

**Senator David P. Hinkins** proposes the following substitute bill:

**PODIATRIC PHYSICIAN AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: David P. Hinkins**

House Sponsor: Justin L. Fawson

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**LONG TITLE**

**General Description:**

This bill amends provisions related to podiatric physicians.

**Highlighted Provisions:**

This bill:

- ▶ modifies qualifications for licensure as a podiatric physician;
- ▶ modifies the scope of practice of a podiatric physician; and
- ▶ provides for the supervision of a licensed physician's assistant by a licensed podiatric physician.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**58-5a-102**, as last amended by Laws of Utah 1996, Chapter 232

**58-5a-302**, as last amended by Laws of Utah 2009, Chapter 183

**58-5a-306**, as last amended by Laws of Utah 1996, Chapter 232

**58-5a-501**, as enacted by Laws of Utah 1993, Chapter 211



26 **58-70a-102**, as enacted by Laws of Utah 1997, Chapter 229

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

29 Section 1. Section **58-5a-102** is amended to read:

30 **58-5a-102. Definitions.**

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

32 (1) "Board" means the Podiatric Physician Board created in Section **58-5a-201**.

33 (2) "Indirect supervision" means the same as that term is defined by the division by  
34 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

35 (3) "Medical assistant" means an unlicensed individual working under the indirect  
36 supervision of a licensed podiatric physician and engaging in specific tasks assigned by the  
37 licensed podiatric physician in accordance with the standards and ethics of the podiatry  
38 profession.

39 ~~[(2)]~~ (4) "Practice of podiatry" means the diagnosis and treatment of conditions  
40 affecting the human foot and ankle and their manifestations of systemic conditions by all  
41 appropriate and lawful means, ~~[subject to the following provisions]~~ including:

42 ~~[(a) surgical procedures may be performed upon all bones of the foot and ankle, with~~  
43 ~~the exception of the following procedures:]~~

44 ~~[(i) ankle fusion;]~~

45 ~~[(ii) massive ankle reconstruction; and]~~

46 ~~[(iii) reduction of trimalleolar fractures of the ankle;]~~

47 (a) performing surgical procedures on a foot or ankle;

48 (b) ~~[surgical treatment of any]~~ surgically treating a condition of the ankle [and], or  
49 governing and related structures of the foot and ankle above the ankle [shall be], if the  
50 treatment is:

51 (i) performed in an ambulatory surgical facility, general acute hospital, or a specialty  
52 hospital, as defined in Section **26-21-2**; and

53 (ii) subject to review by a quality care review body ~~[which]~~ that includes qualified  
54 licensed physicians and surgeons[.]; and

55 (c) supervising an individual licensed as an advanced practice registered nurse  
56 specializing as a certified registered nurse anesthetist under Title 58, Chapter 31b, Nurse

57 Practice Act, to administer general anesthesia as provided in Subsection 58-31b-102(13)(d).

58 ~~[(3)(a)] (5) "Unlawful conduct" [as defined in Section 58-1-501 includes the following~~  
59 ~~conduct by a person not licensed under this chapter] includes:~~

60 (a) the conduct that constitutes unlawful conduct under Section 58-1-501; and

61 (b) for an individual who is not licensed under this chapter:

62 (i) using the title or name podiatric physician, podiatrist, podiatric surgeon, foot doctor,  
63 foot specialist, or D.P.M.; or

64 (ii) implying or representing [he] that the individual is qualified to practice podiatry.

65 ~~[(b) "Unlawful conduct" as defined in Section 58-1-501 includes the following conduct~~  
66 ~~by a person licensed under this chapter:]~~

67 ~~[(i) administering general anesthesia; or]~~

68 ~~[(ii) amputating the foot.]~~

69 ~~[(4)] (6) "Unprofessional conduct" [as defined in Section 58-1-501 and as may be~~  
70 ~~further defined by rule,] includes, for an individual licensed under this chapter:~~

71 (a) the conduct that constitutes unprofessional conduct under Section 58-1-501;

72 ~~[(a)] (b) communicating to a third party, without the consent of the patient, information~~  
73 ~~[acquired] the individual acquires in treating the patient [that is necessary to enable the~~  
74 ~~podiatric physician to treat the patient], except as necessary for professional consultation~~  
75 ~~regarding treatment of [a] the patient;~~

76 ~~[(b)] (c) allowing [one's] the individual's name or license [as a podiatric physician] to~~  
77 ~~be used by [another person] an individual who is not licensed to practice podiatry [in this state]~~  
78 ~~under this chapter;~~

79 ~~[(c)] (d) except as described in Section 58-5a-306, employing, directly or indirectly,~~  
80 ~~any unlicensed [person] individual to practice podiatry;~~

81 ~~[(d) use of] (e) using alcohol or drugs, to the extent [a licensee's ability to safely~~  
82 ~~engage in the practice of podiatry is impaired] the individual's use of alcohol or drugs impairs~~  
83 ~~the individual's ability to practice podiatry;~~

84 ~~[(e)] (f) unlawfully prescribing, selling, or giving away any prescription drug, including~~  
85 ~~controlled substances, as defined in Section 58-37-2;~~

86 ~~[(f)] (g) gross incompetency in the practice of podiatry;~~

87 ~~[(g)] (h) willfully and intentionally making a false statement or entry in hospital~~

88 records, medical records, or reports;

89 ~~[(h)]~~ (i) willfully making a false statement in reports or claim forms to governmental  
90 agencies or insurance companies with the intent to secure payment not rightfully due; ~~[or]~~

91 ~~[(i)]~~ (j) willfully using false or fraudulent advertising[-]; and

92 (k) conduct the division defines as unprofessional conduct by rule made in accordance  
93 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

94 Section 2. Section **58-5a-302** is amended to read:

95 **58-5a-302. Qualifications to practice podiatry.**

96 An applicant for licensure to practice podiatry shall:

97 (1) submit an application in a form as prescribed by the division;

98 (2) pay a fee as determined by the department under Section [63J-1-504](#);

99 (3) be of good moral character;

100 (4) be a graduate of a college of podiatric medicine accredited by the Council of  
101 Podiatric Education;

102 (5) if licensed on or after July 1, 2015, have completed ~~[one year]~~ two years of  
103 postgraduate training in a residency program recognized by the board; and

104 (6) pass examinations required by rule.

105 Section 3. Section **58-5a-306** is amended to read:

106 **58-5a-306. Exemptions from licensure.**

107 The following persons may practice podiatry, subject to stated circumstances and  
108 limitations, without being licensed under this chapter:

109 (1) a podiatric physician serving in the armed forces of the United States, the United  
110 States Public Health Service, the United States Department of Veterans Affairs, or other federal  
111 agencies while engaged in activities regulated under this chapter as a part of his employment  
112 with that federal agency if the individual holds a valid license to practice podiatry issued by any  
113 other state or jurisdiction recognized by the division;

114 (2) a student engaged in activities that constitute the practice of podiatry while in  
115 training in a recognized school approved by the division to the extent the activities are under  
116 the supervision of qualified faculty or staff and the activities are a defined part of the training  
117 program;

118 (3) a person engaged in an internship, residency, preceptorship, postceptorship,

119 fellowship, apprenticeship, or on-the-job training program approved by the division while  
120 under the supervision of qualified persons;

121 (4) a person residing in another state and licensed to practice podiatry there, who is  
122 called in for a consultation by a person licensed in this state and services provided are limited  
123 to that consultation or who is invited by a recognized school, association, society, or other body  
124 approved by the division to conduct a lecture, clinic, or demonstration of the practice of  
125 podiatry so long as that individual does not establish a place of business or regularly engage in  
126 the practice of podiatry in the state;

127 (5) a person licensed under the laws of this state to practice or engage in any other  
128 occupation or profession while engaged in the lawful, professional, and competent practice of  
129 that occupation or profession; ~~and~~

130 (6) persons who fit or sell corrective shoes, arch supports, or similar devices, to the  
131 extent their acts and practices involve only the fitting and selling of these items~~[-]; or~~

132 (7) a medical assistant working under the indirect supervision of a licensed podiatric  
133 physician, if the medical assistant:

134 (a) engages only in tasks appropriately delegated by the licensed podiatric physician in  
135 accordance with the standards and ethics of the practice of podiatry, and consistent with this  
136 chapter;

137 (b) does not perform surgical procedures;

138 (c) does not prescribe prescription medications;

139 (d) does not administer anesthesia, except for a local anesthetic; and

140 (e) does not engage in other practices or procedures defined by the division by rule  
141 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in  
142 collaboration with the board.

143 Section 4. Section **58-5a-501** is amended to read:

144 **58-5a-501. Unlawful conduct -- Penalties.**

145 Any person who engages in unlawful conduct as defined in this chapter is guilty of a  
146 third degree felony, except that a violation of Subsection **58-5a-102**~~[(3)(a)]~~(5) is a class A  
147 misdemeanor.

148 Section 5. Section **58-70a-102** is amended to read:

149 **58-70a-102. Definitions.**

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

151 (1) "Board" means the Physician Assistant Licensing Board created in Section  
152 58-70a-201.

153 (2) (a) "Delegation of services agreement" means written criteria jointly developed by a  
154 physician assistant's supervising physician and any substitute supervising physicians and the  
155 physician assistant, that permits a physician assistant, working under the direction or review of  
156 the supervising physician, to assist in the management of common illnesses and injuries.

157 (b) The agreement defines the working relationship and delegation of duties between  
158 the supervising physician and the physician assistant as specified by division rule and shall  
159 include:

160 (i) the prescribing of controlled substances;

161 (ii) the degree and means of supervision;

162 (iii) the frequency and mechanism of chart review;

163 (iv) procedures addressing situations outside the scope of practice of the physician  
164 assistant; and

165 (v) procedures for providing backup for the physician assistant in emergency situations.

166 (3) "Direct supervision" means the supervising physician is:

167 (a) physically present at the point of patient treatment on site where the physician  
168 assistant he is supervising is practicing; and

169 (b) immediately available for consultation with the physician assistant.

170 (4) "Practice as a physician assistant" means:

171 (a) the professional activities and conduct of a physician assistant in diagnosing,  
172 treating, advising, or prescribing for any human disease, ailment, injury, infirmity, deformity,  
173 pain, or other condition, dependent upon and under the supervision of a supervising physician  
174 or substitute supervising physician in accordance with a delegation of services agreement; and

175 (b) the physician assistant acts as the agent of the supervising physician or substitute  
176 supervising physician when acting in accordance with a delegation of services agreement.

177 (5) "Substitute supervising physician" means an individual who meets the requirements  
178 of a supervising physician under this chapter and acts as the supervising physician in the  
179 absence of the supervising physician.

180 (6) "Supervising physician" means an individual who:

181 (a) is currently licensed to practice under Title 58, Chapter 67, Utah Medical Practice  
182 Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 5a,  
183 Podiatric Physician Licensing Act;

184 (b) acts as the primary supervisor of a physician assistant and takes responsibility for  
185 the professional practice and conduct of a physician assistant in accordance with this chapter;  
186 and

187 (c) is not an employee of the physician assistant he supervises.

188 (7) "Supervision" means the supervising physician is available for consultation with  
189 the physician assistant, either personally or by other means permitting direct verbal  
190 communication between the physician and physician assistant.

191 (8) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-70a-502.

192 (9) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-70a-503 and as  
193 may be further defined by rule.