

1                                   **HEALTH CARE MALPRACTICE ACT**

2   **AMENDMENTS**

3   2002 GENERAL SESSION

4   STATE OF UTAH

5   **Sponsor: Kevin S. Garn**

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

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

10  AMENDS:

11           **78-14-3**, as last amended by Chapter 288, Laws of Utah 1998

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

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

14           **78-14-3. Definitions.**

15           As used in this chapter:

16           (1) "Audiologist" means a person licensed to practice audiology under Title 58, Chapter  
17  41, Speech-language Pathology and Audiology Licensing Act.

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

20           (3) "Chiropractic physician" means a person licensed to practice chiropractic under Title  
21  58, Chapter 73, Chiropractic Physician Practice Act.

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

24           (5) "Commissioner" means the commissioner of insurance as provided in Section  
25  31A-2-102.

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



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

29 (8) "Division" means the Division of Occupational and Professional Licensing created in  
30 Section 58-1-103.

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

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

36 (11) (a) "Health care facility" means general acute hospitals, specialty hospitals, home  
37 health agencies, hospices, nursing care facilities, residential-assisted living facilities, birthing  
38 centers, ambulatory surgical facilities, small health care facilities, facilities owned or operated by  
39 health maintenance organizations, end stage renal disease facilities, and any other health care  
40 facility which the committee designates by rule.

41 (b) "Health care facility" does not include the offices of private physicians or dentists,  
42 whether for individual or group practice.

43 [~~(11)~~] (12) "Health care provider" includes any person, partnership, association,  
44 corporation, or other facility or institution who causes to be rendered or who renders health care  
45 or professional services as a hospital, health care facility, physician, registered nurse, licensed  
46 practical nurse, nurse-midwife, dentist, dental hygienist, optometrist, clinical laboratory  
47 technologist, pharmacist, physical therapist, podiatric physician, psychologist, chiropractic  
48 physician, naturopathic physician, osteopathic physician, osteopathic physician and surgeon,  
49 audiologist, speech-language pathologist, clinical social worker, certified social worker, social  
50 service worker, marriage and family counselor, practitioner of obstetrics, or others rendering  
51 similar care and services relating to or arising out of the health needs of persons or groups of  
52 persons and officers, employees, or agents of any of the above acting in the course and scope of  
53 their employment.

54 [~~(12)~~] (13) "Hospital" means a public or private institution licensed under Title 26, Chapter  
55 21, Health Care Facility Licensing and Inspection Act.

56 [~~(13)~~] (14) "Licensed practical nurse" means a person licensed to practice as a licensed  
57 practical nurse as provided in Section 58-31b-301.

58 [~~(14)~~] (15) "Malpractice action against a health care provider" means any action against

59 a health care provider, whether in contract, tort, breach of warranty, wrongful death, or otherwise,  
60 based upon alleged personal injuries relating to or arising out of health care rendered or which  
61 should have been rendered by the health care provider.

62 [~~(15)~~] (16) "Marriage and family therapist" means a person licensed to practice as a  
63 marriage therapist or family therapist under Section 58-60-405 and Section 58-60-305.

64 [~~(16)~~] (17) "Naturopathic physician" means a person licensed to practice naturopathy as  
65 defined in Section 58-71-102.

66 [~~(17)~~] (18) "Nurse-midwife" means a person licensed to engage in practice as a nurse  
67 midwife under Section 58-44a-301.

68 [~~(18)~~] (19) "Optometrist" means a person licensed to practice optometry under Title 58,  
69 Chapter 16a, Utah Optometry Practice Act.

70 [~~(19)~~] (20) "Osteopathic physician" means a person licensed to practice osteopathy under  
71 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

72 [~~(20)~~] (21) "Patient" means a person who is under the care of a health care provider, under  
73 a contract, express or implied.

74 [~~(21)~~] (22) "Pharmacist" means a person licensed to practice pharmacy as provided in  
75 Section 58-17a-301.

76 [~~(22)~~] (23) "Physical therapist" means a person licensed to practice physical therapy under  
77 Title 58, Chapter 24a, Physical Therapist Practice Act.

78 [~~(23)~~] (24) "Physician" means a person licensed to practice medicine and surgery under  
79 Title 58, Chapter 67, Utah Medical Practice Act.

80 [~~(24)~~] (25) "Podiatric physician" means a person licensed to practice podiatry under Title  
81 58, Chapter 5a, Podiatric Physician Licensing Act.

82 [~~(25)~~] (26) "Practitioner of obstetrics" means a person licensed to practice as a physician  
83 in this state under Title 58, Chapter 67, Utah Medical Practice Act, or under Title 58, Chapter 68,  
84 Utah Osteopathic Medical Practice Act.

85 [~~(26)~~] (27) "Psychologist" means a person licensed under Title 58, Chapter 61,  
86 Psychologist Licensing Act, to practice psychology as defined in Section 58-61-102.

87 [~~(27)~~] (28) "Registered nurse" means a person licensed to practice professional nursing as  
88 provided in Section 58-31b-301.

89 [~~(28)~~] (29) "Representative" means the spouse, parent, guardian, trustee, attorney-in-fact,

90 or other legal agent of the patient.

91 ~~[(29)]~~ (30) "Social service worker" means a person licensed to practice as a social service  
92 worker under Section ~~[58-60-305]~~ 58-60-205.

93 ~~[(30)]~~ (31) "Speech-language pathologist" means a person licensed to practice  
94 speech-language pathology under Title 58, Chapter 41, Speech-language Pathology and Audiology  
95 Licensing Act.

96 ~~[(31)]~~ (32) "Tort" means any legal wrong, breach of duty, or negligent or unlawful act or  
97 omission proximately causing injury or damage to another.

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**Legislative Review Note**  
**as of 12-19-01 9:06 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**