

**UTAH MEDICAL PRACTICE ACT AMENDMENTS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: J. Stuart Adams**

House Sponsor: \_\_\_\_\_

**LONG TITLE**

**General Description:**

This bill amends the Utah Medical Practice Act and the Utah Osteopathic Medical Practice Act by clarifying policies and procedures.

**Highlighted Provisions:**

This bill:

- ▶ amends definitions;
- ▶ prohibits an individual from using the title "doctor," "M.D." or ~~“D.O.”~~ **“D.O.”** in a misleading manner;
- ▶ clarifies licensing requirements;
- ▶ clarifies disciplinary procedures; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

- 58-1-501**, as last amended by Laws of Utah 2010, Chapter 180
- 58-37-6**, as last amended by Laws of Utah 2010, Chapter 287
- 58-67-102**, as last amended by Laws of Utah 2010, Chapter 101



59 (c) knowingly employing any other person to practice or engage in or attempt to  
 60 practice or engage in any occupation or profession licensed under this title if the employee is  
 61 not licensed to do so under this title;

62 (d) knowingly permitting the person's authority to practice or engage in any occupation  
 63 or profession licensed under this title to be used by another, except as permitted by law;

64 (e) obtaining a passing score on a licensure examination, applying for or obtaining a  
 65 license, or otherwise dealing with the division or a licensing board through the use of fraud,  
 66 forgery, or intentional deception, misrepresentation, misstatement, or omission; ~~§~~ → [for] or ← ~~§~~

67 (f) (i) issuing, or aiding and abetting in the issuance of, an order or prescription for a  
 68 drug or device to a person located in this state:

69 (A) without prescriptive authority conferred by a license issued under this title, or by  
 70 an exemption to licensure under this title; or

71 (B) with prescriptive authority conferred by an exception issued under this title or a  
 72 multistate practice privilege recognized under this title, if the prescription was issued without  
 73 first obtaining information, in the usual course of professional practice, that is sufficient to  
 74 establish a diagnosis, to identify underlying conditions, and to identify contraindications to the  
 75 proposed treatment; and

76 (ii) Subsection (1)(f)(i) does not apply to treatment rendered in an emergency, on-call  
 77 or cross coverage situation, provided that the person who issues the prescription has  
 78 prescriptive authority conferred by a license under this title, or is exempt from licensure under  
 79 this title[-] ~~§~~ → [;or] . ← ~~§~~

80 ~~§~~ → (g) using the designation "doctor," "Dr.," or a comparable designation in a manner  
 81 which might cause a reasonable person to believe the individual using the designation is a  
 82 doctor licensed under this title, if the individual is not licensed under this title, provided that an  
 83 individual who has received an earned doctorate may use the designation of the degree if it is  
 84 followed by "Not Licensed" or "Not Licensed in Utah" in the same size and style of lettering. ← ~~§~~

85 (2) "Unprofessional conduct" means conduct, by a licensee or applicant, that is defined  
 86 as unprofessional conduct under this title or under any rule adopted under this title and  
 87 includes:

88 (a) violating, or aiding or abetting any other person to violate, any statute, rule, or order  
 89 regulating an occupation or profession under this title;

214 substances may conduct research in Schedule I substances within this state upon furnishing the  
215 division evidence of federal registration.

216 (d) Compliance by manufacturers, producers, and distributors with the provisions of  
217 federal law respecting registration, excluding fees, entitles them to be licensed under this  
218 chapter.

219 (e) The division shall initially license those persons who own or operate an  
220 establishment engaged in the manufacture, production, distribution, dispensation, or  
221 administration of controlled substances prior to April 3, 1980, and who are licensed by the  
222 state.

223 (4) (a) Any license pursuant to Subsection (2) or (3) may be denied, suspended, placed  
224 on probation, or revoked by the division upon finding that the applicant or licensee has:

225 (i) materially falsified any application filed or required pursuant to this chapter;

226 (ii) been convicted of an offense under this chapter or any law of the United States, or  
227 any state, relating to any substance defined as a controlled substance;

228 (iii) been convicted of a felony under any other law of the United States or any state  
229 within five years of the date of the issuance of the license;

230 (iv) had a federal ~~§~~ **→ registration or ←§** license denied, suspended, or revoked by  
230a competent federal authority

231 and is no longer authorized to [~~engage in the manufacturing, distribution, or dispensing of~~]  
232 manufacture, distribute, prescribe, or dispense controlled substances;

233 (v) had the licensee's license suspended or revoked by competent authority of another  
234 state for violation of laws or regulations comparable to those of this state relating to the  
235 manufacture, distribution, or dispensing of controlled substances;

236 (vi) violated any division rule that reflects adversely on the licensee's reliability and  
237 integrity with respect to controlled substances;

238 (vii) refused inspection of records required to be maintained under this chapter by a  
239 person authorized to inspect them; or

240 (viii) prescribed, dispensed, administered, or injected an anabolic steroid for the  
241 purpose of manipulating human hormonal structure so as to:

242 (A) increase muscle mass, strength, or weight without medical necessity and without a  
243 written prescription by any practitioner in the course of the practitioner's professional practice;

244 or

431 presence of the person making or attempting the diagnosis or examination.

432 (5) "LCME" means the Liaison Committee on Medical Education of the American  
433 Medical Association.

434 (6) "Medical assistant" means an unlicensed individual working under the direct ~~§~~ **[f] and**  
435 **435 immediate [f] [or indirect] ←§** supervision of a licensed physician and surgeon and engaged in  
435a specific  
436 tasks assigned by the licensed physician and surgeon in accordance with the standards and  
437 ethics of the profession ~~§~~ **[, and as may be further defined in rule by the division in collaboration**  
438 **with the board, not to exceed the scope of this definition] ←§** .

439 (7) "Physician" means both physicians and surgeons licensed under Section 58-67-301,  
440 Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under Section  
441 58-68-301, Utah Osteopathic Medical Practice Act.

442 (8) "Practice of medicine" means:

443 (a) to diagnose, treat, correct, administer anesthesia, or prescribe for any human  
444 disease, ailment, injury, infirmity, deformity, pain or other condition, physical or mental, real  
445 or imaginary, or to attempt to do so, by any means or instrumentality, and by an individual in  
446 Utah or outside the state upon or for any human within the state, except that conduct described  
447 in this Subsection (8)(a) that is performed by a person legally and in accordance with a license  
448 issued under another chapter of this title does not constitute the practice of medicine;

449 (b) when a person not licensed as a physician directs a licensee under this chapter to  
450 withhold or alter the health care services that the licensee has ordered, but practice of medicine  
451 does not include any conduct under Subsection 58-67-501(2);

452 (c) to maintain an office or place of business for the purpose of doing any of the acts  
453 described in Subsection (8)(a) whether or not for compensation; or

454 (d) to use, in the conduct of any occupation or profession pertaining to the diagnosis or  
455 treatment of human diseases or conditions in any printed material, stationery, letterhead,  
456 envelopes, signs, or advertisements, the designation "doctor," "doctor of medicine,"  
457 "physician," "surgeon," "physician and surgeon," "Dr.," "M.D.," or any combination of these  
458 designations in any manner which might cause a reasonable person to believe the individual  
459 using the designation is a licensed physician and surgeon, and if the party using the designation  
460 is not a licensed physician and surgeon, the designation must additionally contain the  
461 description of the branch of the healing arts for which the person has a license, provided that an

493 ~~[(i) an LCME accredited medical school or college; or]~~

494 ~~[(ii) a medical school or college located outside of the United States or its jurisdictions~~

495 ~~which at the time of the applicant's graduation, met criteria for LCME accreditation;]~~

496 (i) having received an earned degree of doctor of medicine from an LCME accredited

497 medical school or college; or

498 (ii) if the applicant graduated from a medical school or college located outside the

499 United States ~~§~~ [§] or ~~←§~~ its territories, ~~§~~ [or Canada,] ~~←§~~ submitting a current certification

499a by the Educational

500 Commission for Foreign Medical Graduates or any successor organization approved by the

501 division in collaboration with the board;

502 ~~[(e) hold a current certification by the Educational Commission for Foreign Medical~~

503 ~~Graduates or any successor organization approved by the division in collaboration with the~~

504 ~~board, if the applicant graduated from a medical school or college located outside of the United~~

505 ~~States or its jurisdictions;]~~

506 ~~[(f)]~~ (e) satisfy the division and board that the applicant:

507 (i) has successfully completed 24 months of progressive resident training in a program

508 approved by the ACGME, the Royal College of Physicians and Surgeons, the College of

509 Family Physicians of Canada, or any similar body in the United States or Canada approved by

510 the division in collaboration with the board; or

511 (ii) (A) has successfully completed 12 months of resident training in an ACGME

512 approved program after receiving a degree of doctor of medicine as required under Subsection

513 (1)(d);

514 (B) has been accepted in and is successfully participating in progressive resident

515 training in an ACGME approved program within Utah, in the applicant's second or third year

516 of postgraduate training; and

517 (C) has agreed to surrender to the division the applicant's license as a physician and

518 surgeon without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act,

519 and has agreed the applicant's license as a physician and surgeon will be automatically revoked

520 by the division if the applicant fails to continue in good standing in an ACGME approved

521 progressive resident training program within the state;

522 ~~[(g)]~~ (f) pass the licensing examination sequence required by division rule made in

523 collaboration with the board;

524 ~~[(h)]~~ (g) be able to read, write, speak, understand, and be understood in the English  
 525 language and demonstrate proficiency to the satisfaction of the board if requested by the board;

526 ~~[(i)]~~ (h) meet with the board and representatives of the division, if requested, for the  
 527 purpose of evaluating the applicant's qualifications for licensure;

528 ~~[(j)]~~ (i) designate:

529 (i) a contact person for access to medical records in accordance with the federal Health  
 530 Insurance Portability and Accountability Act; and

531 (ii) an alternate contact person for access to medical records, in the event the original  
 532 contact person is unable or unwilling to serve as the contact person for access to medical  
 533 records; and

534 ~~[(k)]~~ (j) establish a method for notifying patients of the identity and location of the  
 535 contact person and alternate contact person, if the applicant will practice in a location with no  
 536 other persons licensed under this chapter.

537 (2) An applicant for licensure as a physician and surgeon by endorsement who is  
 538 currently licensed to practice medicine in any state other than Utah, a district or territory of the  
 539 United States, or Canada shall:

540 (a) be currently licensed with a full unrestricted license in good standing in any state,  
 541 district, or territory of the United States, or Canada;

542 (b) have been actively engaged in the legal practice of medicine in any state, district, or  
 543 territory of the United States, or Canada for not less than 6,000 hours during the five years  
 544 immediately preceding the date of application for licensure in Utah;

545 ~~[(c) not have any action pending against the applicant's license;]~~

546 ~~[(d) not have a license that was suspended or revoked in any state, unless the license~~  
 547 ~~was subsequently reinstated as a full unrestricted license in good standing; and]~~

548 (c) comply with the requirements for licensure under Subsection (1)(a) through (d)

548a **Ŝ→ [and] , ←Ŝ**

549 **(1)(e)(i) Ŝ→ , and (1)(g) through (j) ←Ŝ :**

550 (d) have passed the licensing examination sequence required in Subsection (1)(f) or  
 551 another medical licensing examination sequence in another state, district or territory of the  
 552 United States, or Canada that the division in collaboration with the board by rulemaking  
 553 determines is equivalent to its own required examination;

554 (e) not have any investigation or action pending against any health care license of the

555 applicant, not have a health care license that was suspended or revoked in any state, district or  
 556 territory of the United States, or Canada, and not have surrendered a health care license in lieu  
 557 of a disciplinary action, unless:

558 (i) the license was subsequently reinstated as a full unrestricted license in good  
 559 standing; or

560 (ii) the division in collaboration with the board determines to its satisfaction, after full  
 561 disclosure by the applicant, that:

562 (A) the conduct has been corrected, monitored, and resolved; or

563 (B) a mitigating circumstance exists that prevents its resolution, and the division in  
 564 collaboration with the board is satisfied that, but for the mitigating circumstance, the license  
 565 would be reinstated;

566 (f) submit to a records review, a practice history review, and ~~S~~→ [physical and  
 567 psychological] comprehensive ←~~S~~ assessments, if requested by the division in collaboration with  
 567a the board; and

568 ~~[(e)] (g) produce satisfactory evidence [of] that the [applicant's qualifications, identity,~~  
 569 ~~and good standing] applicant meets the requirements of this Subsection (2) to the satisfaction~~  
 570 ~~of the division in collaboration with the board.~~

571 (3) An applicant for licensure by endorsement may engage in the practice of medicine  
 572 under a temporary license while the applicant's application for licensure is being processed by  
 573 the division, provided:

574 (a) the applicant submits a complete application required for temporary licensure to the  
 575 division;

576 (b) the applicant submits a written document to the division from:

577 (i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility  
 578 Licensing and Inspection Act, stating that the applicant is practicing under the invitation of the  
 579 health care facility; or

580 (ii) two individuals licensed under this chapter, whose license is in good standing and  
 581 who practice in the same clinical location, both stating that:

582 (A) the applicant is practicing under the invitation of the individual; and

583 (B) the applicant will practice at the same clinical location as the individual;

584 (c) the applicant submits a signed certification to the division that the applicant meets  
 585 the requirements of Subsection (2);

648 continuing education hours required for license renewal under this section are increased or  
649 decreased proportionally.

650 Section 7. Section **58-67-305** is amended to read:

651 **58-67-305. Exemptions from licensure.**

652 In addition to the exemptions from licensure in Section 58-1-307, the following  
653 individuals may engage in the described acts or practices without being licensed under this  
654 chapter:

655 (1) an individual rendering aid in an emergency, when no fee or other consideration of  
656 value for the service is charged, received, expected, or contemplated;

657 (2) an individual administering a domestic or family remedy;

658 (3) (a) (i) a person engaged in the sale of vitamins, health foods, dietary supplements,  
659 herbs, or other products of nature, the sale of which is not otherwise prohibited by state or  
660 federal law; and

661 (ii) a person acting in good faith for religious reasons, as a matter of conscience, or  
662 based on a personal belief, when obtaining or providing any information regarding health care  
663 and the use of any product under Subsection (3)(a)(i); and

664 (b) Subsection (3)(a) does not:

665 (i) allow a person to diagnose any human disease, ailment, injury, infirmity, deformity,  
666 pain, or other condition; or

667 (ii) prohibit providing truthful and non-misleading information regarding any of the  
668 products under Subsection (3)(a)(i);

669 (4) a person engaged in good faith in the practice of the religious tenets of any church  
670 or religious belief, without the use of prescription drugs;

671 (5) an individual authorized by the Department of Health under Section 26-1-30, to  
672 withdraw blood to determine the alcohol or drug content pursuant to Section 41-6a-523;

673 (6) a medical assistant while working under the direct ~~§→ [f]~~ **and immediate [f]** ~~[or~~  
673a **indirect] ←§**

674 supervision of a licensed physician and surgeon, to the extent the medical assistant is engaged  
675 in tasks appropriately delegated by the supervisor in accordance with the standards and ethics  
676 of the practice of medicine ~~§→ [ , and as may be further defined in rule by the division in~~

677 **collaboration with the board, not to exceed the scope of this definition] ←§ ;**

678 (7) an individual engaging in the practice of medicine when:



772 (h) No citation may be issued under this section after six months from the day on  
 773 which the violation last occurred.

774 Section 12. Section **58-68-102** is amended to read:

775 **58-68-102. Definitions.**

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

777 (1) "ACGME" means the Accreditation Council for Graduate Medical Education of the  
 778 American Medical Association.

779 (2) "Administrative penalty" means a monetary fine imposed by the division for acts or  
 780 omissions determined to constitute unprofessional or unlawful conduct, as a result of an  
 781 adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative  
 782 Procedures Act.

783 (3) "AOA" means the American Osteopathic Association.

784 (4) "Board" means the Osteopathic ~~[Physicians]~~ Physician and Surgeon's Licensing  
 785 Board created in Section 58-68-201.

786 (5) "Diagnose" means:

787 (a) to examine in any manner another person, parts of a person's body, substances,  
 788 fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's  
 789 body, to determine the source, nature, kind, or extent of a disease or other physical or mental  
 790 condition;

791 (b) to attempt to conduct an examination or determination described under Subsection  
 792 (5)(a);

793 (c) to hold oneself out as making or to represent that one is making an examination or  
 794 determination as described in Subsection (5)(a); or

795 (d) to make an examination or determination as described in Subsection (5)(a) upon or  
 796 from information supplied directly or indirectly by another person, whether or not in the  
 797 presence of the person making or attempting the diagnosis or examination.

798 (6) "Medical assistant" means an unlicensed individual working under the direct ~~§~~ **→ [f] and**  
 799 **immediate [f] [or indirect] ←§** supervision of a licensed osteopathic physician and surgeon and  
 800 engaged in specific tasks assigned by the licensed osteopathic physician and surgeon in  
 801 accordance with the standards and ethics of the profession ~~§~~ **→ [ , and as may be further defined in**  
 802 **rule by the division in collaboration with the board, not to exceed the scope of this definition] ←§ .**

803 (7) "Physician" means both physicians and surgeons licensed under Section 58-67-301,  
 804 Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under Section  
 805 58-68-301, Utah Osteopathic Medical Practice Act.

806 (8) "Practice of osteopathic medicine" means:

807 (a) to diagnose, treat, correct, administer anesthesia, or prescribe for any human  
 808 disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real  
 809 or imaginary, or to attempt to do so, by any means or instrumentality, which in whole or in part  
 810 is based upon emphasis of the importance of the musculoskeletal system and manipulative  
 811 therapy in the maintenance and restoration of health, by an individual in Utah or outside of the  
 812 state upon or for any human within the state, except that conduct described in this Subsection  
 813 (8)(a) that is performed by a person legally and in accordance with a license issued under  
 814 another chapter of this title does not constitute the practice of medicine;

815 (b) when a person not licensed as a physician directs a licensee under this chapter to  
 816 withhold or alter the health care services that the licensee has ordered, but practice of medicine  
 817 does not include any conduct under Subsection 58-68-501(2);

818 (c) to maintain an office or place of business for the purpose of doing any of the acts  
 819 described in Subsection (8)(a) whether or not for compensation; or

820 (d) to use, in the conduct of any occupation or profession pertaining to the diagnosis or  
 821 treatment of human diseases or conditions, in any printed material, stationery, letterhead,  
 822 envelopes, signs, or advertisements, the designation "doctor," "doctor of osteopathic medicine,"  
 823 "osteopathic physician," "osteopathic surgeon," "osteopathic physician and surgeon," "Dr.,"  
 824 "D.O.," or any combination of these designations in any manner which might cause a  
 825 reasonable person to believe the individual using the designation is a licensed osteopathic  
 826 physician, and if the party using the designation is not a licensed osteopathic physician, the  
 827 designation must additionally contain the description of the branch of the healing arts for which  
 828 the person has a license, provided that an individual who has received an earned degree of  
 829 doctor of osteopathic medicine ~~§~~ → [degree] ← ~~§~~ but is not a licensed osteopathic physician and  
 829a surgeon  
 830 in Utah may use the designation "D.O." if it is followed by "Not Licensed" or "Not Licensed in  
 831 Utah" in the same size and style of lettering.

832 (9) "Prescription device" means an instrument, apparatus, implement, machine,  
 833 contrivance, implant, in vitro reagent, or other similar or related article, and any component

865 with the board, if the applicant is graduated from an osteopathic medical school or college  
 866 located outside of the United States [or], ~~§~~ or ~~§~~ its [jurisdictions] ~~§~~ [districts or] , ~~§~~  
 866a territories ~~§~~ [, or Canada] ~~§~~

867 which at the time of the applicant's graduation, met criteria for accreditation by the AOA;

868 ~~[(e) hold a current certification by the Educational Commission for Foreign Medical~~

869 ~~Graduates or any successor organization approved by the division in collaboration with the~~

870 ~~board, if the applicant graduated from a medical school or college located outside of the United~~

871 ~~States or its jurisdictions;]~~

872 ~~[(f)]~~ (e) satisfy the division and board that the applicant:

873 (i) has successfully completed 24 months of progressive resident training in an

874 ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine

875 required under Subsection (1)(d); or

876 (ii) (A) has successfully completed 12 months of resident training in an ACGME or

877 AOA approved program after receiving a degree of doctor of osteopathic medicine as required

878 under Subsection (1)(d);

879 (B) has been accepted in and is successfully participating in progressive resident

880 training in an ACGME or AOA approved program within Utah, in the applicant's second or

881 third year of postgraduate training; and

882 (C) has agreed to surrender to the division the applicant's license as an osteopathic

883 physician and surgeon without any proceedings under Title 63G, Chapter 4, Administrative

884 Procedures Act, and has agreed the applicant's license as an osteopathic physician and surgeon

885 will be automatically revoked by the division if the applicant fails to continue in good standing

886 in an ACGME or AOA approved progressive resident training program within the state;

887 ~~[(g)]~~ (f) pass the licensing examination sequence required by division rule, as made in

888 collaboration with the board;

889 ~~[(h)]~~ (g) be able to read, write, speak, understand, and be understood in the English

890 language and demonstrate proficiency to the satisfaction of the board, if requested by the board;

891 ~~[(i)]~~ (h) meet with the board and representatives of the division, if requested for the

892 purpose of evaluating the applicant's qualifications for licensure;

893 ~~[(j)]~~ (i) designate:

894 (i) a contact person for access to medical records in accordance with the federal Health

895 Insurance Portability and Accountability Act; and

1020 (ii) a person acting in good faith for religious reasons, as a matter of conscience, or  
1021 based on a personal belief, when obtaining or providing any information regarding health care  
1022 and the use of any product under Subsection (3)(a)(i); and

1023 (b) Subsection (3)(a) does not:

1024 (i) permit a person to diagnose any human disease, ailment, injury, infirmity,  
1025 deformity, pain, or other condition; or

1026 (ii) prohibit providing truthful and non-misleading information regarding any of the  
1027 products under Subsection (3)(a)(i);

1028 (4) a person engaged in good faith in the practice of the religious tenets of any church  
1029 or religious belief without the use of prescription drugs;

1030 (5) an individual authorized by the Department of Health under Section 26-1-30, to  
1031 withdraw blood to determine the alcohol or drug content pursuant to Section 41-6a-523;

1032 (6) a medical assistant while working under the direct ~~§~~ [f] and immediate [f] ~~or~~  
1032a indirect] ~~§~~

1033 supervision of a licensed osteopathic physician, to the extent the medical assistant is engaged in  
1034 tasks appropriately delegated by the supervisor in accordance with the standards and ethics of

1035 the practice of medicine ~~§~~ [~~and as may be further defined in rule by the division in collaboration~~  
1036 ~~with the board, not to exceed the scope of this definition~~] ~~§~~ ;

1037 (7) an individual engaging in the practice of osteopathic medicine when:

1038 (a) the individual is licensed in good standing as an osteopathic physician in another  
1039 state with no licensing action pending and no less than 10 years of professional experience;

1040 (b) the services are rendered as a public service and for a noncommercial purpose;

1041 (c) no fee or other consideration of value is charged, received, expected, or  
1042 contemplated for the services rendered beyond an amount necessary to cover the proportionate  
1043 cost of malpractice insurance; and

1044 (d) the individual does not otherwise engage in unlawful or unprofessional conduct;  
1045 [and]

1046 (8) an individual providing expert testimony in a legal proceeding[-]; and

1047 (9) an individual who is invited by a school, association, society, or other body  
1048 approved by the division in collaboration with the board to conduct a clinic or demonstration of  
1049 the practice of medicine in which patients are treated, if:

1050 (a) the individual does not establish a place of business in this state;

- 1051 (b) the individual does not regularly engage in the practice of medicine in this state;  
 1052 (c) the individual holds a current license in good standing to practice medicine issued  
 1053 by another state, district or territory of the United States, or Canada;  
 1054 (d) the primary purpose of the event is the training of others in the practice of  
 1055 medicine; and  
 1056 (e) neither the patient nor an insurer is billed for the services performed.

1057 Section 16. Section **58-68-401** is amended to read:

1058 **58-68-401. Grounds for denial of license -- Disciplinary proceedings.**

1059 Grounds for division action [~~regarding the following are under Section~~] are set forth in  
 1060 Sections 58-1-401[?] and 58-68-503.

1061 [~~(1) refusing to issue a license to an applicant or refusing to renew the license of a~~  
 1062 ~~licensee;]~~

1063 [~~(2) revoking, suspending, restricting, placing on probation the license of a licensee;]~~

1064 [~~(3) assessing an administrative penalty; and]~~

1065 [~~(4) issuing of a public or private reprimand to a licensee or issuance of a cease and~~  
 1066 ~~desist order.]~~

1067 Section 17. Section **58-68-402** is repealed and reenacted to read:

1068 **58-68-402. Authority to assess penalties.**

1069 The division ~~§~~→ **in collaboration with the board** ←~~§~~ may assess penalties ~~§~~→ **[under] as**  
 1069a **described in** ←~~§~~ Section 58-67-503.

1070 Section 18. Section **58-68-403** is amended to read:

1071 **58-68-403. Revocation of license -- Nondisciplinary.**

1072 Revocation by the division of a license under Subsection 58-68-302(1)[~~(f)~~](e) for  
 1073 failure to continue on a resident training program for reasons other than unprofessional or  
 1074 unlawful conduct is a nondisciplinary action and may not be reported by the division as a  
 1075 disciplinary action against the licensee.

1076 Section 19. Section **58-68-503** is amended to read:

1077 **58-68-503. Penalties and administrative actions for unlawful and unprofessional**  
 1078 **conduct.**

1079 (1) Any person who violates the unlawful conduct provisions of Section 58-68-501[~~, or~~  
 1080 ~~Subsection~~] or Section 58-1-501[(1)(a) or 58-1-501(1)(c)] is guilty of a third degree felony.

1081 [~~(2) The division may assess administrative penalties in accordance with Section~~