

## SB0133S04 compared with SB0133S01

~~{deleted text}~~ shows text that was in SB0133S01 but was deleted in SB0133S04.

inserted text shows text that was not in SB0133S01 but was inserted into SB0133S04.

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~~{Senator David P.}~~Representative Justin L. ~~{Hinkins}~~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

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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; and
- ▶ 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:

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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

#### ENACTS:

~~{58-70a-102}~~; 58-5a-103, ~~{ as enacted by Laws of }~~ Utah ~~{1997, Chapter 229}~~; Code  
Annotated 1953

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

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

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

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

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

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

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

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

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

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

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

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

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~~[(a) performing surgical procedures on a foot or ankle;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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under this chapter:

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

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

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

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

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

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

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

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

Section 2. Section ~~{58-5a-302}~~58-5a-103 is enacted to read:

### 58-5a-103. Scope of practice.

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

(a) ankle fusion;

(b) massive ankle reconstruction; or

(c) reduction of a trimalleolar ankle fracture;

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

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

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joint:

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

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

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

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

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

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

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

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

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

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

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

(C) in addition to the residency described in Subsection (3)(c)(i), has completed a

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fellowship in foot and ankle surgery that was accredited by the Council on Podiatric Medical Education at the time of completion; and

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

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

(5) An individual licensed as a podiatric physician under this chapter may not perform a surgical treatment on an ankle, on a governing structure of the foot or ankle above the ankle, or on a structure related to the foot or ankle above the ankle, unless the individual performs the surgical treatment:

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

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

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

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

An applicant for licensure to practice podiatry shall:

- (1) submit an application in a form as prescribed by the division;
- (2) pay a fee as determined by the department under Section 63J-1-504;
- (3) be of good moral character;
- (4) be a graduate of a college of podiatric medicine accredited by the Council of

Podiatric Education;

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

(6) pass examinations required by rule.

Section ~~3}4~~. Section 58-5a-306 is amended to read:

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

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

- (1) a podiatric physician serving in the armed forces of the United States, the United

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States Public Health Service, the United States Department of Veterans Affairs, or other federal agencies while engaged in activities regulated under this chapter as a part of his employment with that federal agency if the individual holds a valid license to practice podiatry issued by any other state or jurisdiction recognized by the division;

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

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

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

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

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

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

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

(b) does not perform surgical procedures;

(c) does not prescribe prescription medications;

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

(e) does not engage in other practices or procedures defined by the division by rule

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made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the board.

Section ~~{4}~~5. Section **58-5a-501** is amended to read:

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

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

~~{~~ ~~Section 5. Section 58-70a-102 is amended to read:~~

#### ~~58-70a-102. Definitions:~~

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

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

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

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

~~(i) the prescribing of controlled substances;~~

~~(ii) the degree and means of supervision;~~

~~(iii) the frequency and mechanism of chart review;~~

~~(iv) procedures addressing situations outside the scope of practice of the physician assistant; and~~

~~(v) procedures for providing backup for the physician assistant in emergency situations.~~

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

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

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

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

~~(a) the professional activities and conduct of a physician assistant in diagnosing,~~

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~~treating, advising, or prescribing for any human disease, ailment, injury, infirmity, deformity, pain, or other condition, dependent upon and under the supervision of a supervising physician or substitute supervising physician in accordance with a delegation of services agreement; and~~

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

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

~~—— (6) "Supervising physician" means an individual who:~~

~~—— (a) is currently licensed to practice under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 5a, Podiatric Physician Licensing Act;~~

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

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

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

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

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

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