

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;
- nonablative procedure;
- superficial 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



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **58-1-102**, as renumbered and amended by Laws of Utah 1993, Chapter 297

31 **58-11a-102**, as last amended by Laws of Utah 2010, Chapter 145

32 **58-11a-502**, as last amended by Laws of Utah 2009, Chapter 130

33 **58-16a-102**, as last amended by Laws of Utah 2004, Chapters 48 and 280

34 **58-67-102**, as last amended by Laws of Utah 2011, Chapter 214

35 **58-68-102**, as last amended by Laws of Utah 2011, Chapter 214

36 ENACTS:

37 **58-1-505**, Utah Code Annotated 1953

38 **58-1-506**, Utah Code Annotated 1953

39 **58-67-805**, Utah Code Annotated 1953

40 **58-68-805**, Utah Code Annotated 1953



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

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

44 **58-1-102. Definitions.**

45 For purposes of this title:

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

47 (2) "Cosmetic medical procedure":

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

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

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

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

52 perform surgical procedures.

53 [~~(1)~~] (3) "Department" means the Department of Commerce.

54 [~~(2)~~] (4) "Director" means the director of the Division of Occupational and

55 Professional Licensing.

56 [~~(3)~~] (5) "Division" means the Division of Occupational and Professional Licensing

57 created in Section 58-1-103.

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

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

62 (8) (a) "Nonablative procedure" means a procedure that is expected or intended to alter
63 living tissue, but not to excise, burn, vaporize or remove living tissue.

64 (b) "Nonablative procedure" does not include:

65 (i) a superficial procedure;

66 (ii) the application of permanent make-up; or

67 (iii) the use of infrared photo therapy and lasers for neuromusculoskeletal treatments

68 that are performed by an individual licensed under this title who is acting within their scope of
69 practice.

70 (9) "Superficial procedure" means a procedure that is expected or intended to
71 temporarily alter living skin tissue and may excise or remove stratum corneum but have no
72 appreciable risk of damage to any tissue below the stratum corneum.

73 ~~[(6)]~~ (10) "Unlawful conduct" has the meaning given in Subsection 58-1-501(1).

74 ~~[(7)]~~ (11) "Unprofessional conduct" has the meaning given in Subsection 58-1-501(2).

75 Section 2. Section **58-1-505** is enacted to read:

76 **58-1-505. Cosmetic medical procedure supervisor.**

77 (1) For purposes of this section:

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

80 (b) "Supervisor" means:

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

84 (ii) an advanced practice registered nurse with an unrestricted license under Chapter
85 31b, Nurse Practice Act, who is acting within the scope of practice of advanced practice
86 registered nursing, as defined in Section 58-31b-102.

87 (2) (a) An individual authorized by this title to perform a cosmetic medical procedure

88 shall be supervised by a supervisor when performing a medical procedure.

89 (b) Cosmetic medical procedures may only be performed in a cosmetic medical
90 facility.

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

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

94 **58-1-506. Supervision of cosmetic medical procedures.**

95 (1) For purposes of this section:

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

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

100 (ii) a registered nurse;

101 (iii) a master esthetician; and

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

103 (b) "Delegation group B" means:

104 (i) a practical nurse or an esthetician who is licensed under this title, acting within their
105 respective scope of practice, and qualified under Subsection (2)(i); and

106 (ii) a medical assistant who is qualified under Subsection (2)(i).

107 (c) "Direct cosmetic medical procedure supervision" means the supervisor:

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

109 (ii) is present and available for a face-to-face communication with the supervisee when
110 and where a cosmetic medical procedure is performed.

111 (d) "General cosmetic medical procedure supervision" means the supervisor:

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

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

115 (iii) is located within 60 minutes or 60 miles of the cosmetic medical facility.

116 (e) "Indirect cosmetic medical procedure supervision" means the supervisor:

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

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

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

121 (iv) is available to:

122 (A) provide immediate face-to-face communication with the person being supervised;
123 and

124 (B) evaluate the patient, as necessary.

125 (f) "Hair removal review" means:

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

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

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

134 (2) A supervisor supervising a nonablative cosmetic medical procedure for hair
135 removal shall:

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

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

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

141 (d) personally perform the nonablative cosmetic medical procedure for hair removal, or
142 authorize and delegate the procedure to a member of delegation group A or B;

143 (e) during the nonablative cosmetic medical procedure for hair removal provide general
144 cosmetic medical procedure supervision to individuals in delegation group A performing the
145 procedure and indirect cosmetic medical procedure supervision to individuals in delegation
146 group B performing the procedure; and

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

149 (i) has received appropriate training regarding the medical procedures developed under

150 Subsection (2)(b):

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

153 (iii) if a practical nurse or medical assistant, has maintained competence to perform the
154 nonablative cosmetic medical procedure for hair removal through documented training and
155 experience of at least 80 hours, as further defined by rule, regarding:

156 (A) the appropriate standard of care for performing nonablative cosmetic medical
157 procedures for hair removal;

158 (B) physiology of the skin;

159 (C) skin typing and analysis;

160 (D) skin conditions, disorders, and diseases;

161 (E) pre and post procedure care;

162 (F) infection control;

163 (G) laser and light physics training;

164 (H) laser technologies and applications;

165 (I) safety and maintenance of lasers;

166 (J) cosmetic laser hair removal procedures;

167 (K) recognition and appropriate management of complications from a procedure; and

168 (L) cardio-pulmonary resuscitation (CPR).

169 (3) For a nonablative cosmetic medical procedure other than hair removal under

170 Subsection (2):

171 (a) a physician who has an unrestricted license to practice medicine shall:

172 (i) develop a treatment plan for the nonablative cosmetic medical procedure; and

173 (ii) conduct an in-person face-to-face evaluation of the patient prior to the initiation of
174 a treatment protocol or series of treatments;

175 (b) the supervisor supervising the procedure shall:

176 (i) have an unrestricted license to practice medicine or advanced practice registered
177 nursing;

178 (ii) personally perform the nonablative cosmetic medical procedure or:

179 (A) authorize and provide general cosmetic medical procedure supervision for the
180 nonablative cosmetic medical procedure that is performed by:

181 (I) a physician assistant, if supervised by a physician and the procedure is included in
182 the delegation agreement;

183 (II) a registered nurse;

184 (III) a master esthetician; or

185 (B) authorize and provide direct cosmetic medical procedure supervision for the
186 nonablative cosmetic medical procedure that is performed by an esthetician; and

187 (iii) verify that a person to whom the supervisor delegates a procedure under
188 Subsection (3)(b):

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

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

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

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

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

199 (c) the patient receives written information with the name and licensing information of
200 the supervisor who is supervising the nonablative cosmetic medical procedure and the person
201 who is performing the nonablative cosmetic medical procedure;

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

204 (e) the cosmetic medical facility's contract with a master esthetician who performs a
205 nonablative cosmetic medical procedure at the facility is kept on the premises of the facility.

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

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

208 **58-11a-102. Definitions.**

209 As used in this chapter:

210 (1) "Approved barber or cosmetologist/barber apprenticeship" means an apprenticeship
211 that meets the requirements of Subsection 58-11a-306(1) for barbers or Subsection

212 58-11a-306(2) for cosmetologist/barbers 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 (2) "Approved esthetician apprenticeship" means an apprenticeship that meets the
216 requirements of Subsection 58-11a-306(3) 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 (3) "Approved master esthetician apprenticeship" means an apprenticeship that meets
220 the requirements of Subsection 58-11a-306(4) 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 (4) "Approved nail technician apprenticeship" means an apprenticeship that meets the
224 requirements of Subsection 58-11a-306(5) and the requirements established by rule by the
225 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah
226 Administrative Rulemaking Act.

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

229 (6) "Barber instructor" means a barber who is licensed under this chapter to teach
230 barbering at a licensed barber school or in an apprenticeship program as defined in Section
231 58-11a-306.

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

234 (8) "Cosmetic laser procedure" means only a nonablative procedure as defined in
235 Section 58-67-102.

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

237 [~~8~~] (10) "Cosmetologist/barber" means a person who is licensed under this chapter to
238 engage in the practice of cosmetology/barbering.

239 [~~9~~] (11) "Cosmetologist/barber instructor" means a cosmetologist/barber who is
240 licensed under this chapter to teach cosmetology/barbering at a licensed cosmetology/barber
241 school, licensed barber school, licensed nail technology school, or in an apprenticeship
242 program as defined in Subsection 58-11a-306(2).

243 ~~[(10)]~~ (12) "Direct supervision" means that the supervisor of an apprentice or the
244 instructor of a student is immediately available for consultation, advice, instruction, and
245 evaluation.

246 ~~[(11)]~~ (13) "Electrologist" means a person who is licensed under this chapter to engage
247 in the practice of electrology.

248 ~~[(12)]~~ (14) "Electrologist instructor" means an electrologist who is licensed under this
249 chapter to teach electrology at a licensed electrology school.

250 ~~[(13)]~~ (15) "Esthetician" means a person who is licensed under this chapter to engage
251 in the practice of esthetics.

252 ~~[(14)]~~ (16) "Esthetician instructor" means a master esthetician who is licensed under
253 this chapter to teach the practice of esthetics and the practice of master-level esthetics at a
254 licensed esthetics school, a licensed cosmetology/barber school, or in an apprenticeship
255 program as defined in Subsection 58-11a-306(3).

256 ~~[(15)]~~ (17) "Fund" means the Barber, Cosmetologist/Barber, Esthetician, Electrologist,
257 and Nail Technician Education and Enforcement Fund created in Section 58-11a-103.

258 ~~[(16)]~~ (18) "Licensed barber or cosmetology/barber school" means a barber or
259 cosmetology/barber school licensed under this chapter.

260 ~~[(17)]~~ (19) "Licensed electrology school" means an electrology school licensed under
261 this chapter.

262 ~~[(18)]~~ (20) "Licensed esthetics school" means an esthetics school licensed under this
263 chapter.

264 ~~[(19)]~~ (21) "Licensed nail technology school" means a nail technology school licensed
265 under this chapter.

266 ~~[(20)]~~ (22) "Master esthetician" means an individual who is licensed under this chapter
267 to engage in the practice of master-level esthetics.

268 ~~[(21)]~~ (23) "Nail technician" means an individual who is licensed under this chapter to
269 engage in the practice of nail technology.

270 ~~[(22)]~~ (24) "Nail technician instructor" means a nail technician licensed under this
271 chapter to teach the practice of nail technology in a licensed nail technology school, a licensed
272 cosmetology/barber school, or in an apprenticeship program as defined in Subsection
273 58-11a-306(5).

274 [~~(23)~~] (25) "Practice of barbering" means:

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

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

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

279 [~~(24)~~] (26) "Practice of barbering instruction" means instructing barbering in a licensed
280 barber school, licensed cosmetology/barber school, or in an apprenticeship program as defined
281 in Subsection 58-11a-306(1).

282 [~~(25)~~] (27) "Practice of basic esthetics" means any one of the following skin care
283 procedures done on the head, face, neck, arms, hands, legs, feet, eyebrows, or eyelashes for
284 cosmetic purposes and not for the treatment of medical, physical, or mental ailments:

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

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

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

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

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

297 (i) superfluous hair removal;

298 (ii) anti-aging resurfacing enhancements;

299 (iii) photo rejuvenation; or

300 (iv) tattoo removal.

301 [~~(26)~~] (28) (a) "Practice of cosmetology/barbering" means:

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

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

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

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

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

313 (vi) practicing hair weaving or hair fusing or servicing previously medically implanted
314 hair.

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

316 (i) the practice of basic esthetics; and

317 (ii) the practice of nail technology.

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

320 [(27)] (29) "Practice of cosmetology/barbering instruction" means instructing
321 cosmetology/barbering as defined in Subsection [(26)] (28) in a licensed cosmetology/barber
322 school or in an apprenticeship program as defined in Subsection 58-11a-306(2).

323 [(28)] (30) "Practice of electrology" means:

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

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

328 [(29)] (31) "Practice of electrology instruction" means instructing electrology in a
329 licensed electrology school.

330 [(30)] (32) "Practice of esthetics instruction" means instructing esthetics in a licensed
331 esthetics school, a licensed cosmetology/barber school, or instructing master-level esthetics in a
332 licensed esthetics school or in an apprenticeship program as defined in Subsections
333 58-11a-306(2), (3), and (4).

334 [(31)] (33) (a) "Practice of master-level esthetics" means:

335 (i) any of the following when done for cosmetic purposes on the head, face, neck,

336 torso, abdomen, back, arms, hands, legs, feet, eyebrows, or eyelashes and not for the treatment
337 of medical, physical, or mental ailments:

- 338 (A) body wraps as defined by rule;
- 339 (B) hydrotherapy as defined by rule;
- 340 (C) chemical exfoliation as defined by rule;
- 341 (D) advanced pedicures as defined by rule;
- 342 (E) sanding, including microdermabrasion;
- 343 (F) advanced extraction;
- 344 (G) other esthetic preparations or procedures with the use of:
- 345 (I) the hands; or

346 (II) a mechanical or electrical apparatus which is approved for use by division rule for
347 beautifying or similar work performed on the body for cosmetic purposes and not for the
348 treatment of a medical, physical, or mental ailment; or

349 (H) cosmetic laser procedures under the ~~[general]~~ supervision of a ~~[licensed health care~~
350 ~~practitioner as defined by rule,]~~ cosmetic supervisor with a physician's evaluation before the
351 procedure, as needed, unless specifically required under Section 58-1-506, and limited to the
352 following:

- 353 (I) superfluous hair removal;
- 354 (II) anti-aging resurfacing enhancements;
- 355 (III) photo rejuvenation; or
- 356 (IV) tattoo removal with a physician's evaluation before the tattoo removal procedure;

357 and

358 (ii) lymphatic massage by manual or other means as defined by rule.

359 (b) Notwithstanding the provisions of Subsection ~~[(31)]~~ (33)(a), a master-level
360 esthetician may perform procedures listed in Subsection ~~[(31)]~~ (33)(a)(i)(H) ~~[for noncosmetic~~
361 ~~purposes]~~ if done under the supervision of a ~~[licensed health care practitioner]~~ cosmetic
362 supervisor acting within the scope of the ~~[licensed health care practitioner's]~~ cosmetic
363 supervisor license ~~[as defined by rule]~~.

364 (c) The term "practice of master-level esthetics" includes the practice of esthetics, but
365 an individual is not required to be licensed as an esthetician or master-level esthetician to
366 engage in the practice of threading.

367 ~~[(32)]~~ (34) "Practice of nail technology" means to trim, cut, clean, manicure, shape,
368 massage, or enhance the appearance of the hands, feet, and nails of an individual by the use of
369 hands, mechanical, or electrical preparation, antiseptic, lotions, or creams, including the
370 application and removal of sculptured or artificial nails.

371 ~~[(33)]~~ (35) "Practice of nail technology instruction" means instructing nail technology
372 in a licensed nail technician school, licensed cosmetology/barber school, or in an
373 apprenticeship program as defined in Subsection 58-11a-306(5).

374 ~~[(34)]~~ (36) "Recognized barber school" means a barber school located in a state other
375 than Utah, whose students, upon graduation, are recognized as having completed the
376 educational requirements for licensure in that state.

377 ~~[(35)]~~ (37) "Recognized cosmetology/barber school" means a cosmetology/barber
378 school located in a state other than Utah, whose students, upon graduation, are recognized as
379 having completed the educational requirements for licensure in that state.

380 ~~[(36)]~~ (38) "Recognized electrology school" means an electrology school located in a
381 state other than Utah, whose students, upon graduation, are recognized as having completed the
382 educational requirements for licensure in that state.

383 ~~[(37)]~~ (39) "Recognized esthetics school" means an esthetics school located in a state
384 other than Utah, whose students, upon graduation, are recognized as having completed the
385 educational requirements for licensure in that state.

386 ~~[(38)]~~ (40) "Recognized nail technology school" means a nail technology school
387 located in a state other than Utah, whose students, upon graduation, are recognized as having
388 completed the educational requirements for licensure in that state.

389 ~~[(39)]~~ (41) "Salon" means a place, shop, or establishment in which
390 cosmetology/barbering, esthetics, electrology, or nail technology is practiced.

391 ~~[(40)]~~ (42) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-11a-502.

392 ~~[(41)]~~ (43) "Unprofessional conduct" is as defined in Sections 58-1-501 and
393 58-11a-501 and as may be further defined by rule by the division in collaboration with the
394 board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

396 **58-11a-502. Unlawful conduct.**

397 Unlawful conduct includes:

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

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

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

402 (2) knowingly employing any other person to engage in or practice or attempt to
403 engage in or practice any occupation or profession licensed under this chapter if the employee
404 is not licensed to do so under this chapter or exempt from licensure;

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

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

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

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

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

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

419 **58-16a-102. Definitions.**

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

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

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

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

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

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

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

428 (i) the commencement date of the prescription;

- 429 (ii) the base curve, power, diameter, material or brand name, and expiration date;
- 430 (iii) for a written order, the signature of the prescribing optometrist or physician; and
- 431 (iv) for a verbal order, a record maintained by the recipient of:
 - 432 (A) the name of the prescribing optometrist or physician; and
 - 433 (B) the date when the prescription was issued or ordered.
- 434 (b) A prescription may include:
 - 435 (i) a limit on the quantity of lenses that may be ordered under the prescription if
 - 436 required for medical reasons documented in the patient's files; and
 - 437 (ii) the expiration date of the prescription, which shall be two years from the
 - 438 commencement date, unless documented medical reasons require otherwise.
- 439 (c) When a provider prescribes a private label contact lens for a patient the prescription
- 440 shall include:
 - 441 (i) the name of the manufacturer;
 - 442 (ii) the trade name of the private label brand; and
 - 443 (iii) if applicable, the trade name of the equivalent national brand.
- 444 (4) "Contact lens prescription verification" means a written request from a person who
- 445 sells or provides contact lenses that:
 - 446 (a) is sent to the prescribing optometrist or physician; and
 - 447 (b) seeks the confirmation of the accuracy of a patient's prescription.
- 448 (5) "Eye and its adnexa" means the human eye and all structures situated within the
- 449 orbit, including the conjunctiva, lids, lashes, and lacrimal system.
- 450 (6) "Fitting of a contact lens" means:
 - 451 (a) the using of a keratometer to measure the human eye;
 - 452 (b) utilizing refractive data provided by a licensed optometrist or ophthalmologist; and
 - 453 (c) trial fitting of contact lenses, which includes a period of time for evaluation for fit
 - 454 and performance, to determine a tentative contact lens prescription for a patient if the patient:
 - 455 (i) has not worn contact lenses before; or
 - 456 (ii) has changed to a different type or base curve.
- 457 (7) "Laser surgery" means surgery in which human tissue is cut, burned, or vaporized
- 458 by means of laser or ionizing radiation.
- 459 (8) "Ophthalmic lens" means any lens used to treat the eye and that:

- 460 (a) has a spherical, cylindrical, or prismatic power;
- 461 (b) is made pursuant to an unexpired prescription; and
- 462 (c) is intended to be used in eyeglasses or spectacles.
- 463 (9) "Optometric assistant" means an unlicensed individual:
- 464 (a) working under the direct and immediate supervision of a licensed optometrist; and
- 465 (b) engaged in specific tasks assigned by the licensed optometrist in accordance with
- 466 the standards and ethics of the profession.
- 467 (10) "Optometrist" or "optometric physician" means an individual licensed under this
- 468 chapter.
- 469 (11) "Optometry" and "practice of optometry" mean any one or any combination of the
- 470 following practices:
- 471 (a) examination of the human eye and its adnexa to detect and diagnose defects or
- 472 abnormal conditions;
- 473 (b) determination or modification of the accommodative or refractive state of the
- 474 human eye or its range or power of vision by administration and prescription of pharmaceutical
- 475 agents or the use of diagnostic instruments;
- 476 (c) prescription, ordering, administration, or adaptation of ophthalmic lenses, contact
- 477 lenses, ophthalmic devices, pharmaceutical agents, laboratory tests, or ocular exercises to
- 478 diagnose and treat diseases, defects, or other abnormal conditions of the human eye and its
- 479 adnexa;
- 480 (d) display of any advertisement, circular, sign, or device offering to:
- 481 (i) examine the eyes;
- 482 (ii) fit glasses or contact lenses; or
- 483 (iii) adjust frames;
- 484 (e) removal of a foreign body from the eye or its adnexa, that is not deeper than the
- 485 anterior 1/2 of the cornea;
- 486 (f) consultation regarding the eye and its adnexa with other appropriate health care
- 487 providers, including referral to other appropriate health care providers; and
- 488 (g) a person, not licensed as an optometrist, directing a licensee under this chapter to
- 489 withhold or alter the eye care services the licensee has ordered.
- 490 (12) "Pharmaceutical agent" means any diagnostic or therapeutic drug or combination

491 of drugs that has the property of assisting in the diagnosis, prevention, treatment, or mitigation
492 of abnormal conditions or symptoms of the eye and its adnexa.

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

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

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

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

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

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

501 **58-67-102. Definitions.**

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

503 (1) "Ablative procedure" means a procedure that is expected to excise, burn, vaporize
504 or remove living tissue, including the use of carbon dioxide lasers and erbium:YAG lasers.

505 [~~(+)~~] (2) "ACGME" means the Accreditation Council for Graduate Medical Education
506 of the American Medical Association.

507 [~~(2)~~] (3) "Administrative penalty" means a monetary fine or citation imposed by the
508 division for acts or omissions determined to constitute unprofessional or unlawful conduct, in
509 accordance with a fine schedule established by the division in collaboration with the board, as a
510 result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4,
511 Administrative Procedures Act.

512 [~~(3)~~] (4) "Board" means the Physicians Licensing Board created in Section 58-67-201.

513 (5) "Cosmetic medical device" means tissue altering energy based devices that have the
514 potential for altering living tissue and that are used to perform ablative or nonablative
515 procedures, such as American National Standards Institute designated Class IIIb and Class IV
516 lasers, intense pulsed light, radio frequency devices, and lipolytic devices.

517 (6) "Cosmetic medical procedure":

518 (a) includes the use of cosmetic medical devices to perform ablative or nonablative
519 procedures; and

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

521 [~~(4)~~] (7) "Diagnose" means:

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

526 (b) to attempt to conduct an examination or determination described under Subsection
527 ~~[(4)]~~ (7)(a);

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

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

533 ~~[(5)]~~ (8) "LCME" means the Liaison Committee on Medical Education of the
534 American Medical Association.

535 ~~[(6)]~~ (9) "Medical assistant" means an unlicensed individual working under the direct
536 and immediate supervision of a licensed physician and surgeon and engaged in specific tasks
537 assigned by the licensed physician and surgeon in accordance with the standards and ethics of
538 the profession.

539 (10) "Nonablative procedure" means a procedure that is expected or intended to alter
540 living tissue, but not excise, burn, vaporize or remove living tissue and does not include a
541 superficial procedure as defined in Section 58-1-102, or the application of permanent make-up.

542 ~~[(7)]~~ (11) "Physician" means both physicians and surgeons licensed under Section
543 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
544 Section 58-68-301, Utah Osteopathic Medical Practice Act.

545 ~~[(8)]~~ (12) (a) "Practice of medicine" means:

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

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

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

558 ~~[(d)]~~ (iv) to use, in the conduct of any occupation or profession pertaining to the
 559 diagnosis or treatment of human diseases or conditions in any printed material, stationery,
 560 letterhead, envelopes, signs, or advertisements, the designation "doctor," "doctor of medicine,"
 561 "physician," "surgeon," "physician and surgeon," "Dr.," "M.D.," or any combination of these
 562 designations in any manner which might cause a reasonable person to believe the individual
 563 using the designation is a licensed physician and surgeon, and if the party using the designation
 564 is not a licensed physician and surgeon, the designation must additionally contain the
 565 description of the branch of the healing arts for which the person has a license, provided that an
 566 individual who has received an earned degree of doctor of medicine degree but is not a licensed
 567 physician and surgeon in Utah may use the designation "M.D." if it is followed by "Not
 568 Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

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

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

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

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

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

582 ~~[(10)]~~ (14) "Prescription drug" means a drug that is required by federal or state law or
 583 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

584 ~~[(11)]~~ (15) "SPEX" means the Special Purpose Examination of the Federation of State
585 Medical Boards.

586 ~~[(12)]~~ (16) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-67-501.

587 ~~[(13)]~~ (17) "Unprofessional conduct" is as defined in Sections 58-1-501 and
588 58-67-502, and as may be further defined by division rule.

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

590 **58-67-805. Supervision of cosmetic medical procedures.**

591 A physician may not delegate the performance of an ablative cosmetic medical
592 procedure to an individual who is not licensed under this chapter or Chapter 68, Utah
593 Osteopathic Medical Practice Act.

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

595 **58-68-102. Definitions.**

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

597 (1) "Ablative procedure" means a procedure that is expected to excise, burn, vaporize
598 or remove living tissue, including the use of carbon dioxide lasers and erbium:YAG lasers.

599 ~~[(1)]~~ (2) "ACGME" means the Accreditation Council for Graduate Medical Education
600 of the American Medical Association.

601 ~~[(2)]~~ (3) "Administrative penalty" means a monetary fine imposed by the division for
602 acts or omissions determined to constitute unprofessional or unlawful conduct, as a result of an
603 adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative
604 Procedures Act.

605 ~~[(3)]~~ (4) "AOA" means the American Osteopathic Association.

606 ~~[(4)]~~ (5) "Board" means the Osteopathic Physician and Surgeon's Licensing Board
607 created in Section 58-68-201.

608 (6) "Cosmetic medical device" means tissue altering energy based devices that have the
609 potential for altering living tissue and that are used to perform ablative or nonablative
610 procedures, such as American National Standards Institute designated Class IIIb and Class IV
611 lasers, intense pulsed light, radio frequency devices, and lipolytic devices.

612 (7) "Cosmetic medical procedure":

613 (a) includes the use of cosmetic medical devices to perform ablative or nonablative
614 procedures; and

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

616 [~~(5)~~] (8) "Diagnose" means:

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

621 (b) to attempt to conduct an examination or determination described under Subsection
622 [~~(5)~~] (8)(a);

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

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

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

632 (10) "Nonablative procedure" means a procedure that is expected or intended to alter
633 living tissue, but not excise, burn, vaporize or remove living tissue and does not include a
634 superficial procedure as defined in Section 58-1-102 or the application of permanent make-up.

635 [~~(7)~~] (11) "Physician" means both physicians and surgeons licensed under Section
636 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
637 Section 58-68-301, Utah Osteopathic Medical Practice Act.

638 [~~(8)~~] (12) (a) "Practice of osteopathic medicine" means:

639 [~~(a)~~] (i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human
640 disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real
641 or imaginary, or to attempt to do so, by any means or instrumentality, which in whole or in part
642 is based upon emphasis of the importance of the musculoskeletal system and manipulative
643 therapy in the maintenance and restoration of health, by an individual in Utah or outside of the
644 state upon or for any human within the state[, except that conduct described in this Subsection
645 ~~(8)(a) that is performed by a person legally and in accordance with a license issued under~~

646 ~~another chapter of this title does not constitute the practice of medicine];~~

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

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

652 ~~[(d)] (iv) to use, in the conduct of any occupation or profession pertaining to the~~
653 ~~diagnosis or treatment of human diseases or conditions, in any printed material, stationery,~~
654 ~~letterhead, envelopes, signs, or advertisements, the designation "doctor," "doctor of osteopathic~~
655 ~~medicine," "osteopathic physician," "osteopathic surgeon," "osteopathic physician and~~
656 ~~surgeon," "Dr.," "D.O.," or any combination of these designations in any manner which might~~
657 ~~cause a reasonable person to believe the individual using the designation is a licensed~~
658 ~~osteopathic physician, and if the party using the designation is not a licensed osteopathic~~
659 ~~physician, the designation must additionally contain the description of the branch of the healing~~
660 ~~arts for which the person has a license, provided that an individual who has received an earned~~
661 ~~degree of doctor of osteopathic medicine but is not a licensed osteopathic physician and~~
662 ~~surgeon in Utah may use the designation "D.O." if it is followed by "Not Licensed" or "Not~~
663 ~~Licensed in Utah" in the same size and style of lettering.~~

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

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

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

671 (iii) conduct under Subsection 58-68-501(2).

672 ~~[(9)] (13) "Prescription device" means an instrument, apparatus, implement, machine,~~
673 ~~contrivance, implant, in vitro reagent, or other similar or related article, and any component~~
674 ~~part or accessory, which is required under federal or state law to be prescribed by a practitioner~~
675 ~~and dispensed by or through a person or entity licensed under this chapter or exempt from~~
676 ~~licensure under this chapter.~~

677 [~~(10)~~] (14) "Prescription drug" means a drug that is required by federal or state law or
678 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

679 [~~(11)~~] (15) "SPEX" means the Special Purpose Examination of the Federation of State
680 Medical Boards.

681 [~~(12)~~] (16) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-68-501.

682 [~~(13)~~] (17) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-68-502
683 and as may be further defined by division rule.

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

685 **58-68-805. Supervision of cosmetic medical procedures.**

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