

Representative Justin L. Fawson proposes the following substitute bill:

PODIATRIC PHYSICIAN AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David P. Hinkins

House Sponsor: Justin L. Fawson

LONG TITLE

General Description:

This bill amends provisions related to podiatric physicians.

Highlighted Provisions:

This bill:

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

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



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

27 **58-5a-102. Definitions.**

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

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

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

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

36 [(2)] (4) "Practice of podiatry" means the diagnosis and treatment of conditions
37 affecting the human foot and ankle and their manifestations of systemic conditions by all
38 appropriate and lawful means, [~~subject to the following provisions~~] including:

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

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

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

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

44 (a) performing surgical procedures on a foot or ankle;

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

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~~] that includes qualified
51 licensed 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-302** is amended to read:

89 **58-5a-302. Qualifications to practice podiatry.**

90 An applicant for licensure to practice podiatry shall:

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

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

100 **58-5a-306. Exemptions from licensure.**

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

- 103 (1) a podiatric physician serving in the armed forces of the United States, the United
104 States Public Health Service, the United States Department of Veterans Affairs, or other federal
105 agencies while engaged in activities regulated under this chapter as a part of his employment
106 with that federal agency if the individual holds a valid license to practice podiatry issued by any
107 other state or jurisdiction recognized by the division;
- 108 (2) a student engaged in activities that constitute the practice of podiatry while in
109 training in a recognized school approved by the division to the extent the activities are under
110 the supervision of qualified faculty or staff and the activities are a defined part of the training
111 program;
- 112 (3) a person engaged in an internship, residency, preceptorship, postceptorship,
113 fellowship, apprenticeship, or on-the-job training program approved by the division while
114 under the supervision of qualified persons;
- 115 (4) a person residing in another state and licensed to practice podiatry there, who is
116 called in for a consultation by a person licensed in this state and services provided are limited
117 to that consultation or who is invited by a recognized school, association, society, or other body
118 approved by the division to conduct a lecture, clinic, or demonstration of the practice of

119 podiatry so long as that individual does not establish a place of business or regularly engage in
120 the practice of podiatry in the state;

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

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

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

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

131 (b) does not perform surgical procedures;

132 (c) does not prescribe prescription medications;

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

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

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

138 **58-5a-501. Unlawful conduct -- Penalties.**

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