

Representative Michael S. Kennedy proposes the following substitute bill:

ADMINISTRATION OF ANESTHESIA AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael S. Kennedy

Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This bill amends professional licensing acts in the Division of Occupational and Professional Licensing Act to require informed consent and certain patient monitoring of patients who are sedated and establishes a database for adverse events.

Highlighted Provisions:

This bill:

- ▶ requires the Department of Health to:
 - create a database of adverse events from the administration of sedation or anesthesia in outpatient settings; and
 - publish a report regarding the number of adverse events by types of provider and facility and submit a yearly report to the Health and Human Services Interim Committee;
- ▶ requires a health care provider who administers sedation intravenously to a patient in an outpatient setting that is not an emergency department:
 - to obtain informed consent from the patient; and
 - to report adverse events from the sedation or anesthesia to the Department of Health;
- ▶ makes it unprofessional conduct to fail to report an adverse event from outpatient



- 26 sedation or anesthesia;
- 27 ▶ provides whistle blower protections to a health care provider who reports an
- 28 adverse event; and
- 29 ▶ requires a health care provider who administers sedation or anesthesia intravenously
- 30 to have access to a crash cart during the anesthesia procedure.

31 **Money Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **63I-1-226**, as last amended by Laws of Utah 2016, Chapters 89, 170, 279, and 327

38 **63I-1-258**, as last amended by Laws of Utah 2016, Chapters 89 and 294

39 ENACTS:

- 40 **26-1-40**, Utah Code Annotated 1953
- 41 **58-5a-502**, Utah Code Annotated 1953
- 42 **58-31b-502.5**, Utah Code Annotated 1953
- 43 **58-67-502.5**, Utah Code Annotated 1953
- 44 **58-68-502.5**, Utah Code Annotated 1953
- 45 **58-69-502.5**, Utah Code Annotated 1953



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

48 Section 1. Section **26-1-40** is enacted to read:

49 **26-1-40. Reports of anesthesia adverse events- whistle blower protections.**

50 (1) (a) Beginning January 1, 2018, the department shall create a database of deaths and
51 adverse events from the administration of sedation or anesthesia in outpatient settings that are
52 not emergency departments in the state.

53 (b) The database required by Subsection (1)(a) shall include reports submitted by
54 health care providers under Sections ~~58-5a-102, 58-31b-501, 58-67-501, 58-68-501, and~~
55 ~~58-69-501~~ 58-5a-502, 58-31b-502.5, 58-67-502.5, 58-68-502.5, and 58-69-502.5 ←H .

56 (2) The department shall adopt administrative rules under Title 63G, Chapter 3, Utah

57 Administrative Rulemaking Act, regarding:

58 (a) the format of the reports; and

59 (b) what constitutes a reportable adverse event, which shall include at least the
60 administration of intravenous sedation or anesthesia when there is:

61 (i) an escalation of care required for the patient; or

62 (ii) a rescue of a patient from a deeper level of sedation than was intended.

63 (3) (a) Information the department receives under this section that identifies a
64 particular individual is subject to Title 63G, Chapter 2, Government Records Access and
65 Management Act, and the federal Health Insurance Portability and Accountability Act of 1996.

66 (b) Beginning July 1, 2018, and on or before July 1 of each year thereafter, the
67 department shall:

68 (i) publicly report:

69 (A) the number of deaths and adverse events reported under Subsection (1);

70 (B) the type of health care providers, by license category and specialty, who submitted
71 reports under Subsection (1) and who administered the sedation or anesthesia that resulted in
72 an adverse event; and

73 (C) the type of facility in which the death or adverse event took place; and

74 (ii) submit a report to the Health and Human Services Interim Committee with the
75 information required by this Subsection (3).

76 (4) An employer of a health care provider who submits a report under this section may
77 not take an adverse employment action against the reporting health care provider if the
78 employment action is based on the provider submitting a report under this section.

79 (5) (a) This section sunsets in accordance with Section [631-1-226](#).

80 (b) The sunset review of this section shall include an analysis of:

81 (i) the number and types of adverse events reported under this section;

82 (ii) the types of health care providers and locations involved in the adverse events;

83 (iii) the adequacy of sedation and anesthesia requirements in Sections ~~H~~→ [\[58-5a-102;](#)
84 [58-31b-501, 58-67-501, 58-68-501, and 58-69-501\]](#) [58-5a-502, 58-31b-502.5, 58-67-502.5,](#)

84a [58-68-502.5, and 58-69-502.5](#) ←~~H~~ related to the adverse events reported under
85 this section; and

86 (iv) the adequacy of the reporting requirements under this section and the need for
87 additional protections for health care providers who report events under this section.

88 Section 2. Section **58-5a-502** is enacted to read:

89 **Part 5. Unprofessional and Unlawful Conduct -- Penalties**

90 **58-5a-502. Unprofessional Conduct.**

91 In addition to unprofessional conduct as defined in Section [58-5a-102](#), it is
92 unprofessional conduct for an individual licensed under this chapter to administer sedation or
93 anesthesia intravenously to a patient in an outpatient setting that is not an emergency
94 department, without:

95 (1) first obtaining consent from the patient in writing, which shall include:

96 (a) the type of sedation or anesthesia being administered;

97 (b) the identity and training of the person who is performing the procedure for which
98 the sedation or anesthesia will be administered;

99 (c) the identity and training of the person who will be administering the sedation or
100 anesthesia;

101 (d) a list of all responsibilities during the procedure of the person who will be
102 administering the sedation or anesthesia; and

103 (e) patient monitoring that will occur during the sedation or anesthesia, including
104 monitoring equipment that will be used;

105 (2) reporting any adverse event under Section [26-1-40](#); and

106 (3) having access during the procedure to an advanced cardiac life support crash cart
107 with equipment that is regularly maintained according to guidelines established by the
108 American Hospital Association.

109 Section 3. Section **58-31b-502.5** is enacted to read:

110 **58-31b-502.5. Anesthesia and Sedation - unprofessional conduct.**

111 In addition to unprofessional conduct as defined in Section [58-31b-502](#), it is
112 unprofessional conduct for an individual licensed under this chapter to administer sedation or
113 anesthesia intravenously to a patient in an outpatient setting that is not an emergency
114 department, without:

115 (1) first obtaining consent from the patient in writing, which shall include:

116 (a) the type of sedation or anesthesia being administered;

117 (b) the identity and training of the person who is performing the procedure for which
118 the sedation or anesthesia will be administered;

119 (c) the identity and training of the person who will be administering the sedation or
120 anesthesia;

121 (d) a list of all responsibilities during the procedure of the person who will be
122 administering the sedation or anesthesia; and

123 (e) patient monitoring that will occur during the sedation or anesthesia, including
124 monitoring equipment that will be used;

125 (2) reporting any adverse event under Section 26-1-40; and

126 (3) having access during the procedure to an advanced cardiac life support crash cart
127 with equipment that is regularly maintained according to guidelines established by the
128 American Hospital Association.

129 Section 4. Section 58-67-502.5 is enacted to read:

130 **58-67-502.5. Anesthesia and Sedation - Unprofessional Conduct.**

131 In addition to unprofessional conduct as defined in Section 58-67-502, it is
132 unprofessional conduct for an individual licensed under this chapter to administer sedation or
133 anesthesia intravenously to a patient in an outpatient setting that is not an emergency
134 department, without:

135 (1) first obtaining consent from the patient in writing, which shall include:

136 (a) the type of sedation or anesthesia being administered;

137 (b) the identity and training of the person who is performing the procedure for which
138 the sedation or anesthesia will be administered;

139 (c) the identity and training of the person who will be administering the sedation or
140 anesthesia;

141 (d) a list of all responsibilities during the procedure of the person who will be
142 administering the sedation or anesthesia; and

143 (e) patient monitoring that will occur during the sedation or anesthesia, including
144 monitoring equipment that will be used;

145 (2) reporting any adverse event under Section 26-1-40; and

146 (3) having access during the procedure to an advanced cardiac life support crash cart
147 with equipment that is regularly maintained according to guidelines established by the
148 American Hospital Association.

149 Section 5. Section 58-68-502.5 is enacted to read:

150 **58-68-502.5. Anesthesia and Sedation - Unprofessional Conduct.**

151 In addition to unprofessional conduct as defined in Section 58-68-502, it is
152 unprofessional conduct for an individual licensed under this chapter to administer sedation or
153 anesthesia intravenously to a patient in an outpatient setting that is not an emergency
154 department, without:

- 155 (1) first obtaining consent from the patient in writing, which shall include:
 - 156 (a) the type of sedation or anesthesia being administered;
 - 157 (b) the identity and training of the person who is performing the procedure for which
158 the sedation or anesthesia will be administered;
 - 159 (c) the identity and training of the person who will be administering the sedation or
160 anesthesia;
 - 161 (d) a list of all responsibilities during the procedure of the person who will be
162 administering the sedation or anesthesia; and
 - 163 (e) patient monitoring that will occur during the sedation or anesthesia, including
164 monitoring equipment that will be used;
- 165 (2) reporting any adverse event under Section 26-1-40; and
- 166 (3) having access during the procedure to an advanced cardiac life support crash cart
167 with equipment that is regularly maintained according to guidelines established by the
168 American Hospital Association.

169 Section 6. Section **58-69-502.5** is enacted to read:

170 **58-69-502.5. Anesthesia and Sedation - Unprofessional Conduct.**

171 In addition to unprofessional conduct as defined in Section 58-68-502, it is
172 unprofessional conduct for an individual licensed under this chapter to administer sedation or
173 anesthesia intravenously to a patient in an outpatient setting that is not an emergency
174 department, without:

- 175 (1) first obtaining consent from the patient in writing, which shall include:
 - 176 (a) the type of sedation or anesthesia being administered;
 - 177 (b) the identity and training of the person who is performing the procedure for which
178 the sedation or anesthesia will be administered;
 - 179 (c) the identity and training of the person who will be administering the sedation or
180 anesthesia;

- 181 (d) a list of all responsibilities during the procedure of the person who will be
 182 administering the sedation or anesthesia; and
- 183 (e) patient monitoring that will occur during the sedation or anesthesia, including
 184 monitoring equipment that will be used;
- 185 (2) reporting any adverse event under Section 26-1-40; and
 186 (3) having access during the procedure to an advanced cardiac life support crash cart
 187 with equipment that is regularly maintained according to guidelines established by the
 188 American Hospital Association.

189 Section 7. Section **63I-1-226** is amended to read:

190 **63I-1-226. Repeal dates, Title 26.**

191 (1) Section 26-1-40 is repealed July 1, 2021.

192 ~~[(+)]~~ (2) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed
 193 July 1, 2025.

194 ~~[(2)]~~ (3) Section 26-10-11 is repealed July 1, 2020.

195 ~~[(3)]~~ (4) Section 26-21-23, Licensing of non-Medicaid nursing care facility beds, is
 196 repealed July 1, 2018.

197 ~~[(4)]~~ (5) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1,
 198 2024.

199 ~~[(5)]~~ (6) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1,
 200 2019.

201 ~~[(6)]~~ (7) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1,
 202 2021.

203 ~~[(7)]~~ (8) Section 26-38-2.5 is repealed July 1, 2017.

204 ~~[(8)]~~ (9) Section 26-38-2.6 is repealed July 1, 2017.

205 ~~[(9) Title 26, Chapter 52, Autism Treatment Account, is repealed July 1, 2016.]~~

206 (10) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed July 1, 2021.

207 Section 8. Section **63I-1-258** is amended to read:

208 **63I-1-258. Repeal dates, Title 58.**

209 (1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is
 210 repealed July 1, 2026.

211 (2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

- 212 (3) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2018.
213 (4) Section [58-37-4.3](#) is repealed July 1, 2021.
214 (5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.
215 (6) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is
216 repealed July 1, 2019.
217 (7) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.
218 (8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July
219 1, 2023.
220 (9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.
221 (10) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1,
222 2026.
223 (11) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.
224 (12) Title 58, Chapter 86, State Certification of Commercial Interior Designers Act, is
225 repealed July 1, 2021.
226 (13) The following Sections are repealed on July 1, 2021:
227 (a) Section [58-5a-502](#);
228 (b) Section [58-31b-502.5](#);
229 (c) Section [58-67-502.5](#);
230 (d) Section [58-68-502.5](#); and
231 (e) Section [58-69-502.5](#).