

***Effective 5/4/2022***

***Superseded 5/3/2023***

**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) 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;
  - (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.