

Part 5 Unlawful and Unprofessional Conduct - Penalties

58-1-501 Unlawful and unprofessional conduct.

- (1) "Unlawful conduct" means conduct, by any person, that is defined as unlawful under this title and includes:
- (a) practicing or engaging in, representing oneself to be practicing or engaging in, or attempting to practice or engage in any profession requiring licensure under this title if the person is:
 - (i) not licensed to do so or not exempted from licensure under this title; or
 - (ii) restricted from doing so by a suspended, revoked, restricted, temporary, probationary, or inactive license;
 - (b)
 - (i) impersonating another licensee or practicing a profession under a false or assumed name, except as permitted by law; or
 - (ii) for a licensee who has had a license under this title reinstated following disciplinary action, practicing the same profession using a different name than the name used before the disciplinary action, except as permitted by law and after notice to, and approval by, the division;
 - (c) knowingly employing any other person to practice or engage in or attempt to practice or engage in any profession licensed under this title if the employee is not licensed to do so under this title;
 - (d) knowingly permitting the person's authority to practice or engage in any profession licensed under this title to be used by another, except as permitted by law;
 - (e) obtaining a passing score on a licensure examination, applying for or obtaining a license, or otherwise dealing with the division or a licensing board through the use of fraud, forgery, or intentional deception, misrepresentation, misstatement, or omission;
 - (f)
 - (i) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device to a person located in this state:
 - (A) without prescriptive authority conferred by a license issued under this title, or by an exemption to licensure under this title; or
 - (B) with prescriptive authority conferred by an exception issued under this title or a multistate practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment; and
 - (ii) Subsection (1)(f)(i) does not apply to treatment rendered in an emergency, on-call or cross coverage situation, provided that the person who issues the prescription has prescriptive authority conferred by a license under this title, or is exempt from licensure under this title; or
 - (g) aiding or abetting any other person to violate any statute, rule, or order regulating a profession under this title.
- (2)
- (a) "Unprofessional conduct" means conduct, by a licensee or applicant, that is defined as unprofessional conduct under this title or under any rule adopted under this title and includes:
 - (i) violating any statute, rule, or order regulating an a profession under this title;

- (ii) violating, or aiding or abetting any other person to violate, any generally accepted professional or ethical standard applicable to an occupation or profession regulated under this title;
 - (iii) subject to the provisions of Subsection (4), engaging in conduct that results in conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere that is held in abeyance pending the successful completion of probation with respect to a crime that, when considered with the functions and duties of the profession for which the license was issued or is to be issued, bears a substantial relationship to the licensee's or applicant's ability to safely or competently practice the profession;
 - (iv) engaging in conduct that results in disciplinary action, including reprimand, censure, diversion, probation, suspension, or revocation, by any other licensing or regulatory authority having jurisdiction over the licensee or applicant in the same profession if the conduct would, in this state, constitute grounds for denial of licensure or disciplinary proceedings under Section 58-1-401;
 - (v) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the ability of the licensee or applicant to safely engage in the profession;
 - (vi) practicing or attempting to practice a profession regulated under this title despite being physically or mentally unfit to do so;
 - (vii) practicing or attempting to practice a or profession regulated under this title through gross incompetence, gross negligence, or a pattern of incompetency or negligence;
 - (viii) practicing or attempting to practice a profession requiring licensure under this title by any form of action or communication which is false, misleading, deceptive, or fraudulent;
 - (ix) practicing or attempting to practice a profession regulated under this title beyond the scope of the licensee's competency, abilities, or education;
 - (x) practicing or attempting to practice a profession regulated under this title beyond the scope of the licensee's license;
 - (xi) verbally, physically, mentally, or sexually abusing or exploiting any person through conduct connected with the licensee's practice under this title or otherwise facilitated by the licensee's license;
 - (xii) acting as a supervisor without meeting the qualification requirements for that position that are defined by statute or rule;
 - (xiii) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device:
 - (A) without first obtaining information in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify conditions, and to identify contraindications to the proposed treatment; or
 - (B) with prescriptive authority conferred by an exception issued under this title, or a multi-state practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment;
 - (xiv) violating a provision of Section 58-1-501.5;
 - (xv) violating the terms of an order governing a license; or
 - (xvi) violating Section 58-1-511.
- (b) "Unprofessional conduct" does not include:

- (i) a health care provider, as defined in Section 78B-3-403 and who is licensed under this title, deviating from medical norms or established practices if the conditions described in Subsection (5) are met; and
 - (ii) notwithstanding Section 58-1-501.6, a health care provider advertising that the health care provider deviates from medical norms or established practices, including the maladies the health care provider treats, if the health care provider:
 - (A) does not guarantee any results regarding any health care service;
 - (B) fully discloses on the health care provider's website that the health care provider deviates from medical norms or established practices with a conspicuous statement; and
 - (C) includes the health care provider's contact information on the website.
- (3) Unless otherwise specified by statute or administrative rule, in a civil or administrative proceeding commenced by the division under this title, a person subject to any of the unlawful and unprofessional conduct provisions of this title is strictly liable for each violation.
- (4) The following are not evidence of engaging in unprofessional conduct under Subsection (2)(a) (iii):
- (a) an arrest not followed by a conviction; or
 - (b) a conviction for which an individual's incarceration has ended more than seven years before the date of the division's consideration, unless:
 - (i) after the incarceration the individual has engaged in additional conduct that results in another conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere that is held in abeyance pending the successful completion of probation; or
 - (ii) the conviction was for:
 - (A) a violent felony as defined in Section 76-3-203.5;
 - (B) a felony related to a criminal sexual act under Title 76, Chapter 5, Part 4, Sexual Offenses, or Title 76, Chapter 5b, Sexual Exploitation Act; or
 - (C) a felony related to criminal fraud or embezzlement, including a felony under Title 76, Chapter 6, Part 5, Fraud, or Title 76, Chapter 6, Part 4, Theft.
- (5) In accordance with Subsection (2)(b)(i), a health care provider may deviate from medical norms or established practices if:
- (a) the health care provider does not deviate outside of the health care provider's scope of practice and possesses the education, training, and experience to competently and safely administer the alternative health care service;
 - (b) the health care provider does not provide an alternative health care service that is otherwise contrary to any state or federal law;
 - (c) the alternative health care service has reasonable potential to be of benefit to the patient to whom the alternative health care service is to be given;
 - (d) the potential benefit of the alternative health care service outweighs the known harms or side effects of the alternative health care service;
 - (e) the alternative health care service is reasonably justified under the totality of the circumstances;
 - (f) after diagnosis but before providing the alternative health care service:
 - (i) the health care provider educates the patient on the health care services that are within the medical norms and established practices;
 - (ii) the health care provider discloses to the patient that the health care provider is recommending an alternative health care service that deviates from medical norms and established practices;
 - (iii) the health care provider discusses the rationale for deviating from medical norms and established practices with the patient;

- (iv) the health care provider discloses any potential risks associated with deviation from medical norms and established practices; and
 - (v) the patient signs and acknowledges a notice of deviation; and
 - (g) before providing an alternative health care service, the health care provider discloses to the patient that the patient may enter into an agreement describing what would constitute the health care provider's negligence related to deviation.
- (6) As used in this section, "notice of deviation" means a written notice provided by a health care provider to a patient that:
- (a) is specific to the patient;
 - (b) indicates that the health care provider is deviating from medical norms or established practices in the health care provider's recommendation for the patient's treatment;
 - (c) describes how the alternative health care service deviates from medical norms or established practices;
 - (d) describes the potential risks and benefits associated with the alternative health care service;
 - (e) describes the health care provider's reasonably justified rationale regarding the reason for the deviation; and
 - (f) provides clear and unequivocal notice to the patient that the patient is agreeing to receive the alternative health care service which is outside medical norms and established practices.

Amended by Chapter 223, 2023 General Session

Amended by Chapter 321, 2023 General Session

Amended by Chapter 463, 2023 General Session

58-1-501.3 Health professional prescribing exceptions for expedited partner therapy for sexually transmitted diseases.

- (1) For purposes of this section:
- (a) "Drug to treat a sexually transmitted disease" means a drug:
 - (i) as defined in Section 58-17b-102; and
 - (ii) that is:
 - (A) an antibiotic; and
 - (B) prescribed in accordance with guidelines from the Centers for Disease Control and Prevention for patient delivered expedited partner therapy in the management of sexually transmitted disease.
 - (b) "Partner" means a person:
 - (i) with whom a practitioner does not have a bonafide practitioner-patient relationship; and
 - (ii) who is identified as, or claims to be a sexual partner of a patient.
 - (c) "Patient" means a person who:
 - (i) has a sexually transmitted disease; and
 - (ii) has a bonafide practitioner-patient relationship with a practitioner.
 - (d) "Sexually transmitted disease" means:
 - (i) gonorrhea; or
 - (ii) chlamydia.
- (2) This section does not require a practitioner or a licensee under this chapter to prescribe or dispense a drug to treat a sexually transmitted disease for patient delivered expedited partner therapy. A practitioner's or licensee's decision to use expedited partner therapy as allowed by this section is voluntary.
- (3) Notwithstanding Sections 58-1-501, 58-17b-501, and 58-17b-502, it is not unlawful conduct or unprofessional conduct, and it does not violate the provisions of this chapter if:

- (a) a practitioner, in accordance with this Subsection (3):
 - (i) issues a prescription for a drug to treat a sexually transmitted disease to a partner by:
 - (A) writing "partner of (patient name)" on the prescription order; and
 - (B) giving the partner's prescription to the patient for subsequent use by the partner; or
 - (ii) notwithstanding Section 58-17b-610, dispenses a drug sample to treat a sexually transmitted disease to the patient for the subsequent use of the partner; or
 - (b) a pharmacist, in accordance with this Subsection (3), dispenses a prescription drug for the treatment of a sexually transmitted disease to:
 - (i) a person who:
 - (A) claims to be a partner; and
 - (B) presents a prescription for the drug to the pharmacist which is written for the unnamed partner of a named patient;
 - (ii) the patient for the subsequent use by the unnamed partner; or
 - (iii) an agent of the patient or partner.
- (4)
- (a) For purposes of Subsection (3), and notwithstanding Section 58-17b-602:
 - (i) the partner does not have to be identified on the prescription order by information that would disclose the identity of the partner; and
 - (ii) when dispensing a drug to treat a sexually transmitted disease directly to the partner, the patient's identifying information may, but does not need to, be included on the partner's drug label.
 - (b) Information provided by a pharmacist to a patient or the patient's agent for subsequent use by a partner satisfies the requirements of patient counseling for both the patient and the partner under Section 58-17b-613.
- (5)
- (a) The Legislature finds that the prevention and treatment of sexually transmitted diseases in the state is a compelling public health issue.
 - (b) A practitioner or licensee under this chapter is not liable for a medical malpractice action if the use of expedited partner therapy is in compliance with this section, except for those acts which are grossly negligent or willful and wanton.

Enacted by Chapter 151, 2009 General Session

58-1-501.5 Anatomic pathology services -- Billing violations.

- (1) As used in this section, the following definitions apply:
 - (a)
 - (i) "Anatomic pathology services" including "technical or professional component of anatomic pathology services" means:
 - (A) histopathology or surgical pathology, meaning the gross examination of, histologic processing of, or microscopic examination of human organ tissue performed by a physician or under the supervision of a physician;
 - (B) cytopathology, meaning the examination of human cells, from fluids, aspirates, washings, brushings, or smears, including the pap test examination performed by a physician or under the supervision of a physician;
 - (C) hematology, meaning the microscopic evaluation of human bone marrow aspirates and biopsies performed by a physician or under the supervision of a physician and peripheral human blood smears when the attending or treating physician or other practitioner of the healing arts or a technologist requests that a blood smear be reviewed by a pathologist;

- (D) subcellular pathology and molecular pathology; and
- (E) blood bank services performed by a pathologist.
- (ii) "Anatomic pathology services" including "technical or professional component of anatomic pathology services" does not include the initial collection or packaging of a sample for transport.
- (b) "Clinical laboratory" or "laboratory" means a facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of human beings or the assessment of the health of human beings.
- (c) "Health care facility" has the meaning provided in Section 26B-2-201.
- (d) "Health care provider" includes:
 - (i) an advanced practice registered nurse licensed under Chapter 31b, Nurse Practice Act;
 - (ii) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act;
 - (iii) a dentist licensed under Chapter 69, Dentist and Dental Hygienist Practice Act;
 - (iv) a nurse midwife licensed under Chapter 44a, Nurse Midwife Practice Act;
 - (v) an optometrist licensed under Chapter 16a, Utah Optometry Practice Act;
 - (vi) an osteopathic physician and surgeon licensed under Chapter 68, Utah Osteopathic Medical Practice Act;
 - (vii) a podiatric physician licensed under Chapter 5a, Podiatric Physician Licensing Act;
 - (viii) a physician and surgeon licensed under Chapter 67, Utah Medical Practice Act; and
 - (ix) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act.
- (e) "Insurer" includes:
 - (i) any entity offering accident and health insurance as defined in Section 31A-1-301;
 - (ii) workers' compensation benefits;
 - (iii) a health maintenance organization; or
 - (iv) any self-insurance, as defined in Section 31A-1-301, that offers health care insurance or benefits.
- (2)
 - (a) A health care provider who orders anatomic pathology services for a patient from an independent physician or laboratory may not directly or indirectly mark up, charge a commission, or make a profit on the anatomic pathology service provided by the independent physician or laboratory.
 - (b) Nothing in Subsection (2)(a):
 - (i) restricts the ability of a health care provider, who has not performed or supervised either the technical or professional component of the anatomic pathology service, to obtain payment for services related solely to the collection and packaging of a sample and administrative billing costs; or
 - (ii) restricts the ability of the lab function in the Department of Health and Human Services to bill for services.
- (3) A health care provider when billing a patient directly for anatomic pathology services provided by an independent physician or laboratory shall furnish an itemized bill which conforms with the billing practices of the American Medical Association that conspicuously discloses the charge for each anatomic pathology service, physician or laboratory name, and address for each anatomic pathology service rendered to the patient by the physician or laboratory that performed the anatomic pathology service.
- (4) The disclosure to be made under Subsection (3) shall not be required when the anatomic pathology service is being ordered by a hospital, a laboratory performing either the professional

or technical component of the service, or a physician performing either the professional or technical component of the service, a public health clinic, or a state or federal agency.

- (5) Failure to comply with the requirements of this section shall be considered to be unprofessional conduct.

Amended by Chapter 328, 2023 General Session

58-1-501.6 Health care provider advertisements and disclosure -- Unprofessional conduct.

For purposes of this section:

- (1)
- (a) "Advertisement" includes:
 - (i) billboards;
 - (ii) written documents such as:
 - (A) brochures;
 - (B) pamphlets;
 - (C) direct mail solicitations;
 - (D) radio, television, and telephone solicitation scripts; and
 - (E) telephone directories;
 - (iii) media, including television, radio, and Internet websites; and
 - (iv) any other means of promotion intended to directly or indirectly induce a person to enter into an agreement for services with a health care provider.
 - (b) "Advertisement" does not include materials that provide information about health care provider networks established by health insurance carriers.
- (2) "Health care provider" means a natural person who is:
- (a) defined as a health care provider in Section 78B-3-403; and
 - (b) licensed under this title.
- (3)
- (a) This section does not provide authority for a health care provider to advertise the services offered by the health care provider.
 - (b) If a health care provider's licensing authority and professional ethics permit the health care provider to advertise, the provisions of this section apply to any advertisement for the health care provider's services, on or after July 1, 2011.
- (4) An advertisement for a health care provider's services that includes the health care provider's name shall identify the license type, as used by the division, under which the health care provider is practicing.
- (5)
- (a) A physician licensed under Chapter 67, Utah Medical Practice Act, may comply with the requirements of this section by using any one of the designations in the definitions of "practice of medicine" in Section 58-67-102.
 - (b) A physician licensed under Chapter 68, Utah Osteopathic Medical Practice Act, may comply with this section by using any of the designations in the definition of "practice of osteopathic medicine" in Section 58-68-102.
- (6) It is unprofessional conduct if a health care provider violates this section.

Enacted by Chapter 139, 2011 General Session

58-1-501.7 Standards of conduct for prescription drug education -- Academic and commercial detailing.

- (1) For purposes of this section:
 - (a) "Academic detailing":
 - (i) means a health care provider who is licensed under this title to prescribe or dispense a prescription drug and employed by someone other than a pharmaceutical manufacturer:
 - (A) for the purpose of countering information provided in commercial detailing; and
 - (B) to disseminate educational information about prescription drugs to other health care providers in an effort to better align clinical practice with scientific research; and
 - (ii) does not include a health care provider who:
 - (A) is disseminating educational information about a prescription drug as part of teaching or supervising students or graduate medical education students at an institution of higher education or through a medical residency program;
 - (B) is disseminating educational information about a prescription drug to a patient or a patient's representative; or
 - (C) is acting within the scope of practice for the health care provider regarding the prescribing or dispensing of a prescription drug.
 - (b) "Commercial detailing" means an educational practice employed by a pharmaceutical manufacturer in which clinical information and evidence about a prescription drug is shared with health care professionals.
 - (c) "Manufacture" is as defined in Section 58-37-2.
 - (d) "Pharmaceutical manufacturer" is a person who manufactures a prescription drug.
- (2)
 - (a) Except as provided in Subsection (3), the provisions of this section apply to an academic detailer beginning July 1, 2013.
 - (b) An academic detailer and a commercial detailer who educate another health care provider about prescription drugs through written or oral educational material is subject to federal regulations regarding:
 - (i) false and misleading advertising in 21 C.F.R., Part 201 (2007);
 - (ii) prescription drug advertising in 21 C.F.R., Part 202 (2007); and
 - (iii) the federal Office of the Inspector General's Compliance Program Guidance for Pharmaceutical Manufacturers issued in April 2003, as amended.
 - (c) A person who is injured by a violation of this section has a private right of action against a person engaged in academic detailing, if:
 - (i) the actions of the person engaged in academic detailing, that are a violation of this section, are:
 - (A) the result of gross negligence by the person; or
 - (B) willful and wanton behavior by the person; and
 - (ii) the damages to the person are reasonable, foreseeable, and proximately caused by the violations of this section.
- (3)
 - (a) For purposes of this Subsection, "accident and health insurance":
 - (i) means the same as that term is defined in Section 31A-1-301; and
 - (ii) includes a self-funded health benefit plan and an administrator for a self-funded health benefit plan.
 - (b) This section does not apply to a person who engages in academic detailing if that person is engaged in academic detailing on behalf of:
 - (i) a person who provides accident and health insurance, including when the person who provides accident and health insurance contracts with or offers:

- (A) the state Medicaid program, including the Primary Care Network within the state's Medicaid program;
 - (B) the Children's Health Insurance Program created in Section 26B-3-902;
 - (C) a Medicare plan; or
 - (D) a Medicare supplement plan;
 - (ii) a hospital as defined in Section 26B-2-201;
 - (iii) any class of pharmacy as defined in Section 58-17b-102, including any affiliated pharmacies;
 - (iv) an integrated health system as defined in Section 13-5b-102; or
 - (v) a medical clinic.
- (c) This section does not apply to communicating or disseminating information about a prescription drug for the purpose of conducting research using prescription drugs at a health care facility as defined in Section 26B-2-201, or a medical clinic.

Amended by Chapter 328, 2023 General Session

58-1-501.8 Occupational and professional identification of health care providers -- Unlawful and unprofessional conduct -- Penalties.

- (1) For purposes of this section:
- (a) "Badge" means a tag or badge in plain view:
 - (i) attached to a health care provider's clothing; or
 - (ii) hanging from a lanyard around a health care provider's neck.
 - (b) "Clothing" means a health care provider's outermost article of clothing that is visible to others.
 - (c) "Deceptive or misleading conduct" means any affirmative communication or representation that falsely states, describes, holds out, or details an individual's licensure, training, education, or profession.
 - (d) "Health care provider" means a natural person who is:
 - (i) defined as a health care provider in Section 78B-3-403; and
 - (ii) licensed under this title.
 - (e) "Identification" means a badge or stitching, or permanent writing in plain view on clothing that:
 - (i) includes the health care provider's name;
 - (ii) includes the license type held by the health care provider;
 - (iii) is worn in a manner that is visible and apparent to others; and
 - (iv) contains the information required by Subsections (1)(e)(i) and (ii):
 - (A) in a manner and of sufficient size that can be easily read; and
 - (B) on both sides of the badge, unless the badge or tag is attached to clothing in a way that prevents the badge from rotating.
 - (f) "License type" means a designation of the license type that satisfies the requirements of Section 58-1-501.6.
 - (g) "Patient encounter" means an interaction in a health care facility, health care clinic, or office in which a patient can see a health care provider delivering services directly to a patient.
- (2) Beginning January 1, 2015, except as provided in Subsections (3) and (4), a health care provider shall wear identification during any patient encounter.
- (3) A health care provider's identification may be covered if required under sterilization or isolation protocols.
- (4) A health care provider is not required to wear identification:
- (a) if wearing identification would jeopardize the health care provider's safety; or
 - (b)

- (i) in an office in which:
 - (A) the license type and names of all health care providers working in the office are displayed on the office door; or
 - (B) each health care provider working in the office has the health care provider's license posted prominently in the office and readily visible to a patient; and
- (ii) if the office is an office:
 - (A) of a solo health care provider; or
 - (B) of a single type of health care provider.
- (5) An individual who is a student or is in training to obtain a license as a health care provider shall:
 - (a) wear identification during patient encounters that identifies the person as in training, or a student, for the particular license type; and
 - (b) otherwise comply with the provisions of this section.
- (6) It is unprofessional conduct if a health care provider violates this section.
- (7) It is unlawful conduct if an individual:
 - (a) wears identification in a patient encounter that suggests that the individual is practicing or engaging in an occupation or profession that the individual may not lawfully practice or engage in under this title; or
 - (b) engages in deceptive or misleading conduct.
- (8) An individual who violates this section is subject to Section 58-1-502.

Enacted by Chapter 99, 2014 General Session

58-1-502 Unlawful and unprofessional conduct -- Penalties.

- (1)
 - (a) Unless otherwise specified in this title, a person who violates the unlawful conduct provisions defined in this title is guilty of a class A misdemeanor.
 - (b) Unless a specific fine amount is specified elsewhere in this title, the director or the director's designee may assess an administrative fine of up to \$1,000 for each instance of unprofessional or unlawful conduct defined in this title.
- (2)
 - (a) In addition to any other statutory penalty for a violation related to a specific occupation or profession regulated by this title, if upon inspection or investigation, the division concludes that a person has violated Subsection 58-1-501(1)(a), (1)(c), (1)(g), or (2)(a)(xv), or a rule or order issued with respect to those subsections, and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly:
 - (i) issue a citation to the person according to this section and any pertinent rules;
 - (ii) attempt to negotiate a stipulated settlement; or
 - (iii) notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.
 - (b)
 - (i) The division may assess a fine under this Subsection (2) against a person who violates Subsection 58-1-501(1)(a), (1)(c), (1)(g), or (2)(a)(xv), or a rule or order issued with respect to those subsections, as evidenced by:
 - (A) an uncontested citation;
 - (B) a stipulated settlement; or
 - (C) a finding of a violation in an adjudicative proceeding.

- (ii) The division may, in addition to or in lieu of a fine under Subsection (2)(b)(i), order the person to cease and desist from violating Subsection 58-1-501(1)(a), (1)(c), (1)(g), or (2)(a)(xv), or a rule or order issued with respect to those subsections.
 - (c) Except for a cease and desist order, the division may not assess the licensure sanctions cited in Section 58-1-401 through a citation.
 - (d) A citation shall:
 - (i) be in writing;
 - (ii) describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;
 - (iii) clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and
 - (iv) clearly explain the consequences of failure to timely contest the citation or to make payment of a fine assessed by the citation within the time specified in the citation.
 - (e) The division may issue a notice in lieu of a citation.
 - (f)
 - (i) If within 20 calendar days from the service of the citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.
 - (ii) The period to contest a citation may be extended by the division for cause.
 - (g) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.
 - (h) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.
 - (i) Subject to the time limitations described in Subsection 58-1-401(6), the division may not issue a citation under this section after the expiration of one year following the date on which the violation that is the subject of the citation is reported to the division.
 - (j) The director or the director's designee shall assess fines according to the following:
 - (i) for the first offense handled pursuant to Subsection (2)(a), a fine of up to \$1,000;
 - (ii) for a second offense handled pursuant to Subsection (2)(a), a fine of up to \$2,000; and
 - (iii) for each subsequent offense handled pursuant to Subsection (2)(a), a fine of up to \$2,000 for each day of continued offense.
- (3)
- (a) An action for a first or second offense that has not yet resulted in a final order of the division may not preclude initiation of a subsequent action for a second or subsequent offense during the pendency of a preceding action.
 - (b) The final order on a subsequent action is considered a second or subsequent offense, respectively, provided the preceding action resulted in a first or second offense, respectively.
- (4)
- (a) The director may collect a penalty that is not paid by:
 - (i) referring the matter to a collection agency; or
 - (ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.
 - (b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.
 - (c) A court may award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Amended by Chapter 339, 2020 General Session

58-1-503 Maximum civil penalty for violation of court order.

- (1) If any written order issued under this title or if an injunction or temporary restraining order issued by a court of competent jurisdiction relating to this title is violated, the court may impose a civil penalty of not more than \$2,000 for each day the written order, injunction, or temporary restraining order is violated, if the person in violation has received notice of the written order, injunction, or temporary restraining order.
- (2) All penalties ordered under this section shall be deposited into the General Fund.

Renumbered and Amended by Chapter 297, 1993 General Session

58-1-504 Court-ordered discipline.

The division shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this title if so ordered by a court.

Enacted by Chapter 232, 1997 General Session

58-1-505 Cosmetic medical procedure supervisor.

- (1) For purposes of this section and Section 58-1-506:
 - (a) "Cosmetic medical facility" means a physician's office or a facility that has a supervisor who performs the supervision required in Section 58-1-506.
 - (b) "Supervisor" means:
 - (i) a physician with an unrestricted license under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act, who is acting within the scope of the practice of medicine, as defined in Section 58-67-102; and
 - (ii) an advanced practice registered nurse with an unrestricted license under Chapter 31b, Nurse Practice Act, who is acting within the scope of practice of advanced practice registered nursing, as defined in Section 58-31b-102.
- (2)
 - (a) An individual authorized by this title to perform a cosmetic medical procedure shall be supervised by a supervisor when performing a medical procedure.
 - (b) Cosmetic medical procedures may only be performed in a cosmetic medical facility.
 - (c) A supervisor may delegate the supervisory role only to another individual who is qualified as a supervisor.

Enacted by Chapter 362, 2012 General Session

58-1-506 Supervision of cosmetic medical procedures.

- (1) For purposes of this section:
 - (a) "Delegation group A" means the following who are licensed under this title, acting within their respective scopes of practice, and qualified under Subsections (2)(f)(i) and (iii):
 - (i) a physician assistant, if acting in accordance with Chapter 70a, Utah Physician Assistant Act;
 - (ii) a registered nurse;
 - (iii) a master esthetician; and
 - (iv) an electrologist, if evaluating for or performing laser hair removal.
 - (b) "Delegation group B" means:

- (i) a practical nurse or an esthetician who is licensed under this title, acting within their respective scopes of practice, and qualified under Subsections (2)(f)(i) and (iii); and
 - (ii) a medical assistant who is qualified under Subsections (2)(f)(i) and (iii).
- (c) "Direct cosmetic medical procedure supervision" means the supervisor:
- (i) has authorized the procedure to be done on the patient by the supervisee; and
 - (ii) is present and available for a face-to-face communication with the supervisee when and where a cosmetic medical procedure is performed.
- (d) "General cosmetic medical procedure supervision" means the supervisor:
- (i) has authorized the procedure to be done on the patient by the supervisee;
 - (ii) is available in a timely and appropriate manner in person to evaluate and initiate care for a patient with a suspected adverse reaction or complication; and
 - (iii) is located within 60 minutes or 60 miles of the cosmetic medical facility.
- (e) "Hair removal review" means:
- (i) conducting an in-person, face-to-face interview of a patient based on the responses provided by the patient to a detailed medical history assessment that was prepared by the supervisor;
 - (ii) evaluating for contraindications and conditions that are part of the treatment plan; and
 - (iii) if the patient history or patient presentation deviates in any way from the treatment plan, referring the patient to the supervisor and receiving clearance from the supervisor before starting the treatment.
- (f) "Indirect cosmetic medical procedure supervision" means the supervisor:
- (i) has authorized the procedure to be done on the patient by the supervisee;
 - (ii) has given written instructions to the person being supervised;
 - (iii) is present within the cosmetic medical facility in which the person being supervised is providing services; and
 - (iv) is available to:
 - (A) provide immediate face-to-face communication with the person being supervised; and
 - (B) evaluate the patient, as necessary.
- (2) A supervisor supervising a nonablative cosmetic medical procedure for hair removal shall:
- (a) have an unrestricted license to practice medicine or advanced practice registered nursing in the state;
 - (b) develop the medical treatment plan for the procedure;
 - (c) conduct a hair removal review, or delegate the hair removal review to a member of delegation group A, of the patient prior to initiating treatment or a series of treatments;
 - (d) personally perform the nonablative cosmetic medical procedure for hair removal, or authorize and delegate the procedure to a member of delegation group A or B;
 - (e) during the nonablative cosmetic medical procedure for hair removal provide general cosmetic medical procedure supervision to individuals in delegation group A performing the procedure, except physician assistants, who shall act in accordance with Chapter 70a, Utah Physician Assistant Act, and indirect cosmetic medical procedure supervision to individuals in delegation group B performing the procedure; and
 - (f) verify that a person to whom the supervisor delegates an evaluation under Subsection (2)(c) or delegates a procedure under Subsection (2)(d) or (3)(c)(ii):
 - (i) has received appropriate training regarding the medical procedures developed under Subsection (2)(b);
 - (ii) has an unrestricted license under this title or is performing under the license of the supervising physician and surgeon; and

- (iii) has maintained competence to perform the nonablative cosmetic medical procedure through documented education and experience of at least 80 hours, as further defined by rule, regarding:
 - (A) the appropriate standard of care for performing nonablative cosmetic medical procedures;
 - (B) physiology of the skin;
 - (C) skin typing and analysis;
 - (D) skin conditions, disorders, and diseases;
 - (E) pre- and post-procedure care;
 - (F) infection control;
 - (G) laser and light physics training;
 - (H) laser technologies and applications;
 - (I) safety and maintenance of lasers;
 - (J) cosmetic medical procedures an individual is permitted to perform under this title;
 - (K) recognition and appropriate management of complications from a procedure; and
 - (L) cardiopulmonary resuscitation (CPR).
- (3) For a nonablative cosmetic medical procedure other than hair removal under Subsection (2):
 - (a) a physician who has an unrestricted license to practice medicine, a nurse practitioner who has an unrestricted license for advanced practice registered nursing, or a physician assistant acting in accordance with Chapter 70a, Utah Physician Assistant Act, who has an unrestricted license to practice as a physician assistant, shall:
 - (i) develop a treatment plan for the nonablative cosmetic medical procedure; and
 - (ii) conduct an in-person face-to-face evaluation of the patient prior to the initiation of a treatment protocol or series of treatments; and
 - (b) a nurse practitioner or physician assistant conducting an in-person face-to-face evaluation of a patient under Subsection (3)(a)(ii) prior to removing a tattoo shall:
 - (i) inspect the patient's skin for any discoloration unrelated to the tattoo and any other indication of cancer or other condition that should be treated or further evaluated before the tattoo is removed;
 - (ii) refer a patient with any such condition to a physician for treatment or further evaluation; and
 - (iii) shall not supervise a nonablative cosmetic medical procedure to remove a tattoo on the patient until the patient has been approved for the tattoo removal by a physician who has evaluated the patient; and
 - (c) the supervisor supervising the procedure shall:
 - (i) have an unrestricted license to practice medicine or advanced practice registered nursing;
 - (ii) personally perform the nonablative cosmetic medical procedure or:
 - (A) authorize and provide general cosmetic medical procedure supervision for the nonablative cosmetic medical procedure that is performed by a registered nurse or a master esthetician;
 - (B) authorize and provide supervision as provided in Chapter 70a, Utah Physician Assistant Act, for the nonablative cosmetic medical procedure that is performed by a physician assistant; or
 - (C) authorize and provide direct cosmetic medical procedure supervision for the nonablative cosmetic medical procedure that is performed by an esthetician; and
 - (iii) verify that a person to whom the supervisor delegates a procedure under Subsection (3)(c):
 - (A) has received appropriate training regarding the medical procedures to be performed;
 - (B) has an unrestricted license and is acting within the person's scope of practice under this title; and
 - (C) is qualified under Subsection (2)(f)(iii).

- (4) A supervisor performing or supervising a cosmetic medical procedure under Subsection (2) or (3) shall ensure that:
 - (a) the supervisor's name is prominently posted at the cosmetic medical facility identifying the supervisor;
 - (b) a copy of the supervisor's license is displayed on the wall of the cosmetic medical facility;
 - (c) the patient receives written information with the name and licensing information of the supervisor who is supervising the nonablative cosmetic medical procedure and the person who is performing the nonablative cosmetic medical procedure;
 - (d) the patient is provided with a telephone number that is answered within 24 hours for follow-up communication; and
 - (e) the cosmetic medical facility's contract with a master esthetician who performs a nonablative cosmetic medical procedure at the facility is kept on the premises of the facility.
- (5) Failure to comply with the provisions of this section is unprofessional conduct.
- (6) A chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act, is not subject to the supervision requirements in this section for a nonablative cosmetic medical procedure for hair removal if the chiropractic physician is acting within the scope of practice of a chiropractic physician and with training specific to nonablative hair removal.

Amended by Chapter 223, 2023 General Session

58-1-507 Cosmetic medical procedure -- Truth in advertising.

Beginning July 1, 2013, a facility that performs a cosmetic medical procedure as defined in Section 58-67-102 may not advertise or hold itself out to the public as a "medical spa," "medical facility," or "medical clinic" unless the facility has an individual on the premises while a cosmetic medical procedure is performed who is licensed under:

- (1) Chapter 31b, Nurse Practice Act, as an advanced practice registered nurse, practicing as a nurse practitioner;
- (2) Chapter 67, Utah Medical Practice Act; or
- (3) Chapter 68, Utah Osteopathic Medical Practice Act.

Enacted by Chapter 362, 2012 General Session

58-1-508 Failure to follow certain health care claims practices -- Penalties.

- (1) As used in this section, "health care provider" means an individual who is licensed to provide health care services under this title.
- (2) The division may assess a fine of up to \$500 per violation against a health care provider that violates Section 31A-26-313.
- (3) The division shall waive the fine described in Subsection (2) if:
 - (a) the health care provider demonstrates to the division that the health care provider mitigated and reversed any damage to the insured caused by the health care provider or third party's violation; or
 - (b) the insured does not pay the full amount due on the bill that is the subject of the violation, including any interest, fees, costs, and expenses, within 120 days after the day on which the health care provider or third party makes a report to a credit bureau or takes an action in violation of Section 31A-26-313.

Amended by Chapter 353, 2021 General Session

Superseded 7/1/2024

58-1-509 Patient consent for certain medical examinations.

- (1) As used in this section:
 - (a) "Health care provider" means:
 - (i) an individual who is:
 - (A) a healthcare provider as defined in Section 78B-3-403; and
 - (B) licensed under this title;
 - (ii) emergency medical service personnel as defined in Section 26B-4-101; or
 - (iii) an individual described in Subsection 58-1-307(1)(b) or (c).
 - (b) "Patient examination" means a medical examination that requires contact with the patient's sexual organs.
- (2) A health care provider may not perform a patient examination on an anesthetized or unconscious patient unless:
 - (a) the health care provider obtains consent from the patient or the patient's representative in accordance with Subsection (3);
 - (b) a court orders performance of the patient examination for the collection of evidence;
 - (c) the performance of the patient examination is within the scope of care for a procedure or diagnostic examination scheduled to be performed on the patient; or
 - (d) the patient examination is immediately necessary for diagnosis or treatment of the patient.
- (3) To obtain consent to perform a patient examination on an anesthetized or unconscious patient, before performing the patient examination, the health care provider shall:
 - (a) provide the patient or the patient's representative with a written or electronic document that:
 - (i) is provided separately from any other notice or agreement;
 - (ii) contains the following heading at the top of the document in not smaller than 18-point bold face type: "CONSENT FOR EXAMINATION OF PELVIC REGION";
 - (iii) specifies the nature and purpose of the patient examination;
 - (iv) names one or more primary health care providers whom the patient or the patient's representative may authorize to perform the patient examination;
 - (v) states whether there may be a student or resident that the patient or the patient's representative authorizes to:
 - (A) perform an additional patient examination; or
 - (B) observe or otherwise be present at the patient examination, either in person or through electronic means; and
 - (vi) provides the patient or the patient's representative with a series of check boxes that allow the patient or the patient's representative to:
 - (A) consent to the patient examination for diagnosis or treatment and an additional patient examination performed by a student or resident for an educational or training purpose;
 - (B) consent to the patient examination only for diagnosis or treatment; or
 - (C) refuse to consent to the patient examination;
 - (b) obtain the signature of the patient or the patient's representative on the written or electronic document while witnessed by a third party; and
 - (c) sign the written or electronic document.

Amended by Chapter 328, 2023 General Session

Effective 7/1/2024

58-1-509 Patient consent for certain medical examinations.

- (1) As used in this section:

- (a) "Health care provider" means:
 - (i) an individual who is:
 - (A) a healthcare provider as defined in Section 78B-3-403; and
 - (B) licensed under this title;
 - (ii) emergency medical service personnel as defined in Section 53-2d-101; or
 - (iii) an individual described in Subsection 58-1-307(1)(b) or (c).
 - (b) "Patient examination" means a medical examination that requires contact with the patient's sexual organs.
- (2) A health care provider may not perform a patient examination on an anesthetized or unconscious patient unless:
- (a) the health care provider obtains consent from the patient or the patient's representative in accordance with Subsection (3);
 - (b) a court orders performance of the patient examination for the collection of evidence;
 - (c) the performance of the patient examination is within the scope of care for a procedure or diagnostic examination scheduled to be performed on the patient; or
 - (d) the patient examination is immediately necessary for diagnosis or treatment of the patient.
- (3) To obtain consent to perform a patient examination on an anesthetized or unconscious patient, before performing the patient examination, the health care provider shall:
- (a) provide the patient or the patient's representative with a written or electronic document that:
 - (i) is provided separately from any other notice or agreement;
 - (ii) contains the following heading at the top of the document in not smaller than 18-point bold face type: "CONSENT FOR EXAMINATION OF PELVIC REGION";
 - (iii) specifies the nature and purpose of the patient examination;
 - (iv) names one or more primary health care providers whom the patient or the patient's representative may authorize to perform the patient examination;
 - (v) states whether there may be a student or resident that the patient or the patient's representative authorizes to:
 - (A) perform an additional patient examination; or
 - (B) observe or otherwise be present at the patient examination, either in person or through electronic means; and
 - (vi) provides the patient or the patient's representative with a series of check boxes that allow the patient or the patient's representative to:
 - (A) consent to the patient examination for diagnosis or treatment and an additional patient examination performed by a student or resident for an educational or training purpose;
 - (B) consent to the patient examination only for diagnosis or treatment; or
 - (C) refuse to consent to the patient examination;
 - (b) obtain the signature of the patient or the patient's representative on the written or electronic document while witnessed by a third party; and
 - (c) sign the written or electronic document.

Amended by Chapter 310, 2023 General Session

Amended by Chapter 328, 2023 General Session

58-1-510 Anesthesia and sedation requirements -- Unprofessional conduct -- Whistleblower protection.

- (1) As used in this section:
 - (a) "Anesthesia or sedation provider" means an individual who is licensed:
 - (i) under Chapter 5a, Podiatric Physician Licensing Act;

- (ii) under Subsection 58-31b-301(2)(e);
 - (iii) under Chapter 67, Utah Medical Practice Act;
 - (iv) under Chapter 68, Utah Osteopathic Medical Practice Act; or
 - (v) as a dentist under Chapter 69, Dentist and Dental Hygienist Practice Act, and who has obtained the appropriate permit established by the division under Subsection 58-69-301(4).
- (b) "Deep sedation" means a drug-induced depression of consciousness where an individual:
- (i) cannot be easily aroused;
 - (ii) responds purposefully following repeated or painful stimulation;
 - (iii) may not be able to independently maintain ventilatory function;
 - (iv) may require assistance in maintaining a patent airway; and
 - (v) usually maintains cardiovascular function.
- (c) "General anesthesia" means a drug-induced loss of consciousness where an individual:
- (i) cannot be aroused, even by painful stimulation;
 - (ii) is often unable to maintain ventilatory function;
 - (iii) often requires assistance in maintaining a patent airway and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function; and
 - (iv) may not be able to maintain cardiovascular function.
- (d) "General anesthetic" means a drug identified as a general anesthetic by the federal Food and Drug Administration.
- (e) "Minimal sedation" means a drug-induced state where an individual:
- (i) responds normally to verbal commands;
 - (ii) may have reduced cognitive function and physical coordination; and
 - (iii) maintains airway reflexes, ventilatory function, and cardiovascular function.
- (f) "Moderate sedation" means a drug-induced depression of consciousness where an individual:
- (i) responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation;
 - (ii) maintains a patent airway;
 - (iii) maintains spontaneous ventilation; and
 - (iv) usually maintains cardiovascular function.
- (2) An anesthesia or sedation provider may not cause a patient to undergo moderate sedation, deep sedation, or general anesthesia, in an outpatient setting that is not an emergency department without:
- (a) first providing the following information in writing and verbally:
 - (i) the level of anesthesia or sedation being administered;
 - (ii) the identity, type of license, and training of the provider who is performing the procedure for which the anesthesia or sedation will be administered;
 - (iii) the identity, type of license, and a description of the training described in Subsection (4) of the anesthesia or sedation provider who will be administering the anesthesia or sedation; and
 - (iv) a description of the monitoring that will occur during the sedation or anesthesia, including descriptions related to the monitoring of the patient's oxygenation, ventilation, and circulation;
 - (b) after complying with Subsection (2)(a), obtaining the patient's written and verbal consent regarding the procedure;
 - (c) having the training described in Subsection (4);
 - (d) directly supervising the patient;
 - (e) if the patient is a minor, having a current pediatric advanced life support certification;

- (f) if the patient is an adult, having a current advanced cardiovascular life support certification;
 - (g)
 - (i) having at least one individual in the procedure room who has advanced airway training and the knowledge and skills to recognize and treat airway complications and rescue a patient who entered a deeper than intended level of sedation; or
 - (ii) if the anesthesia or sedation provider is administering ketamine for a non-anesthetic purpose, having at least one individual on site and available who has advanced airway training and the knowledge and skills to recognize and treat airway complications and rescue a patient who entered a deeper than intended level of sedation;
 - (h) having access during the procedure to an advanced cardiac life support crash cart in the office with equipment that:
 - (i) is regularly maintained according to guidelines established by the American Heart Association; and
 - (ii) includes:
 - (A) a defibrillator;
 - (B) administrable oxygen;
 - (C) age appropriate airway equipment;
 - (D) positive pressure ventilation equipment; and
 - (E) unexpired emergency and reversal medications including naloxone for opioid sedation and flumazenil for benzodiazepine sedation;
 - (i) using monitors that meet basic standards set by the American Society of Anesthesiologists and continually monitoring ventilatory function with capnography unless precluded or invalidated by the nature of the patient, procedure, or equipment; and
 - (j) entering appropriate information into the patient's chart or medical record, which shall include:
 - (i) the patient's name;
 - (ii) the route and site the anesthesia or sedation was administered;
 - (iii) the time of anesthesia or sedation administration and the dosage;
 - (iv) the patient's periodic vital signs during the procedure; and
 - (v) the name of the individual who monitored the patient's oxygenation and ventilation.
- (3)
- (a) An anesthesia or sedation provider who violates Subsection (2) or any rule created by the division to implement this section commits unprofessional conduct.
 - (b) An individual commits unprofessional conduct if the individual administers anesthesia or sedation for which the individual is not appropriately trained.
- (4)
- (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules to create training and safety standards regarding the inducing of general anesthesia, deep sedation, and moderate sedation:
 - (i) for each license described in Subsection (1)(a);
 - (ii) that are based on standards created by nationally recognized organizations, such as the American Society of Anesthesiologists, the American Dental Association, or the American Association of Oral and Maxillofacial Surgeons; and
 - (iii) that include safety standards for general anesthetic use that are consistent with federal Food and Drug Administration guidance.
 - (b) For making rules described in Subsection (4)(a), the division shall consult with the applicable licensing boards and a board described in Sections 58-67-201, 58-68-201, and 58-69-201.
- (5) The requirements of Subsection (2) do not apply to the practice of inducing minimal sedation.
- (6) An employer may not take an adverse employment action against an employee if:

- (a) the employee notifies the division of:
 - (i) a violation of this section; or
 - (ii) a violation of any rule created by the division to implement this section; and
- (b) the employment action is based on the individual notifying the division of the violation.

Amended by Chapter 324, 2023 General Session

58-1-511 Prohibition on providing conversion therapy to a minor.

(1) As used in this section:

- (a) "Conversion therapy" means a practice or treatment by which a health care professional intends to change a minor client's sexual orientation or gender identity, or to impose a different sexual orientation or gender identity upon a minor client, including a practice or treatment that:
 - (i) subjects a minor client to physical discomfort through aversive treatment that causes nausea, vomiting, or other unpleasant physical sensation;
 - (ii) provides electric shock or other electrical therapy, including electroconvulsive therapy or transcranial magnetic stimulation;
 - (iii) subjects a minor client to touching themselves or another individual as part of the therapy; or
 - (iv) causes the minor client to engage in physical self-harm or physical self-inflicted pain.
 - (b) "Health care professional" means an individual who is licensed, or an individual who provides mental health therapy as part of the individual's training for a profession that is licensed, under:
 - (i) Chapter 31b, Nurse Practice Act;
 - (ii) Chapter 60, Mental Health Professional Practice Act;
 - (iii) Chapter 61, Psychologist Licensing Act;
 - (iv) Chapter 67, Utah Medical Practice Act;
 - (v) Chapter 68, Utah Osteopathic Medical Practice Act; or
 - (vi) Chapter 70a, Utah Physician Assistant Act.
 - (c) "Minor client" means an individual who is younger than 18 years old and who consults, is examined or interviewed by, or receives services, care, or treatment from a health care professional who is acting in their professional capacity.
 - (d) "Religious advisor" means an individual who is designated by a religious organization or association as clergy, minister, pastor, priest, rabbi, imam, bishop, stake president, or other spiritual advisor.
 - (e)
 - (i) "Sexual orientation" means the same as that term is defined in Section 34A-5-102.
 - (ii) "Sexual orientation" does not include an action that would constitute sexual abuse or sexual exploitation as those terms are defined in Section 80-1-102.
- (2) A health care professional who is acting in their professional capacity may not provide conversion therapy to a minor client.
- (3) A health care professional who is not intending to change a minor client's sexual orientation or gender identity, or to impose a different sexual orientation or gender identity upon a minor client, may engage in any professional and lawful conduct, including a practice or treatment by which the health care professional:
- (a) is neutral with respect to sexual orientation and gender identity;
 - (b) provides a minor client with acceptance, support, and understanding;
 - (c) provides treatment to a minor client who is considering a gender transition in any direction, including exploration of the timing thereof;

- (d) facilitates a minor client's social support, ability to cope, or the exploration and development of the minor client's identity, including sexual orientation or gender identity;
 - (e) addresses unlawful, unsafe, premarital, or extramarital sexual activities in a manner that is neutral with respect to sexual orientation and gender identity;
 - (f) discusses moral, philosophical, or religious beliefs or practices;
 - (g) addresses body-image issues, social pressure, or sex or gender stereotypes;
 - (h) addresses co-occurring mental health, neurological, developmental, trauma, or family issues;
 - (i) helps a minor client to understand and assess the stages and timing of identity development;
 - (j) consistent with other applicable laws, rules, orders, and ethical standards, discusses with a minor client's parent or guardian the mental health or development of a minor client; or
 - (k) assists the minor client to understand the medical, social, or other implications of decisions related to sexual orientation or gender identity.
- (4) Subsection (2) does not apply to:
- (a) an individual who is both a health care professional and a religious advisor, when the individual is acting substantially in the capacity of a religious advisor and not in the capacity of a health care professional; or
 - (b) an individual who is both a health care professional and a parent or grandparent, when the individual is acting substantially in the capacity of a parent or grandparent and not in the capacity of a health care professional.
- (5) A violation of this section is unprofessional conduct.
- (6) A rule adopted under this title that defines "unprofessional conduct" shall be consistent with this section.
- (7) If any provision of this section or the application of any provision to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the invalidity does not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

Enacted by Chapter 463, 2023 General Session