

1                   **ADMINISTRATION OF ANESTHESIA AMENDMENTS**

2                                   2017 GENERAL SESSION

3                                   STATE OF UTAH

4                   **Chief Sponsor: Michael S. Kennedy**

5                   Senate Sponsor: \_\_\_\_\_

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7   **LONG TITLE**

8   **General Description:**

9           This bill amends professional licensing acts in the Division of Occupational and  
10 Professional Licensing Act to require increased monitoring, in certain circumstances,  
11 of patients who are sedated.

12 **Highlighted Provisions:**

13       This bill:

- 14       ▶ requires the Division of Occupational and Professional Licensing to:
- 15           • create a database of adverse events from the administration of sedation or
  - 16 general anesthesia in outpatient settings; and
  - 17           • publish a report regarding the number of adverse events by types of provider and
  - 18 facility;
  - 19       ▶ defines terms;
  - 20       ▶ prohibits certain health care providers from administering sedation or general
  - 21 anesthesia and performing therapeutic or diagnostic procedures on a patient without
  - 22 another qualified health care provider present to monitor the patient's anesthesia
  - 23 care;
  - 24       ▶ prohibits a nurse, who is not a certified registered nurse anesthetist, from
  - 25 administering deep sedation or general anesthesia to a patient unless:
  - 26           • the nurse has a medical order for the deep sedation or general anesthesia; and
  - 27           • the patient is intubated and in an intensive care unit of a general acute hospital;



28 and

29       ▶ requires a professional who administers sedation to have access to a crash cart  
30 during a sedation procedure.

31 **Money Appropriated in this Bill:**

32       None

33 **Other Special Clauses:**

34       None

35 **Utah Code Sections Affected:**

36 AMENDS:

- 37       **58-5a-102**, as last amended by Laws of Utah 2015, Chapter 230
- 38       **58-31b-501**, as last amended by Laws of Utah 2006, Chapter 291
- 39       **58-67-501**, as last amended by Laws of Utah 2015, Chapter 110
- 40       **58-68-501**, as last amended by Laws of Utah 2015, Chapter 110
- 41       **58-69-501**, as last amended by Laws of Utah 2015, Chapter 343

42 ENACTS:

- 43       **58-1-112**, Utah Code Annotated 1953
- 44       **58-5a-308**, Utah Code Annotated 1953
- 45       **58-31b-804**, Utah Code Annotated 1953
- 46       **58-67-807**, Utah Code Annotated 1953
- 47       **58-68-807**, Utah Code Annotated 1953
- 48       **58-69-807**, Utah Code Annotated 1953



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

51       Section 1. Section **58-1-112** is enacted to read:

52       **58-1-112. Reports of anesthesia adverse events.**

53       (1) (a) Beginning January 1, 2018, the division shall create a database of deaths and  
54 adverse events from the administration of sedation or general anesthesia in outpatient settings  
55 in the state.

56       (b) The database required by Subsection (1)(a) shall include reports submitted by  
57 licensees under Sections **58-5a-307**, **58-31b-804**, **58-67-807**, **58-68-807**, and **58-69-807**.

58       (2) The division may adopt administrative rules under Title 63G, Chapter 3, Utah

59 Administrative Rulemaking Act, regarding:

60 (a) the format of the reports; and

61 (b) what constitutes a reportable adverse event, which shall include at least a sedation  
62 when there is:

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

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

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

68 (b) Beginning July 1, 2018, and on or before July 1 of each year thereafter, the division  
69 shall publicly report:

70 (i) the number of deaths and adverse events under Subsection (1);

71 (ii) the type of providers, by license category and specialty, who submitted reports  
72 under Subsection (1); and

73 (iii) the type of facility in which the death or adverse event took place.

74 Section 2. Section **58-5a-102** is amended to read:

75 **58-5a-102. Definitions.**

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

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

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

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

84 (4) "Practice of podiatry" means the diagnosis and treatment of conditions affecting the  
85 human foot and ankle and their manifestations of systemic conditions by all appropriate and  
86 lawful means, subject to Section **58-5a-103**.

87 (5) "Unlawful conduct" includes:

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

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

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

92 (ii) implying or representing that the individual is qualified to practice podiatry.

93 (6) "Unprofessional conduct" includes, for an individual licensed under this chapter:

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

95 (b) communicating to a third party, without the consent of the patient, information the  
96 individual acquires in treating the patient, except as necessary for professional consultation  
97 regarding treatment of the patient;

98 (c) allowing the individual's name or license to be used by an individual who is not  
99 licensed to practice podiatry under this chapter;

100 (d) except as described in Section 58-5a-306, employing, directly or indirectly, any  
101 unlicensed individual to practice podiatry;

102 (e) using alcohol or drugs, to the extent the individual's use of alcohol or drugs impairs  
103 the individual's ability to practice podiatry;

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

106 (g) gross incompetency in the practice of podiatry;

107 (h) willfully and intentionally making a false statement or entry in hospital records,  
108 medical records, or reports;

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

111 (j) willfully using false or fraudulent advertising; ~~and~~

112 (k) conduct the division defines as unprofessional conduct by rule made in accordance  
113 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[-]; and

114 (l) administering sedation or general anesthesia in violation of Section 58-5a-308.

115 Section 3. Section 58-5a-308 is enacted to read:

116 **58-5a-308. Anesthesia practice standards.**

117 (1) For purposes of this section:

118 (a) (i) "Deep sedation" means a pharmacological induced depression of consciousness  
119 during which:

120 (A) the patient cannot easily be aroused, but will respond purposefully, other than a

121 reflex withdrawal response, to repeated or painful stimulation;

122 (B) the patient's ability to independently maintain ventilatory function may be impaired  
123 or spontaneous ventilation may be inadequate, and the patient may require assistance to  
124 maintain an airway; and

125 (C) the patient's cardiovascular function is maintained.

126 (ii) "Deep sedation" includes administering a drug classified as a general anesthetic  
127 under Subsection [58-31b-804\(1\)\(a\)](#).

128 (b) "General anesthesia" means a pharmacological induced loss of consciousness  
129 during which:

130 (i) the patient cannot be aroused, even with painful stimulation;

131 (ii) the patient's ability to independently maintain ventilatory function may be  
132 impaired;

133 (iii) spontaneous ventilation may be inadequate;

134 (iv) the patient may require positive pressure ventilation assistance to maintain an  
135 airway because of depressed spontaneous ventilation or pharmacological induced depression of  
136 neuromuscular function; and

137 (v) the patient's cardiovascular function may be impaired.

138 (c) "Minimal sedation" means a pharmacological induced state of consciousness during  
139 which:

140 (i) the patient responds normally to verbal commands;

141 (ii) the patient's cognitive function and physical coordination may be impaired; and

142 (iii) airway reflexes, ventilatory function, and cardiovascular function are not impaired.

143 (d) "Moderate sedation" means a pharmacological induced depression of consciousness  
144 during which a patient responds purposefully to verbal commands, either alone or accompanied  
145 by light tactile stimulation, and during which no interventions are required to maintain an  
146 airway.

147 (2) (a) A podiatric physician licensed under this chapter may not administer deep  
148 sedation or general anesthesia to a patient and perform a diagnostic or therapeutic procedure on  
149 the patient while the patient is under deep sedation or general anesthesia, unless the podiatric  
150 physician has one of the following present during the procedure for the sole purpose of  
151 monitoring and managing the sedation care of the patient:

152 (i) another podiatric physician;  
153 (ii) a physician licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68,  
154 Utah Osteopathic Medical Practice Act;

155 (iii) a dentist licensed under Chapter 69, Dentist and Dental Hygienist Practice Act:  
156 (A) who holds a current permit issued by the division authorizing the dentist to  
157 administer the type of anesthesia administered to the patient; and

158 (B) if the procedure for which the sedation is administered is within the scope of  
159 practice for the dentist; or

160 (iv) a certified registered nurse anesthetist licensed as a certified registered nurse  
161 anesthetist under Chapter 31b, Nurse Practice Act.

162 (b) A podiatric physician, licensed under this chapter, may not administer moderate  
163 sedation or minimal sedation to a patient intravenously and perform a diagnostic or therapeutic  
164 procedure on the patient while the patient is under moderate or minimal sedation, unless the  
165 podiatric physician has one of the practitioners listed in Subsection (2)(a), or a nurse licensed  
166 under Chapter 31b, Nurse Practice Act, present during the procedure for the sole purpose of  
167 monitoring and managing the sedation care of the patient.

168 (3) A licensed podiatric physician under this chapter may not administer intravenous  
169 sedation to a patient without having access during the procedure to an advanced cardiac life  
170 support crash cart with equipment that is regularly maintained according to guidelines  
171 established by the American Hospital Association.

172 (4) Beginning January 1, 2018, a podiatric physician shall report to the division any  
173 deaths or adverse events from the administration of sedation or general anesthesia in an  
174 outpatient setting. The report shall be submitted to the division in accordance with Section  
175 [58-1-112](#).

176 Section 4. Section **58-31b-501** is amended to read:

177 **58-31b-501. Unlawful conduct.**

178 "Unlawful conduct" includes:

179 (1) using the following titles, names or initials, if the user is not properly licensed or  
180 certified under this chapter:

181 (a) nurse;

182 (b) licensed practical nurse, practical nurse, or L.P.N.;

- 183 (c) medication aide certified, or M.A.C.;
- 184 (d) registered nurse or R.N.;
- 185 (e) registered nurse practitioner, N.P., or R.N.P.;
- 186 (f) registered nurse specialist, N.S., or R.N.S.;
- 187 (g) registered psychiatric mental health nurse specialist;
- 188 (h) advanced practice registered nurse;
- 189 (i) nurse anesthetist, certified nurse anesthetist, certified registered nurse anesthetist, or
- 190 C.R.N.A.; or

191 (j) other generally recognized names or titles used in the profession of nursing;

192 (2) (a) using any other name, title, or initials that would cause a reasonable person to

193 believe the user is licensed or certified under this chapter if the user is not properly licensed or

194 certified under this chapter; and

195 (b) for purposes of Subsection (2)(a), it is unlawful conduct for a medication aide

196 certified to use the term "nurse"; ~~and~~

197 (3) conducting a nursing education program in the state for the purpose of qualifying

198 individuals to meet requirements for licensure under this chapter without the program having

199 been approved under Section [58-31b-601](#); and

200 (4) administering sedation or general anesthesia in violation of Section [58-31b-804](#).

201 Section 5. Section **58-31b-804** is enacted to read:

202 **58-31b-804. Anesthesia practice standards.**

203 (1) For purposes of this section:

204 (a) (i) "Deep sedation" means a pharmacological induced depression of consciousness

205 during which:

206 (A) the patient cannot easily be aroused, but will respond purposefully, other than a

207 reflex withdrawal response, to repeated or painful stimulation;

208 (B) the patient's ability to independently maintain ventilatory function may be impaired

209 or spontaneous ventilation may be inadequate, and the patient may require assistance to

210 maintain an airway; and

211 (C) the patient's cardiovascular function is maintained.

212 (ii) "Deep sedation" includes administering to a patient a drug classified by the

213 division, by administrative rule, as a general anesthetic, such as propofol, ketamine, etomidate,

214 pentathol, brevital, and fospropofol.

215 (b) "General anesthesia" means a pharmacological induced loss of consciousness

216 during which:

217 (i) the patient cannot be aroused, even with painful stimulation;

218 (ii) the patient's ability to independently maintain ventilatory function may be

219 impaired;

220 (iii) spontaneous ventilation may be inadequate;

221 (iv) the patient may require positive pressure ventilation assistance to maintain an

222 airway because of depressed spontaneous ventilation or pharmacological induced depression of

223 neuromuscular function; and

224 (v) the patient's cardiovascular function may be impaired.

225 (c) "Minimal sedation" means a pharmacological induced state of consciousness during

226 which:

227 (i) the patient responds normally to verbal commands;

228 (ii) the patient's cognitive function and physical coordination may be impaired; and

229 (iii) airway reflexes, ventilatory function and cardiovascular function are not impaired.

230 (d) "Moderate sedation" means a pharmacological induced depression of consciousness

231 during which a patient responds purposefully to verbal commands, either alone or accompanied

232 by light tactile stimulation, and during which no interventions are required to maintain an

233 airway.

234 (2) (a) A nurse licensed under this chapter may not administer deep sedation or general  
235 anesthesia unless:

236 (i) the nurse is a certified registered nurse anesthetist administering anesthesia within  
237 the scope of practice of a certified registered nurse anesthetist; or

238 (ii) the nurse is administering the deep sedation or general anesthesia under medical  
239 orders, to a patient who is intubated and in the intensive care unit of a general acute hospital.

240 (b) A nurse licensed under this chapter may administer moderate sedation or minimal  
241 sedation:

242 (i) if the administration of the sedation is otherwise within the scope of practice for the  
243 nurse; and

244 (ii) if the sedation is administered intravenously, if the nurse is present during the



245 procedure for the sole purpose of monitoring the sedation care of the patient.

246 (3) A licensed nurse under this chapter may not administer intravenous sedation to a  
247 patient without having access during the procedure to an advanced cardiac life support crash  
248 cart with equipment that is regularly maintained according to guidelines established by the  
249 American Hospital Association.

250 (4) The division shall, with the advice of the board, designate the drugs that should be  
251 classified as general anesthesia drugs under Subsection (1)(a)(ii).

252 Section 6. Section **58-67-501** is amended to read:

253 **58-67-501. Unlawful conduct.**

254 (1) "Unlawful conduct" includes, in addition to the definition in Section [58-1-501](#):

255 (a) buying, selling, or fraudulently obtaining, any medical diploma, license, certificate,  
256 or registration;

257 (b) aiding or abetting the buying, selling, or fraudulently obtaining of any medical  
258 diploma, license, certificate, or registration;

259 (c) substantially interfering with a licensee's lawful and competent practice of medicine  
260 in accordance with this chapter by:

261 (i) any person or entity that manages, owns, operates, or conducts a business having a  
262 direct or indirect financial interest in the licensee's professional practice; or

263 (ii) anyone other than another physician licensed under this title, who is engaged in  
264 direct clinical care or consultation with the licensee in accordance with the standards and ethics  
265 of the profession of medicine; [or]

266 (d) entering into a contract that limits a licensee's ability to advise the licensee's  
267 patients fully about treatment options or other issues that affect the health care of the licensee's  
268 patients[-]; or

269 (e) administering anesthesia in the practice of medicine in violation of Section  
270 [58-67-807](#).

271 (2) "Unlawful conduct" does not include:

272 (a) establishing, administering, or enforcing the provisions of a policy of accident and  
273 health insurance by an insurer doing business in this state in accordance with Title 31A,  
274 Insurance Code;

275 (b) adopting, implementing, or enforcing utilization management standards related to

276 payment for a licensee's services, provided that:

277 (i) utilization management standards adopted, implemented, and enforced by the payer  
278 have been approved by a physician or by a committee that contains one or more physicians; and

279 (ii) the utilization management standards does not preclude a licensee from exercising  
280 independent professional judgment on behalf of the licensee's patients in a manner that is  
281 independent of payment considerations;

282 (c) developing and implementing clinical practice standards that are intended to reduce  
283 morbidity and mortality or developing and implementing other medical or surgical practice  
284 standards related to the standardization of effective health care practices, provided that:

285 (i) the practice standards and recommendations have been approved by a physician or  
286 by a committee that contains one or more physicians; and

287 (ii) the practice standards do not preclude a licensee from exercising independent  
288 professional judgment on behalf of the licensee's patients in a manner that is independent of  
289 payment considerations;

290 (d) requesting or recommending that a patient obtain a second opinion from a licensee;

291 (e) conducting peer review, quality evaluation, quality improvement, risk management,  
292 or similar activities designed to identify and address practice deficiencies with health care  
293 providers, health care facilities, or the delivery of health care;

294 (f) providing employment supervision or adopting employment requirements that do  
295 not interfere with the licensee's ability to exercise independent professional judgment on behalf  
296 of the licensee's patients, provided that employment requirements that may not be considered to  
297 interfere with an employed licensee's exercise of independent professional judgment include:

298 (i) an employment requirement that restricts the licensee's access to patients with  
299 whom the licensee's employer does not have a contractual relationship, either directly or  
300 through contracts with one or more third-party payers; or

301 (ii) providing compensation incentives that are not related to the treatment of any  
302 particular patient;

303 (g) providing benefit coverage information, giving advice, or expressing opinions to a  
304 patient or to a family member of a patient to assist the patient or family member in making a  
305 decision about health care that has been recommended by a licensee;

306 (h) in compliance with Section [58-85-103](#):

- 307 (i) obtaining an investigational drug or investigational device;  
308 (ii) administering the investigational drug to an eligible patient; or  
309 (iii) treating an eligible patient with the investigational drug or investigational device;

310 or

- 311 (i) any otherwise lawful conduct that does not substantially interfere with the licensee's  
312 ability to exercise independent professional judgment on behalf of the licensee's patients and  
313 that does not constitute the practice of medicine as defined in this chapter.

314 Section 7. Section **58-67-807** is enacted to read:

315 **58-67-807. Anesthesia practice standards.**

316 (1) For purposes of this section:

317 (a) (i) "Deep sedation" means a pharmacological induced depression of consciousness  
318 during which:

319 (A) the patient cannot easily be aroused, but will respond purposefully, other than a  
320 reflex withdrawal response, to repeated or painful stimulation;

321 (B) the patient's ability to independently maintain ventilatory function may be impaired  
322 or spontaneous ventilation may be inadequate, and the patient may require assistance to  
323 maintain an airway; and

324 (C) the patient's cardiovascular function is maintained.

325 (ii) "Deep sedation" includes administering a drug classified as a general anesthetic  
326 under Subsection [58-31b-804\(1\)\(a\)](#).

327 (b) "General anesthesia" means a pharmacological induced loss of consciousness  
328 during which:

329 (i) the patient cannot be aroused, even with painful stimulation;

330 (ii) the patient's ability to independently maintain ventilatory function may be  
331 impaired;

332 (iii) spontaneous ventilation may be inadequate;

333 (iv) the patient may require positive pressure ventilation assistance to maintain an  
334 airway because of depressed spontaneous ventilation or pharmacological induced depression of  
335 neuromuscular function; and

336 (v) the patient's cardiovascular function may be impaired.

337 (c) "Minimal sedation" means a pharmacological induced state of consciousness during

338 which:

339 (i) the patient responds normally to verbal commands;

340 (ii) the patient's cognitive function and physical coordination may be impaired; and

341 (iii) airway reflexes, ventilatory function, and cardiovascular function are not impaired.

342 (d) "Moderate sedation" means a pharmacological induced depression of consciousness  
343 during which a patient responds purposefully to verbal commands, either alone or accompanied  
344 by light tactile stimulation, and during which no interventions are required to maintain an  
345 airway.

346 (2) (a) A physician licensed under this chapter may not administer deep sedation or  
347 general anesthesia to a patient and perform a diagnostic or therapeutic procedure on the patient  
348 while the patient is under deep sedation or general anesthesia, unless the physician has one of  
349 the following present during the procedure for the sole purpose of monitoring and managing  
350 the sedation care of the patient:

351 (i) another physician licensed under this chapter, or Chapter 68, Utah Osteopathic  
352 Medical Practice Act;

353 (ii) a dentist licensed under Chapter 69, Dentist and Dental Hygienist Practice Act:

354 (A) who holds a current permit issued by the division authorizing the dentist to  
355 administer the type of anesthesia administered to the patient; and

356 (B) if the procedure for which the sedation is administered is within the scope of  
357 practice for the dentist; or

358 (iii) a certified registered nurse anesthetist licensed as a certified registered nurse  
359 anesthetist under Chapter 31b, Nurse Practice Act.

360 (b) A physician licensed under this chapter may not administer moderate sedation or  
361 minimal sedation to a patient intravenously and perform a diagnostic or therapeutic procedure  
362 on the patient while the patient is under moderate or minimal sedation, unless the physician has  
363 one of the practitioners listed in Subsection (2)(a), or a nurse licensed under Chapter 31b,  
364 Nurse Practice Act, present during the procedure for the sole purpose of monitoring and  
365 managing the sedation care of the patient.

366 (3) A licensed physician under this chapter may not administer intravenous sedation to  
367 a patient without having access during the procedure to an advanced cardiac life support crash  
368 cart with equipment that is regularly maintained according to guidelines established by the

369 American Hospital Association.

370 (4) Beginning January 1, 2018, a physician shall report to the division any deaths or  
371 adverse events from the administration of sedation or general anesthesia in an outpatient  
372 setting. The report shall be submitted to the division in accordance with Section 58-1-112.

373 Section 8. Section **58-68-501** is amended to read:

374 **58-68-501. Unlawful conduct.**

375 (1) "Unlawful conduct" includes, in addition to the definition in Section 58-1-501:

376 (a) buying, selling, or fraudulently obtaining any osteopathic medical diploma, license,  
377 certificate, or registration; and

378 (b) aiding or abetting the buying, selling, or fraudulently obtaining of any osteopathic  
379 medical diploma, license, certificate, or registration;

380 (c) substantially interfering with a licensee's lawful and competent practice of medicine  
381 in accordance with this chapter by:

382 (i) any person or entity that manages, owns, operates, or conducts a business having a  
383 direct or indirect financial interest in the licensee's professional practice; or

384 (ii) anyone other than another physician licensed under this title, who is engaged in  
385 direct clinical care or consultation with the licensee in accordance with the standards and ethics  
386 of the profession of medicine; [or]

387 (d) entering into a contract that limits a licensee's ability to advise the licensee's  
388 patients fully about treatment options or other issues that affect the health care of the licensee's  
389 patients[-]; or

390 (e) administering anesthesia in the practice of medicine in violation of Section  
391 58-68-807.

392 (2) "Unlawful conduct" does not include:

393 (a) establishing, administering, or enforcing the provisions of a policy of accident and  
394 health insurance by an insurer doing business in this state in accordance with Title 31A,  
395 Insurance Code;

396 (b) adopting, implementing, or enforcing utilization management standards related to  
397 payment for a licensee's services, provided that:

398 (i) utilization management standards adopted, implemented, and enforced by the payer  
399 have been approved by a physician or by a committee that contains one or more physicians; and

400 (ii) the utilization management standards does not preclude a licensee from exercising  
401 independent professional judgment on behalf of the licensee's patients in a manner that is  
402 independent of payment considerations;

403 (c) developing and implementing clinical practice standards that are intended to reduce  
404 morbidity and mortality or developing and implementing other medical or surgical practice  
405 standards related to the standardization of effective health care practices, provided that:

406 (i) the practice standards and recommendations have been approved by a physician or  
407 by a committee that contains one or more physicians; and

408 (ii) the practice standards do not preclude a licensee from exercising independent  
409 professional judgment on behalf of the licensee's patients in a manner that is independent of  
410 payment considerations;

411 (d) requesting or recommending that a patient obtain a second opinion from a licensee;

412 (e) conducting peer review, quality evaluation, quality improvement, risk management,  
413 or similar activities designed to identify and address practice deficiencies with health care  
414 providers, health care facilities, or the delivery of health care;

415 (f) providing employment supervision or adopting employment requirements that do  
416 not interfere with the licensee's ability to exercise independent professional judgment on behalf  
417 of the licensee's patients, provided that employment requirements that may not be considered to  
418 interfere with an employed licensee's exercise of independent professional judgment include:

419 (i) an employment requirement that restricts the licensee's access to patients with  
420 whom the licensee's employer does not have a contractual relationship, either directly or  
421 through contracts with one or more third-party payers; or

422 (ii) providing compensation incentives that are not related to the treatment of any  
423 particular patient;

424 (g) providing benefit coverage information, giving advice, or expressing opinions to a  
425 patient or to a family member of a patient to assist the patient or family member in making a  
426 decision about health care that has been recommended by a licensee;

427 (h) in compliance with Section [58-85-103](#):

428 (i) obtaining an investigational drug or investigational device;

429 (ii) administering the investigational drug to an eligible patient; or

430 (iii) treating an eligible patient with the investigational drug or investigational device;

431 or

432 (i) any otherwise lawful conduct that does not substantially interfere with the licensee's  
433 ability to exercise independent professional judgment on behalf of the licensee's patients and  
434 that does not constitute the practice of medicine as defined in this chapter.

435 Section 9. Section **58-68-807** is enacted to read:

436 **58-68-807. Anesthesia practice standards.**

437 (1) For purposes of this section:

438 (a) (i) "Deep sedation" means a pharmacological induced depression of consciousness  
439 during which:

440 (A) the patient cannot easily be aroused, but will respond purposefully, other than a  
441 reflex withdrawal response, to repeated or painful stimulation;

442 (B) the patient's ability to independently maintain ventilatory function may be impaired  
443 or spontaneous ventilation may be inadequate, and the patient may require assistance to  
444 maintain an airway; and

445 (C) the patient's cardiovascular function is maintained.

446 (ii) "Deep sedation" includes administering a drug classified as a general anesthetic  
447 under Subsection [58-31b-804\(1\)\(a\)](#).

448 (b) "General anesthesia" means a pharmacological induced loss of consciousness  
449 during which:

450 (i) the patient cannot be aroused, even with painful stimulation;

451 (ii) the patient's ability to independently maintain ventilatory function may be  
452 impaired;

453 (iii) spontaneous ventilation may be inadequate;

454 (iv) the patient may require positive pressure ventilation assistance to maintain an  
455 airway because of depressed spontaneous ventilation or pharmacological induced depression of  
456 neuromuscular function; and

457 (v) the patient's cardiovascular function may be impaired.

458 (c) "Minimal sedation" means a pharmacological induced state of consciousness during  
459 which:

460 (i) the patient responds normally to verbal commands;

461 (ii) the patient's cognitive function and physical coordination may be impaired; and

462 (iii) airway reflexes, ventilatory function, and cardiovascular function are not impaired.

463 (d) "Moderate sedation" means a pharmacological induced depression of consciousness  
464 during which a patient responds purposefully to verbal commands, either alone or accompanied  
465 by light tactile stimulation, and during which no interventions are required to maintain an  
466 airway.

467 (2) (a) A physician licensed under this chapter may not administer deep sedation or  
468 general anesthesia to a patient and perform a diagnostic or therapeutic procedure on the patient  
469 while the patient is under deep sedation or general anesthesia, unless the physician has one of  
470 the following present during the procedure for the sole purpose of monitoring and managing  
471 the sedation care of the patient:

472 (i) another physician licensed under this chapter or Chapter 67, Utah Medical Practice  
473 Act;

474 (ii) a dentist licensed under Chapter 69, Dentist and Dental Hygienist Practice Act:

475 (A) who holds a current permit issued by the division authorizing the dentist to  
476 administer the type of anesthesia administered to the patient; and

477 (B) if the procedure for which the sedation is administered is within the scope of  
478 practice for the dentist; and

479 (iii) a certified registered nurse anesthetist licensed as a certified registered nurse  
480 anesthetist under Chapter 31b, Nurse Practice Act.

481 (b) A physician licensed under this chapter may not administer moderate sedation or  
482 minimal sedation to a patient intravenously and perform a diagnostic or therapeutic procedure  
483 on the patient while the patient is under moderate or minimal sedation, unless the physician has  
484 one of the practitioners listed in Subsection (2)(a), or a nurse licensed under Chapter 31b,  
485 Nurse Practice Act, present during the procedure for the sole purpose of monitoring and  
486 managing the sedation care of the patient.

487 (3) A licensed physician under this chapter may not administer intravenous sedation to  
488 a patient without having access during the procedure to an advanced cardiac life support crash  
489 cart with equipment that is regularly maintained according to guidelines established by the  
490 American Hospital Association.

491 (4) Beginning January 1, 2018, an osteopathic physician shall report to the division any  
492 deaths or adverse events from the administration of sedation or general anesthesia in an



493 outpatient setting. The report shall be submitted to the division in accordance with Section  
494 58-1-112.

495 Section 10. Section **58-69-501** is amended to read:

496 **58-69-501. Unlawful conduct.**

497 "Unlawful conduct" includes, in addition to the definition in Section **58-1-501**:

498 (1) administering anesthesia or analgesia in the practice of dentistry or dental hygiene  
499 if:

500 (a) the individual does not hold a current permit issued by the division authorizing that  
501 individual to administer the type of anesthesia or analgesia used; or

502 (b) the individual administers anesthesia in violation of Section 58-69-807;

503 (2) practice of dental hygiene by a licensed dental hygienist when not under the  
504 supervision of a dentist, or under a written agreement with a dentist who is licensed under this  
505 chapter and who is a Utah resident, in accordance with the provisions of this chapter; or

506 (3) directing or interfering with a licensed dentist's judgment and competent practice of  
507 dentistry.

508 Section 11. Section **58-69-807** is enacted to read:

509 **58-69-807. Anesthesia practice standards.**

510 (1) For purposes of this section:

511 (a) (i) "Deep sedation" means a pharmacological induced depression of consciousness  
512 during which:

513 (A) the patient cannot easily be aroused, but will respond purposefully, other than a  
514 reflex withdrawal response, to repeated or painful stimulation;

515 (B) the patient's ability to independently maintain ventilatory function may be impaired  
516 or spontaneous ventilation may be inadequate, and the patient may require assistance to  
517 maintain an airway; and

518 (C) the patient's cardiovascular function is maintained.

519 (ii) "Deep sedation" includes administering a drug classified as a general anesthetic  
520 under Subsection 58-31b-804(1)(a).

521 (b) "General anesthesia" means a pharmacological induced loss of consciousness  
522 during which:

523 (i) the patient cannot be aroused, even with painful stimulation;

524 (ii) the patient's ability to independently maintain ventilatory function may be  
525 impaired;  
526 (iii) spontaneous ventilation may be inadequate;  
527 (iv) the patient may require positive pressure ventilation assistance to maintain an  
528 airway because of depressed spontaneous ventilation or pharmacological induced depression of  
529 neuromuscular function; and

530 (v) the patient's cardiovascular function may be impaired.

531 (c) "Minimal sedation" means a pharmacological induced state of consciousness during  
532 which:

533 (i) the patient responds normally to verbal commands;

534 (ii) the patient's cognitive function and physical coordination may be impaired; and

535 (iii) airway reflexes, ventilatory function, and cardiovascular function are not impaired.

536 (d) "Moderate sedation" means a pharmacological induced depression of consciousness  
537 during which a patient responds purposefully to verbal commands, either alone or accompanied  
538 by light tactile stimulation, and during which no interventions are required to maintain an  
539 airway.

540 (2) (a) A dentist licensed under this chapter may not administer deep sedation or  
541 general anesthesia to a patient and perform a diagnostic or therapeutic procedure on the patient  
542 while the patient is under deep sedation or general anesthesia, unless the dentist has one of the  
543 following present during the procedure for the sole purpose of monitoring and managing the  
544 sedation care of the patient:

545 (i) a physician licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68,  
546 Utah Osteopathic Medical Practice Act;

547 (ii) another dentist licensed under this chapter who holds a current permit issued by the  
548 division authorizing the dentist to administer the type of anesthesia administered to the patient;  
549 or

550 (iii) a certified registered nurse anesthetist licensed as a certified registered nurse  
551 anesthetist under Chapter 31b, Nurse Practice Act.

552 (b) A dentist licensed under this chapter may not administer moderate sedation or  
553 minimal sedation to a patient intravenously and perform a diagnostic or therapeutic procedure  
554 on the patient while the patient is under moderate or minimal sedation, unless the dentist has

555 one of the practitioners listed in Subsection (2)(a), or a nurse licensed under Chapter 31b,  
556 Nurse Practice Act, present during the procedure for the sole purpose of monitoring and  
557 managing the sedation care of the patient.

558 (3) A licensed dentist under this chapter may not administer intravenous sedation to a  
559 patient without having access during the procedure to an advanced cardiac life support crash  
560 cart with equipment that is regularly maintained according to guidelines established by the  
561 American Hospital Association.

562 (4) Beginning January 1, 2018, a dentist shall report to the division any deaths or  
563 adverse events from the administration of sedation or general anesthesia in an outpatient  
564 setting. The report shall be submitted to the division in accordance with Section [58-1-112](#).

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**