

HEALTH CARE MALPRACTICE ACT

AMENDMENTS

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Kevin S. Garn

This act modifies the Utah Health Care Malpractice Act. The act amends the definition of health care provider and health care facility to clarify the health care facilities included in the act. The act makes technical amendments

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

78-14-3, as last amended by Chapter 288, Laws of Utah 1998

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

Section 1. Section **78-14-3** is amended to read:

78-14-3. Definitions.

As used in this chapter:

(1) "Audiologist" means a person licensed to practice audiology under Title 58, Chapter 41, Speech-language Pathology and Audiology Licensing Act.

(2) "Certified social worker" means a person licensed to practice as a certified social worker under Section 58-60-305.

(3) "Chiropractic physician" means a person licensed to practice chiropractic under Title 58, Chapter 73, Chiropractic Physician Practice Act.

(4) "Clinical social worker" means a person licensed to practice as a clinical social worker under Section 58-60-305.

(5) "Commissioner" means the commissioner of insurance as provided in Section 31A-2-102.

(6) "Dental hygienist" means a person licensed to practice dental hygiene as defined in Section 58-69-102.

(7) "Dentist" means a person licensed to practice dentistry as defined in Section 58-69-102.

(8) "Division" means the Division of Occupational and Professional Licensing created in

Section 58-1-103.

(9) "Future damages" includes damages for future medical treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and suffering of the judgment creditor.

(10) "Health care" means any act or treatment performed or furnished, or which should have been performed or furnished, by any health care provider for, to, or on behalf of a patient during the patient's medical care, treatment, or confinement.

(11) "Health care facility" means general acute hospitals, specialty hospitals, home health agencies, hospices, nursing care facilities, assisted living facilities, birthing centers, ambulatory surgical facilities, small health care facilities, health care facilities owned or operated by health maintenance organizations, and end stage renal disease facilities.

~~[(11)]~~ (12) "Health care provider" includes any person, partnership, association, corporation, or other facility or institution who causes to be rendered or who renders health care or professional services as a hospital, health care facility, physician, registered nurse, licensed practical nurse, nurse-midwife, dentist, dental hygienist, optometrist, clinical laboratory technologist, pharmacist, physical therapist, podiatric physician, psychologist, chiropractic physician, naturopathic physician, osteopathic physician, osteopathic physician and surgeon, audiologist, speech-language pathologist, clinical social worker, certified social worker, social service worker, marriage and family counselor, practitioner of obstetrics, or others rendering similar care and services relating to or arising out of the health needs of persons or groups of persons and officers, employees, or agents of any of the above acting in the course and scope of their employment.

~~[(12)]~~ (13) "Hospital" means a public or private institution licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

~~[(13)]~~ (14) "Licensed practical nurse" means a person licensed to practice as a licensed practical nurse as provided in Section 58-31b-301.

~~[(14)]~~ (15) "Malpractice action against a health care provider" means any action against a health care provider, whether in contract, tort, breach of warranty, wrongful death, or otherwise, based upon alleged personal injuries relating to or arising out of health care rendered or which should have been rendered by the health care provider.

~~[(15)]~~ (16) "Marriage and family therapist" means a person licensed to practice as a marriage therapist or family therapist under Section 58-60-405 and Section 58-60-305.

~~[(16)]~~ (17) "Naturopathic physician" means a person licensed to practice naturopathy as defined in Section 58-71-102.

~~[(17)]~~ (18) "Nurse-midwife" means a person licensed to engage in practice as a nurse midwife under Section 58-44a-301.

~~[(18)]~~ (19) "Optometrist" means a person licensed to practice optometry under Title 58, Chapter 16a, Utah Optometry Practice Act.

~~[(19)]~~ (20) "Osteopathic physician" means a person licensed to practice osteopathy under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

~~[(20)]~~ (21) "Patient" means a person who is under the care of a health care provider, under a contract, express or implied.

~~[(21)]~~ (22) "Pharmacist" means a person licensed to practice pharmacy as provided in Section 58-17a-301.

~~[(22)]~~ (23) "Physical therapist" means a person licensed to practice physical therapy under Title 58, Chapter 24a, Physical Therapist Practice Act.

~~[(23)]~~ (24) "Physician" means a person licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act.

~~[(24)]~~ (25) "Podiatric physician" means a person licensed to practice podiatry under Title 58, Chapter 5a, Podiatric Physician Licensing Act.

~~[(25)]~~ (26) "Practitioner of obstetrics" means a person licensed to practice as a physician in this state under Title 58, Chapter 67, Utah Medical Practice Act, or under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

~~[(26)]~~ (27) "Psychologist" means a person licensed under Title 58, Chapter 61, Psychologist Licensing Act, to practice psychology as defined in Section 58-61-102.

~~[(27)]~~ (28) "Registered nurse" means a person licensed to practice professional nursing as provided in Section 58-31b-301.

~~[(28)]~~ (29) "Representative" means the spouse, parent, guardian, trustee, attorney-in-fact,

or other legal agent of the patient.

~~[(29)]~~ (30) "Social service worker" means a person licensed to practice as a social service worker under Section ~~[58-60-305]~~ 58-60-205.

~~[(30)]~~ (31) "Speech-language pathologist" means a person licensed to practice speech-language pathology under Title 58, Chapter 41, Speech-language Pathology and Audiology Licensing Act.

~~[(31)]~~ (32) "Tort" means any legal wrong, breach of duty, or negligent or unlawful act or omission proximately causing injury or damage to another.