provides proof that the individual completed the residency, to a hospital that
131 is accredited by the Joint Commission, and meets the hospital's credentialing criteria for foot
132 and ankle surgery; or

133 (C) in addition to the residency described in Subsection (3)(c)(i), has completed a
134 fellowship in foot and ankle surgery that was accredited by the Council on Podiatric Medical
135 Education at the time of completion; and

136 (iii) provides the division documentation that the podiatric physician has completed
137 training and experience, which the division determines is acceptable, in standard or advanced
138 midfoot, rearfoot, and ankle procedures.

139 (4) An individual licensed as a podiatric physician under this chapter may not perform
140 an amputation proximal to Chopart's joint.

141 (5) An individual licensed as a podiatric physician under this chapter may not perform

142 a surgical treatment on an ankle, on a governing structure of the foot or ankle above the ankle,
143 or on a structure related to the foot or ankle above the ankle, unless the individual performs the
144 surgical treatment:

145 (a) in an ambulatory surgical facility, a general acute hospital, or a specialty hospital, as
146 defined in Section 26-21-2; and

147 (b) subject to review by a quality care review body that includes qualified, licensed
148 physicians and surgeons.

149 Section 3. Section **58-5a-302** is amended to read:

150 **58-5a-302. Qualifications to practice podiatry.**

151 An applicant for licensure to practice podiatry shall:

- 152 (1) submit an application in a form as prescribed by the division;
- 153 (2) pay a fee as determined by the department under Section 63J-1-504;
- 154 (3) be of good moral character;
- 155 (4) be a graduate of a college of podiatric medicine accredited by the Council of
156 Podiatric Education;
- 157 (5) if licensed on or after July 1, 2015, have completed [~~one year~~] two years of
158 postgraduate training in a residency program recognized by the board; and
- 159 (6) pass examinations required by rule.

160 Section 4. Section **58-5a-306** is amended to read:

161 **58-5a-306. Exemptions from licensure.**

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

- 164 (1) a podiatric physician serving in the armed forces of the United States, the United
165 States Public Health Service, the United States Department of Veterans Affairs, or other federal
166 agencies while engaged in activities regulated under this chapter as a part of his employment
167 with that federal agency if the individual holds a valid license to practice podiatry issued by any
168 other state or jurisdiction recognized by the division;
- 169 (2) a student engaged in activities that constitute the practice of podiatry while in

170 training in a recognized school approved by the division to the extent the activities are under
171 the supervision of qualified faculty or staff and the activities are a defined part of the training
172 program;

173 (3) a person engaged in an internship, residency, preceptorship, postceptorship,
174 fellowship, apprenticeship, or on-the-job training program approved by the division while
175 under the supervision of qualified persons;

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

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

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

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

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

192 (b) does not perform surgical procedures;

193 (c) does not prescribe prescription medications;

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

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

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

199 **58-5a-501. Unlawful conduct -- Penalties.**

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