

Senator Peter C. Knudson proposes the following substitute bill:

COSMETIC MEDICAL PROCEDURES

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Peter C. Knudson

House Sponsor: _____

LONG TITLE

General Description:

This bill amends the Utah Medical Practice Act and the Utah Osteopathic Practice Act.

Highlighted Provisions:

This bill:

▶ defines:

- ablative procedure;
- cosmetic medical facility;
- cosmetic medical procedure;
- non-ablative procedure; and
- supervisor;

▶ exempts certain licensees from the definition of cosmetic medical procedures;

▶ establishes standards for the supervision of cosmetic medical procedures;

▶ amends the definition of the practice of medicine; and

▶ amends provisions of unprofessional conduct for physicians and other licensees

whose scope of practice includes cosmetic medical procedures.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **58-1-102**, as renumbered and amended by Laws of Utah 1993, Chapter 297

30 **58-11a-102**, as last amended by Laws of Utah 2010, Chapter 145

31 **58-11a-502**, as last amended by Laws of Utah 2009, Chapter 130

32 **58-16a-102**, as last amended by Laws of Utah 2004, Chapters 48 and 280

33 **58-67-102**, as last amended by Laws of Utah 2011, Chapter 214

34 **58-68-102**, as last amended by Laws of Utah 2011, Chapter 214

35 ENACTS:

36 **58-1-505**, Utah Code Annotated 1953

37 **58-1-506**, Utah Code Annotated 1953

38 **58-67-805**, Utah Code Annotated 1953

39 **58-68-805**, Utah Code Annotated 1953



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

42 Section 1. Section **58-1-102** is amended to read:

43 **58-1-102. Definitions.**

44 For purposes of this title:

45 (1) "Ablative procedure" is as defined in Section 58-67-102.

46 (2) "Cosmetic medical procedure":

47 (a) is as defined in Section 58-67-102; and

48 (b) except for Chapter 67, Utah Medical Practice Act, and Chapter 68, Utah

49 Osteopathic Medical Practice Act, does not apply to the scope of practice of an individual

50 licensed under this title if the individual's scope of practice includes the authority to operate or

51 perform surgical procedures.

52 [~~1~~] (3) "Department" means the Department of Commerce.

53 [~~2~~] (4) "Director" means the director of the Division of Occupational and

54 Professional Licensing.

55 [~~3~~] (5) "Division" means the Division of Occupational and Professional Licensing

56 created in Section 58-1-103.

57 [~~(4)~~] (6) "Executive director" means the executive director of the Department of
58 Commerce.

59 [~~(5)~~] (7) "Licensee" includes any holder of a license, certificate, registration, permit,
60 student card, or apprentice card authorized under this title.

61 (8) (a) Non-ablative procedure" means a procedure that is expected or intended to alter
62 living tissue, but not to excise, burn, vaporize or remove the epidermal surface of the skin.

63 (b) "Non ablative procedure" does not include the use of infrared photo therapy and
64 low level lasers for treatments that:

65 (i) are not cosmetic medical procedures; and

66 (ii) are performed by a chiropractor or physical therapist for treatment of a condition
67 that is within their scope of practice.

68 [~~(6)~~] (9) "Unlawful conduct" has the meaning given in Subsection 58-1-501(1).

69 [~~(7)~~] (10) "Unprofessional conduct" has the meaning given in Subsection 58-1-501(2).
70 Section 2. Section **58-1-505** is enacted to read:

71 **58-1-505. Cosmetic medical procedure supervisor.**

72 (1) For purposes of this section:

73 (a) "Cosmetic medical facility" means a physician's office or a facility that has a
74 supervisor who performs the supervision required in Section 58-1-506.

75 (b) "Supervisor" means:

76 (i) a physician with an unrestricted license under Chapter 67, Utah Medical Practice
77 Act, or Chapter 68, Utah Osteopathic Medical Practice Act, who is acting within the scope of
78 the practice of medicine, as defined in Section 58-67-102; and

79 (ii) an advanced practice registered nurse with an unrestricted license under Chapter
80 31b, Nurse Practice Act, who is acting within the scope of practice of advanced practice
81 registered nursing, as defined in Section 58-31b-102.

82 (2) (a) An individual authorized by this title to perform a cosmetic medical procedure
83 shall be supervised by a supervisor when performing a medical procedure.

84 (b) Cosmetic medical procedures may only be performed in a cosmetic medical
85 facility.

86 (c) A supervisor may delegate the supervisory role only to another individual who is
87 qualified as a supervisor.

88 Section 3. Section **58-1-506** is enacted to read:

89 **58-1-506. Supervision of cosmetic medical procedures.**

90 (1) For purposes of this section:

91 (a) "Delegation group A" means the following who are licensed under this title, acting
92 within their respective scope of practice, and qualified under Subsection (2)(f):

93 (i) a physician assistant, if supervised by a physician and the procedure is included in
94 the delegation agreement;

95 (ii) a registered nurse;

96 (iii) a master esthetician; and

97 (iv) an electrologist, if evaluating for or performing laser hair removal.

98 (b) "Delegation group B" means:

99 (i) the following who are licensed under this title, acting within their respective scope
100 of practice, and are qualified under Subsection (2)(f):

101 (A) a practical nurse;

102 (B) an esthetician; or

103 (C) a medical assistant; and

104 (ii) a medical assistant who meets the qualifications under Subsection (2)(f).

105 (c) "General cosmetic medical procedure supervision" means the supervisor:

106 (i) has authorized the procedure to be done on the patient by the supervisee;

107 (ii) is available in a timely and appropriate manner in person to evaluate and initiate
108 care for a patient with a suspected adverse reaction or complication; and

109 (iii) is located within 45 minutes or 45 miles of the cosmetic medical facility.

110 (d) "Indirect cosmetic medical procedure supervision" means the supervisor:

111 (i) has authorized the procedure to be done on the patient by the supervisee;

112 (ii) has given written instructions to the person being supervised;

113 (iii) is present within the cosmetic medical facility in which the person being
114 supervised is providing services; and

115 (iv) is available to:

116 (A) provide immediate face-to-face communication with the person being supervised;

117 and

118 (B) evaluate the patient, as necessary.

119 (e) "Hair removal review" means:

120 (i) conducting an in-person, face-to-face interview of a patient based on the responses
121 provided by the patient to a detailed medical history assessment that was prepared by the
122 supervisor;

123 (ii) evaluating for contraindications and conditions that are part of the treatment plan;
124 and

125 (iii) if the patient history or patient presentation deviates in any way from the treatment
126 plan, referring the patient to the supervisor and receiving clearance from the supervisor before
127 starting the treatment.

128 (2) A supervisor supervising a non-ablative cosmetic medical procedure for hair
129 removal shall:

130 (a) have an unrestricted license to practice medicine or advanced practice registered
131 nursing in the state;

132 (b) develop the medical treatment plan for the procedure;

133 (c) conduct a hair removal review, or delegate the hair removal review to a member of
134 delegation group A, of the patient prior to initiating treatment or a series of treatments;

135 (d) personally perform the non-ablative cosmetic medical procedure for hair removal,
136 or authorize and delegate the procedure to a member of delegation group A or B;

137 (e) during the non-ablative cosmetic medical procedure for hair removal provide
138 general cosmetic medical procedure supervision to individuals in delegation group A
139 performing the procedure and indirect cosmetic medical procedure supervision to individuals
140 in delegation group B performing the procedure; and

141 (f) verify that a person to whom the supervisor delegates an evaluation under
142 Subsection (2)(c) or delegates a procedure under Subsection (2)(d):

143 (i) has received appropriate training regarding the medical procedures developed under
144 Subsection (2)(b);

145 (ii) has an unrestricted license under this title or is performing under the license of the
146 supervising physician and surgeon; and

147 (iii) if a practical nurse or medical assistant, has maintained competence to perform the
148 non-ablative cosmetic medical procedure for hair removal through documented training and
149 experience of at least 60 hours, as further defined by rule, regarding:

- 150 (A) the appropriate standard of care for performing non-ablative cosmetic medical
151 procedures for hair removal;
- 152 (B) physiology of the skin;
153 (C) skin typing and analysis;
154 (D) skin conditions, disorders, and diseases;
155 (E) pre and post procedure care;
156 (F) infection control;
157 (G) laser and light physics training;
158 (H) laser technologies and applications;
159 (I) safety and maintenance of lasers;
160 (J) cosmetic laser hair removal procedures;
161 (K) recognition and appropriate management of complications from a procedure; and
162 (L) cardio-pulmonary resuscitation (CPR).
- 163 (3) For a non-ablative cosmetic medical procedure other than hair removal under
164 Subsection (2):
- 165 (a) a physician who has an unrestricted license to practice medicine shall:
166 (i) develop a treatment plan for the non-ablative cosmetic medical procedure; and
167 (ii) conduct an in-person face to face evaluation of the patient prior to the initiation of a
168 treatment protocol or series of treatments;
- 169 (b) the supervisor supervising the procedure shall:
170 (i) have an unrestricted license to practice medicine or advanced practice registered
171 nursing;
- 172 (ii) personally perform the non-ablative cosmetic medical procedure or authorize and
173 provide indirect cosmetic medical procedure supervision for the non-ablative cosmetic medical
174 procedure that is performed by:
- 175 (A) a physician assistant, if supervised by a physician and the procedure is included in
176 the delegation agreement;
- 177 (B) a registered nurse;
178 (C) a master esthetician; or
179 (D) an esthetician; and
180 (iii) verify that a person to whom the supervisor delegates a procedure under

181 Subsection (3)(b):

182 (A) has received appropriate training regarding the medical procedures to be
183 performed; and

184 (B) has an unrestricted license and is acting within their scope of practice under this
185 title.

186 (4) A supervisor performing or supervising a cosmetic medical procedure under
187 Subsection (2) or (3) shall ensure that:

188 (a) the supervisor's name is prominently posted at the cosmetic medical facility
189 identifying the supervisor;

190 (b) a copy of the supervisor's license is displayed on the wall of the cosmetic medical
191 facility;

192 (c) the patient receives written information with the name and licensing information of
193 the supervisor who is supervising the non-ablative cosmetic medical procedure and the person
194 who is performing the non-ablative cosmetic medical procedure;

195 (d) the patient is provided with a telephone number that is answered within 24 hours
196 for follow-up communication;

197 (e) the cosmetic medical facility's contract with a master esthetician who performs a
198 non-ablative cosmetic medical procedure at the facility is kept on the premises of the facility;
199 and

200 (f) a supervisee and supervisor, who are required to have malpractice and liability
201 insurance, have proof of insurance available for inspection at the request of a patient.

202 (5) Failure to comply with the provisions of this section is unprofessional conduct.

203 Section 4. Section **58-11a-102** is amended to read:

204 **58-11a-102. Definitions.**

205 As used in this chapter:

206 (1) "Approved barber or cosmetologist/barber apprenticeship" means an apprenticeship
207 that meets the requirements of Subsection 58-11a-306(1) for barbers or Subsection
208 58-11a-306(2) for cosmetologist/barbers and the requirements established by rule by the
209 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah
210 Administrative Rulemaking Act.

211 (2) "Approved esthetician apprenticeship" means an apprenticeship that meets the

212 requirements of Subsection 58-11a-306(3) and the requirements established by rule by the
213 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah
214 Administrative Rulemaking Act.

215 (3) "Approved master esthetician apprenticeship" means an apprenticeship that meets
216 the requirements of Subsection 58-11a-306(4) and the requirements established by rule by the
217 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah
218 Administrative Rulemaking Act.

219 (4) "Approved nail technician apprenticeship" means an apprenticeship that meets the
220 requirements of Subsection 58-11a-306(5) and the requirements established by rule by the
221 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah
222 Administrative Rulemaking Act.

223 (5) "Barber" means a person who is licensed under this chapter to engage in the
224 practice of barbering.

225 (6) "Barber instructor" means a barber who is licensed under this chapter to teach
226 barbering at a licensed barber school or in an apprenticeship program as defined in Section
227 58-11a-306.

228 (7) "Board" means the Barber, Cosmetology/Barbering, Esthetics, Electrology, and
229 Nail Technology Licensing Board created in Section 58-11a-201.

230 (8) "Cosmetic laser procedure" means only a non-ablative procedure as defined in
231 Section 58-67-102.

232 (9) "Cosmetic supervisor" means a supervisor as defined in Section 58-1-505.

233 [~~8~~] (10) "Cosmetologist/barber" means a person who is licensed under this chapter to
234 engage in the practice of cosmetology/barbering.

235 [~~9~~] (11) "Cosmetologist/barber instructor" means a cosmetologist/barber who is
236 licensed under this chapter to teach cosmetology/barbering at a licensed cosmetology/barber
237 school, licensed barber school, licensed nail technology school, or in an apprenticeship
238 program as defined in Subsection 58-11a-306(2).

239 [~~10~~] (12) "Direct supervision" means that the supervisor of an apprentice or the
240 instructor of a student is immediately available for consultation, advice, instruction, and
241 evaluation.

242 [~~11~~] (13) "Electrologist" means a person who is licensed under this chapter to engage

243 in the practice of electrology.

244 [~~(12)~~] (14) "Electrologist instructor" means an electrologist who is licensed under this
245 chapter to teach electrology at a licensed electrology school.

246 [~~(13)~~] (15) "Esthetician" means a person who is licensed under this chapter to engage
247 in the practice of esthetics.

248 [~~(14)~~] (16) "Esthetician instructor" means a master esthetician who is licensed under
249 this chapter to teach the practice of esthetics and the practice of master-level esthetics at a
250 licensed esthetics school, a licensed cosmetology/barber school, or in an apprenticeship
251 program as defined in Subsection 58-11a-306(3).

252 [~~(15)~~] (17) "Fund" means the Barber, Cosmetologist/Barber, Esthetician, Electrologist,
253 and Nail Technician Education and Enforcement Fund created in Section 58-11a-103.

254 [~~(16)~~] (18) "Licensed barber or cosmetology/barber school" means a barber or
255 cosmetology/barber school licensed under this chapter.

256 [~~(17)~~] (19) "Licensed electrology school" means an electrology school licensed under
257 this chapter.

258 [~~(18)~~] (20) "Licensed esthetics school" means an esthetics school licensed under this
259 chapter.

260 [~~(19)~~] (21) "Licensed nail technology school" means a nail technology school licensed
261 under this chapter.

262 [~~(20)~~] (22) "Master esthetician" means an individual who is licensed under this chapter
263 to engage in the practice of master-level esthetics.

264 [~~(21)~~] (23) "Nail technician" means an individual who is licensed under this chapter to
265 engage in the practice of nail technology.

266 [~~(22)~~] (24) "Nail technician instructor" means a nail technician licensed under this
267 chapter to teach the practice of nail technology in a licensed nail technology school, a licensed
268 cosmetology/barber school, or in an apprenticeship program as defined in Subsection
269 58-11a-306(5).

270 [~~(23)~~] (25) "Practice of barbering" means:

271 (a) cutting, clipping, or trimming the hair of the head of any person by the use of
272 scissors, shears, clippers, or other appliances;

273 (b) draping, shampooing, scalp treatments, basic wet styling, and blow drying; and

274 (c) removing hair from the face or neck of a person by the use of shaving equipment.

275 [~~(24)~~] (26) "Practice of barbering instruction" means instructing barbering in a licensed
276 barber school, licensed cosmetology/barber school, or in an apprenticeship program as defined
277 in Subsection 58-11a-306(1).

278 [~~(25)~~] (27) "Practice of basic esthetics" means any one of the following skin care
279 procedures done on the head, face, neck, arms, hands, legs, feet, eyebrows, or eyelashes for
280 cosmetic purposes and not for the treatment of medical, physical, or mental ailments:

281 (a) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays, or
282 masks, manual extraction, including a comedone extractor, depilatories, waxes, tweezing, the
283 application of eyelash extensions, natural nail manicures or pedicures, or callous removal by
284 buffing or filing;

285 (b) limited chemical exfoliation as defined by rule;

286 (c) removing superfluous hair by means other than electrolysis, except that an
287 individual is not required to be licensed as an esthetician to engage in the practice of threading;

288 (d) other esthetic preparations or procedures with the use of the hands, a
289 high-frequency or galvanic electrical apparatus, or a heat lamp for cosmetic purposes and not
290 for the treatment of medical, physical, or mental ailments; or

291 (e) cosmetic laser procedures under [~~direct~~] the supervision of a [~~licensed health care~~
292 ~~practitioner as defined by rule;~~] cosmetic supervisor limited to the following:

293 (i) superfluous hair removal;

294 (ii) anti-aging resurfacing enhancements;

295 (iii) photo rejuvenation; or

296 (iv) tattoo removal.

297 [~~(26)~~] (28) (a) "Practice of cosmetology/barbering" means:

298 (i) styling, arranging, dressing, curling, waving, permanent waving, cleansing,
299 singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a
300 person;

301 (ii) cutting, clipping, or trimming the hair by the use of scissors, shears, clippers, or
302 other appliances;

303 (iii) arching eyebrows, or tinting eyebrows or eyelashes, applying eyelash extensions,
304 or any combination of these procedures;

305 (iv) removing hair from the face, neck, shoulders, arms, back, torso, feet, bikini line,
306 or legs of a person by the use of depilatories, waxing, or shaving equipment;

307 (v) cutting, curling, styling, fitting, measuring, or forming caps for wigs or hairpieces
308 or both on the human head; or

309 (vi) practicing hair weaving or hair fusing or servicing previously medically implanted
310 hair.

311 (b) The term "practice of cosmetology/barbering" includes:

312 (i) the practice of basic esthetics; and

313 (ii) the practice of nail technology.

314 (c) An individual is not required to be licensed as a cosmetologist/barber to engage in
315 the practice of threading.

316 ~~[(27)]~~ (29) "Practice of cosmetology/barbering instruction" means instructing
317 cosmetology/barbering as defined in Subsection ~~[(26)]~~ (28) in a licensed cosmetology/barber
318 school or in an apprenticeship program as defined in Subsection 58-11a-306(2).

319 ~~[(28)]~~ (30) "Practice of electrology" means:

320 (a) the removal of superfluous hair from the body of a person by the use of electricity,
321 waxing, shaving, or tweezing; or

322 (b) cosmetic laser procedures under the ~~[general]~~ supervision of a ~~[licensed health care~~
323 ~~practitioner as defined by rule;]~~ cosmetic supervisor limited to superfluous hair removal.

324 ~~[(29)]~~ (31) "Practice of electrology instruction" means instructing electrology in a
325 licensed electrology school.

326 ~~[(30)]~~ (32) "Practice of esthetics instruction" means instructing esthetics in a licensed
327 esthetics school, a licensed cosmetology/barber school, or instructing master-level esthetics in a
328 licensed esthetics school or in an apprenticeship program as defined in Subsections
329 58-11a-306(2), (3), and (4).

330 ~~[(31)]~~ (33) (a) "Practice of master-level esthetics" means:

331 (i) any of the following when done for cosmetic purposes on the head, face, neck,
332 torso, abdomen, back, arms, hands, legs, feet, eyebrows, or eyelashes and not for the treatment
333 of medical, physical, or mental ailments:

334 (A) body wraps as defined by rule;

335 (B) hydrotherapy as defined by rule;

336 (C) chemical exfoliation as defined by rule;
337 (D) advanced pedicures as defined by rule;
338 (E) sanding, including microdermabrasion;
339 (F) advanced extraction;
340 (G) other esthetic preparations or procedures with the use of:
341 (I) the hands; or
342 (II) a mechanical or electrical apparatus which is approved for use by division rule for
343 beautifying or similar work performed on the body for cosmetic purposes and not for the
344 treatment of a medical, physical, or mental ailment; or
345 (H) cosmetic laser procedures under the [~~general~~] supervision of a [~~licensed health care~~
346 ~~practitioner as defined by rule,~~] cosmetic supervisor with a physician's evaluation before the
347 procedure, as needed, and limited to the following:
348 (I) superfluous hair removal;
349 (II) anti-aging resurfacing enhancements;
350 (III) photo rejuvenation; or
351 (IV) tattoo removal with a physician's evaluation before the tattoo removal procedure;
352 and
353 (ii) lymphatic massage by manual or other means as defined by rule.
354 (b) Notwithstanding the provisions of Subsection [~~(31)~~] (33)(a), a master-level
355 esthetician may perform procedures listed in Subsection [~~(31)~~] (33)(a)(i) for noncosmetic
356 purposes if done under the supervision of a licensed health care practitioner acting within the
357 scope of the licensed health care practitioner's license as defined by rule.
358 (c) The term "practice of master-level esthetics" includes the practice of esthetics, but
359 an individual is not required to be licensed as an esthetician or master-level esthetician to
360 engage in the practice of threading.
361 [~~(32)~~] (34) "Practice of nail technology" means to trim, cut, clean, manicure, shape,
362 massage, or enhance the appearance of the hands, feet, and nails of an individual by the use of
363 hands, mechanical, or electrical preparation, antiseptic, lotions, or creams, including the
364 application and removal of sculptured or artificial nails.
365 [~~(33)~~] (35) "Practice of nail technology instruction" means instructing nail technology
366 in a licensed nail technician school, licensed cosmetology/barber school, or in an

367 apprenticeship program as defined in Subsection 58-11a-306(5).

368 [~~(34)~~] (36) "Recognized barber school" means a barber school located in a state other
369 than Utah, whose students, upon graduation, are recognized as having completed the
370 educational requirements for licensure in that state.

371 [~~(35)~~] (37) "Recognized cosmetology/barber school" means a cosmetology/barber
372 school located in a state other than Utah, whose students, upon graduation, are recognized as
373 having completed the educational requirements for licensure in that state.

374 [~~(36)~~] (38) "Recognized electrology school" means an electrology school located in a
375 state other than Utah, whose students, upon graduation, are recognized as having completed the
376 educational requirements for licensure in that state.

377 [~~(37)~~] (39) "Recognized esthetics school" means an esthetics school located in a state
378 other than Utah, whose students, upon graduation, are recognized as having completed the
379 educational requirements for licensure in that state.

380 [~~(38)~~] (40) "Recognized nail technology school" means a nail technology school
381 located in a state other than Utah, whose students, upon graduation, are recognized as having
382 completed the educational requirements for licensure in that state.

383 [~~(39)~~] (41) "Salon" means a place, shop, or establishment in which
384 cosmetology/barbering, esthetics, electrology, or nail technology is practiced.

385 [~~(40)~~] (42) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-11a-502.

386 [~~(41)~~] (43) "Unprofessional conduct" is as defined in Sections 58-1-501 and
387 58-11a-501 and as may be further defined by rule by the division in collaboration with the
388 board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

389 Section 5. Section **58-11a-502** is amended to read:

390 **58-11a-502. Unlawful conduct.**

391 Unlawful conduct includes:

392 (1) practicing or engaging in, or attempting to practice or engage in activity for which a
393 license is required under this chapter unless:

394 (a) the person holds the appropriate license under this chapter; or

395 (b) an exemption in Section 58-1-307 or 58-11a-304 applies;

396 (2) knowingly employing any other person to engage in or practice or attempt to
397 engage in or practice any occupation or profession licensed under this chapter if the employee

398 is not licensed to do so under this chapter or exempt from licensure;

399 (3) touching, or applying an instrument or device to the following areas of a client's
400 body:

401 (a) the genitals or the anus, except in cases where the patron states to a licensee that the
402 patron requests a hair removal procedure and signs a written consent form, which must also
403 include the witnessed signature of a legal guardian if the patron is a minor, authorizing the
404 licensee to perform a hair removal procedure; or

405 (b) the breast of a female patron, except in cases in which the female patron states to a
406 licensee that the patron requests breast skin procedures and signs a written consent form, which
407 must also include the witnessed signature of a parent or legal guardian if the patron is a minor,
408 authorizing the licensee to perform breast skin procedures; [~~and~~]

409 (4) using or possessing as a nail technician a solution composed of at least 10% methyl
410 methacrylate on a client[-]; or

411 (5) performing an ablative procedure as defined in Section 58-67-102.

412 Section 6. Section **58-16a-102** is amended to read:

413 **58-16a-102. Definitions.**

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

415 (1) "Board" means the Optometrist Licensing Board created in Section 58-16a-201.

416 (2) "Contact lens" means any lens that:

417 (a) has a spherical, cylindrical, or prismatic power or curvature;

418 (b) is made pursuant to a current prescription; or

419 (c) is intended to be worn on the surface of the eye.

420 (3) (a) "Contact lens prescription" means a written or verbal order for contact lenses
421 that includes:

422 (i) the commencement date of the prescription;

423 (ii) the base curve, power, diameter, material or brand name, and expiration date;

424 (iii) for a written order, the signature of the prescribing optometrist or physician; and

425 (iv) for a verbal order, a record maintained by the recipient of:

426 (A) the name of the prescribing optometrist or physician; and

427 (B) the date when the prescription was issued or ordered.

428 (b) A prescription may include:

429 (i) a limit on the quantity of lenses that may be ordered under the prescription if
430 required for medical reasons documented in the patient's files; and

431 (ii) the expiration date of the prescription, which shall be two years from the
432 commencement date, unless documented medical reasons require otherwise.

433 (c) When a provider prescribes a private label contact lens for a patient the prescription
434 shall include:

435 (i) the name of the manufacturer;

436 (ii) the trade name of the private label brand; and

437 (iii) if applicable, the trade name of the equivalent national brand.

438 (4) "Contact lens prescription verification" means a written request from a person who
439 sells or provides contact lenses that:

440 (a) is sent to the prescribing optometrist or physician; and

441 (b) seeks the confirmation of the accuracy of a patient's prescription.

442 (5) "Eye and its adnexa" means the human eye and all structures situated within the
443 orbit, including the conjunctiva, lids, lashes, and lacrimal system.

444 (6) "Fitting of a contact lens" means:

445 (a) the using of a keratometer to measure the human eye;

446 (b) utilizing refractive data provided by a licensed optometrist or ophthalmologist; and

447 (c) trial fitting of contact lenses, which includes a period of time for evaluation for fit
448 and performance, to determine a tentative contact lens prescription for a patient if the patient:

449 (i) has not worn contact lenses before; or

450 (ii) has changed to a different type or base curve.

451 (7) "Laser surgery" means surgery in which human tissue is cut, burned, or vaporized
452 by means of laser or ionizing radiation.

453 (8) "Ophthalmic lens" means any lens used to treat the eye and that:

454 (a) has a spherical, cylindrical, or prismatic power;

455 (b) is made pursuant to an unexpired prescription; and

456 (c) is intended to be used in eyeglasses or spectacles.

457 (9) "Optometric assistant" means an unlicensed individual:

458 (a) working under the direct and immediate supervision of a licensed optometrist; and

459 (b) engaged in specific tasks assigned by the licensed optometrist in accordance with

460 the standards and ethics of the profession.

461 (10) "Optometrist" or "optometric physician" means an individual licensed under this
462 chapter.

463 (11) "Optometry" and "practice of optometry" mean any one or any combination of the
464 following practices:

465 (a) examination of the human eye and its adnexa to detect and diagnose defects or
466 abnormal conditions;

467 (b) determination or modification of the accommodative or refractive state of the
468 human eye or its range or power of vision by administration and prescription of pharmaceutical
469 agents or the use of diagnostic instruments;

470 (c) prescription, ordering, administration, or adaptation of ophthalmic lenses, contact
471 lenses, ophthalmic devices, pharmaceutical agents, laboratory tests, or ocular exercises to
472 diagnose and treat diseases, defects, or other abnormal conditions of the human eye and its
473 adnexa;

474 (d) display of any advertisement, circular, sign, or device offering to:

475 (i) examine the eyes;

476 (ii) fit glasses or contact lenses; or

477 (iii) adjust frames;

478 (e) removal of a foreign body from the eye or its adnexa, that is not deeper than the
479 anterior 1/2 of the cornea;

480 (f) consultation regarding the eye and its adnexa with other appropriate health care
481 providers, including referral to other appropriate health care providers; and

482 (g) a person, not licensed as an optometrist, directing a licensee under this chapter to
483 withhold or alter the eye care services the licensee has ordered.

484 (12) "Pharmaceutical agent" means any diagnostic or therapeutic drug or combination
485 of drugs that has the property of assisting in the diagnosis, prevention, treatment, or mitigation
486 of abnormal conditions or symptoms of the eye and its adnexa.

487 (13) "Physician" has the same meaning as defined in [~~Subsection 58-67-102(7)]
488 Sections 58-67-102 and 58-68-102.~~

489 (14) "Prescription drug" has the same definition as in Section 58-17b-102.

490 (15) "Unexpired" means a prescription that was issued:

491 (a) not more than two years prior to presentation of the prescription for an ophthalmic
492 lens; or

493 (b) in accordance with Subsection (3) for a contact lens.

494 Section 7. Section **58-67-102** is amended to read:

495 **58-67-102. Definitions.**

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

497 (1) "Ablative procedure" means a procedure that is expected to excise, burn, vaporize
498 or remove a portion or all of the epidermis, including the use of carbon dioxide lasers and
499 erbium:YAG lasers.

500 [~~(1)~~] (2) "ACGME" means the Accreditation Council for Graduate Medical Education
501 of the American Medical Association.

502 [~~(2)~~] (3) "Administrative penalty" means a monetary fine or citation imposed by the
503 division for acts or omissions determined to constitute unprofessional or unlawful conduct, in
504 accordance with a fine schedule established by the division in collaboration with the board, as a
505 result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4,
506 Administrative Procedures Act.

507 [~~(3)~~] (4) "Board" means the Physicians Licensing Board created in Section 58-67-201.

508 (5) "Cosmetic medical device" means tissue altering energy based devices that have the
509 potential for altering living tissue, such as American National Standards Institute designated
510 Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic
511 devices.

512 (6) "Cosmetic medical procedure":

513 (a) includes the use of cosmetic medical devices to perform ablative or non-ablative
514 procedures; and

515 (b) does not include a treatment of the ocular globe such as refractive surgery.

516 [~~(4)~~] (7) "Diagnose" means:

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

521 (b) to attempt to conduct an examination or determination described under Subsection

522 [~~(4)~~] (7)(a);

523 (c) to hold oneself out as making or to represent that one is making an examination or
524 determination as described in Subsection [~~(4)~~] (7)(a); or

525 (d) to make an examination or determination as described in Subsection [~~(4)~~] (7)(a)
526 upon or from information supplied directly or indirectly by another person, whether or not in
527 the presence of the person making or attempting the diagnosis or examination.

528 [~~(5)~~] (8) "LCME" means the Liaison Committee on Medical Education of the
529 American Medical Association.

530 [~~(6)~~] (9) "Medical assistant" means an unlicensed individual working under the direct
531 and immediate supervision of a licensed physician and surgeon and engaged in specific tasks
532 assigned by the licensed physician and surgeon in accordance with the standards and ethics of
533 the profession.

534 (10) "Non-ablative procedure" means a procedure that is expected or intended to alter
535 living tissue, but not excise, burn, vaporize or remove the epidermal surface of the skin.

536 [~~(7)~~] (11) "Physician" means both physicians and surgeons licensed under Section
537 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
538 Section 58-68-301, Utah Osteopathic Medical Practice Act.

539 [~~(8)~~] (12)(a) "Practice of medicine" means:

540 [~~(a)~~] (i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human
541 disease, ailment, injury, infirmity, deformity, pain or other condition, physical or mental, real
542 or imaginary, including to perform cosmetic medical procedures, or to attempt to do so, by any
543 means or instrumentality, and by an individual in Utah or outside the state upon or for any
544 human within the state~~[-except that conduct described in this Subsection (8)(a) that is~~
545 ~~performed by a person legally and in accordance with a license issued under another chapter of~~
546 ~~this title does not constitute the practice of medicine];~~

547 [~~(b)~~] (ii) when a person not licensed as a physician directs a licensee under this chapter
548 to withhold or alter the health care services that the licensee has ordered~~[-but practice of~~
549 ~~medicine does not include any conduct under Subsection 58-67-501(2)];~~

550 [~~(c)~~] (iii) to maintain an office or place of business for the purpose of doing any of the
551 acts described in Subsection [~~(8)~~] (12)(a) whether or not for compensation; or

552 [~~(d)~~] (iv)(A) except as permitted by Subsection (12)(a)(iv)(B) or (C), to use, in the

553 conduct of any occupation or profession pertaining to the diagnosis or treatment of human
554 diseases or conditions in any printed material, stationery, letterhead, envelopes, signs, or
555 advertisements, the designation "doctor," "doctor of medicine," "physician," "surgeon,"
556 "physician and surgeon," "Dr.," "M.D.," or any combination of these designations in any
557 manner which might cause a reasonable person to believe the individual using the designation
558 is a licensed physician and surgeon~~[-and];~~

559 (B) if [the party using the designation] a doctor or physician is not a licensed physician
560 and surgeon, the individual may use the designation [must additionally contain] of "doctor,"
561 "Dr.," or "physician" if accompanied by the description of the branch of the healing arts for
562 which the person has a license[-, provided that] in the same size and style of lettering; and

563 (C) if an individual [who] has received an earned degree of doctor of medicine [degree]
564 but is not a licensed physician and surgeon in Utah, the person may use the designation
565 ["M.D.,"] described in Subsection (12)(a)(iv)(A) if it is followed by "Not Licensed" or "Not
566 Licensed in Utah" in the same size and style of lettering.

567 (b) The practice of medicine does not include:

568 (i) except for an ablative medical procedure as provided in Subsection (12)(b)(ii), the
569 conduct described in Subsection (12)(a)(i) that is performed in accordance with a license issued
570 under another chapter of this title;

571 (ii) an ablative cosmetic medical procedure if the scope of practice for the person
572 performing the ablative cosmetic medical procedure includes the authority to operate or
573 perform a surgical procedure; or

574 (iii) conduct under Subsection 58-67-501(2).

575 ~~[(9)]~~ (13) "Prescription device" means an instrument, apparatus, implement, machine,
576 contrivance, implant, in vitro reagent, or other similar or related article, and any component
577 part or accessory, which is required under federal or state law to be prescribed by a practitioner
578 and dispensed by or through a person or entity licensed under this chapter or exempt from
579 licensure under this chapter.

580 ~~[(10)]~~ (14) "Prescription drug" means a drug that is required by federal or state law or
581 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

582 ~~[(11)]~~ (15) "SPEX" means the Special Purpose Examination of the Federation of State
583 Medical Boards.

584 ~~[(12)]~~ (16) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-67-501.

585 ~~[(13)]~~ (17) "Unprofessional conduct" is as defined in Sections 58-1-501 and

586 58-67-502, and as may be further defined by division rule.

587 Section 8. Section **58-67-805** is enacted to read:

588 **58-67-805. Supervision of cosmetic medical procedures.**

589 A physician may not delegate the performance of an ablative cosmetic medical

590 procedure to an individual who is not licensed under this chapter or Chapter 68, Utah

591 Osteopathic Medical Practice Act.

592 Section 9. Section **58-68-102** is amended to read:

593 **58-68-102. Definitions.**

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

595 (1) "Ablative procedure" means a procedure that is expected to excise, burn, vaporize

596 or remove a portion or all of the epidermis, including the use of carbon dioxide lasers and

597 erbium:YAG lasers.

598 ~~[(1)]~~ (2) "ACGME" means the Accreditation Council for Graduate Medical Education

599 of the American Medical Association.

600 ~~[(2)]~~ (3) "Administrative penalty" means a monetary fine imposed by the division for

601 acts or omissions determined to constitute unprofessional or unlawful conduct, as a result of an

602 adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative

603 Procedures Act.

604 ~~[(3)]~~ (4) "AOA" means the American Osteopathic Association.

605 ~~[(4)]~~ (5) "Board" means the Osteopathic Physician and Surgeon's Licensing Board

606 created in Section 58-68-201.

607 (6) "Cosmetic medical device" means tissue altering energy based devices that have the

608 potential for altering living tissue, such as American National Standards Institute designated

609 Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic

610 devices.

611 (7) "Cosmetic medical procedure":

612 (a) includes the use of cosmetic medical devices to perform ablative or non-ablative

613 procedures; and

614 (b) does not include a treatment of the ocular globe such as refractive surgery.

615 ~~[(5)]~~ (8) "Diagnose" means:

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

620 (b) to attempt to conduct an examination or determination described under Subsection
621 ~~[(5)]~~ (8)(a);

622 (c) to hold oneself out as making or to represent that one is making an examination or
623 determination as described in Subsection ~~[(5)]~~ (8)(a); or

624 (d) to make an examination or determination as described in Subsection ~~[(5)]~~ (8)(a)
625 upon or from information supplied directly or indirectly by another person, whether or not in
626 the presence of the person making or attempting the diagnosis or examination.

627 ~~[(6)]~~ (9) "Medical assistant" means an unlicensed individual working under the direct
628 and immediate supervision of a licensed osteopathic physician and surgeon and engaged in
629 specific tasks assigned by the licensed osteopathic physician and surgeon in accordance with
630 the standards and ethics of the profession.

631 (10) "Non-ablative procedure" means a procedure that is expected or intended to alter
632 living tissue, but not excise, burn, vaporize or remove the epidermal surface if the skin.

633 ~~[(7)]~~ (11) "Physician" means both physicians and surgeons licensed under Section
634 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
635 Section 58-68-301, Utah Osteopathic Medical Practice Act.

636 ~~[(8)]~~ (12) (a) "Practice of osteopathic medicine" means:

637 ~~[(a)]~~ (i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human
638 disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real
639 or imaginary, or to attempt to do so, by any means or instrumentality, which in whole or in part
640 is based upon emphasis of the importance of the musculoskeletal system and manipulative
641 therapy in the maintenance and restoration of health, by an individual in Utah or outside of the
642 state upon or for any human within the state~~[-except that conduct described in this Subsection~~
643 ~~(8)(a) that is performed by a person legally and in accordance with a license issued under~~
644 ~~another chapter of this title does not constitute the practice of medicine];~~

645 ~~[(b)]~~ (ii) when a person not licensed as a physician directs a licensee under this chapter

646 to withhold or alter the health care services that the licensee has ordered~~[, but practice of~~
647 ~~medicine does not include any conduct under Subsection 58-68-501(2)];~~

648 ~~[(c)]~~ (iii) to maintain an office or place of business for the purpose of doing any of the
649 acts described in Subsection ~~[(8)]~~ (12)(a) whether or not for compensation; or

650 ~~[(d)]~~ (iv) (A) except as permitted in Subsection (12)(a)(iv)(B) or (C) to use, in the
651 conduct of any occupation or profession pertaining to the diagnosis or treatment of human
652 diseases or conditions, in any printed material, stationery, letterhead, envelopes, signs, or
653 advertisements, the designation "doctor," "doctor of osteopathic medicine," "osteopathic
654 physician," "osteopathic surgeon," "osteopathic physician and surgeon," "Dr.," "D.O.," or any
655 combination of these designations in any manner which might cause a reasonable person to
656 believe the individual using the designation is a licensed osteopathic physician~~[, and];~~

657 (B) if [the party using the designation] a doctor or physician is not a licensed
658 osteopathic physician, the individual may use the designation of "Dr." or "physician" if the
659 designation [must additionally contain the] is accompanied by a description of the branch of
660 the healing arts for which the person has a license~~[, provided that]~~ in the same size and style of
661 lettering; and

662 (C) if an individual [who] has received [an earned] a degree of doctor of osteopathic
663 medicine but is not a licensed osteopathic physician and surgeon in Utah the individual may
664 use the designation ["D.O." described in Subsection (12)(a)(iv)(A) if it is followed by "Not
665 Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

666 (b) The practice of osteopathic medicine does not include:

667 (i) except for an ablative medical procedure as provided in Subsection (12)(b)(ii), the
668 conduct described in Subsection (12)(a)(i) that is performed in accordance with a license issued
669 under another chapter of this title;

670 (ii) an ablative cosmetic medical procedure if the scope of practice for the person
671 performing the ablative cosmetic medical procedure includes the authority to operate or
672 perform a surgical procedure; or

673 (iii) conduct under Subsection 58-68-501(2)

674 ~~[(9)]~~ (13) "Prescription device" means an instrument, apparatus, implement, machine,
675 contrivance, implant, in vitro reagent, or other similar or related article, and any component
676 part or accessory, which is required under federal or state law to be prescribed by a practitioner

677 and dispensed by or through a person or entity licensed under this chapter or exempt from
678 licensure under this chapter.

679 ~~[(10)]~~ (14) "Prescription drug" means a drug that is required by federal or state law or
680 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

681 ~~[(11)]~~ (15) "SPEX" means the Special Purpose Examination of the Federation of State
682 Medical Boards.

683 ~~[(12)]~~ (16) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-68-501.

684 ~~[(13)]~~ (17) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-68-502
685 and as may be further defined by division rule.

686 Section 10. Section **58-68-805** is enacted to read:

687 **58-68-805. Supervision of cosmetic medical procedures.**

688 An osteopathic physician and surgeon may not delegate the performance of an ablative
689 cosmetic medical procedure to an individual who is not licensed under this chapter or Chapter
690 67, Utah Medical Practice Act.