

**Representative Justin L. Fawson** 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; and
- ▶ modifies the scope of practice of a 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

ENACTS:

**58-5a-103**, Utah Code Annotated 1953



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

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

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

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

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

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

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

~~[(2)]~~ (4) "Practice of podiatry" means the diagnosis and treatment of conditions affecting the human foot and ankle and their manifestations of systemic conditions by all appropriate and lawful means, subject to ~~[the following provisions:]~~ Section **58-5a-103**.

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

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

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

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

~~[(b) surgical treatment of any condition of the ankle and governing and related structures of the foot and ankle above the ankle shall be:]~~

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

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

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

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

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

(i) using the title or name podiatric physician, podiatrist, podiatric surgeon, foot doctor,

57 foot specialist, or D.P.M.; or

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

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

61 [~~(i) administering general anesthesia; or~~

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

63 [~~(4)~~] (6) "Unprofessional conduct" [as defined in Section 58-1-501 and as may be  
64 further defined by rule,] includes, for an individual licensed under this chapter:

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

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

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

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

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

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

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

81 [~~(g)~~] (h) willfully and intentionally making a false statement or entry in hospital  
82 records, medical records, or reports;

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

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

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

88 Section 2. Section **58-5a-103** is enacted to read:

89 **58-5a-103. Scope of practice.**

90 (1) Subject to Subsections (4) and (5), an individual licensed as a podiatric physician  
91 under this chapter may perform a surgical procedure on a bone of the foot or ankle, except that  
92 the individual may not perform:

93 (a) ankle fusion;

94 (b) massive ankle reconstruction; or

95 (c) reduction of a trimalleolar ankle fracture;

96 (2) Notwithstanding Subsections (1)(a), (1)(b), and (1)(c), subject to Subsections (4)  
97 and (5), an individual licensed as a podiatric physician under this chapter that meets the  
98 additional training requirements described in Subsection (3) may perform a surgical procedure  
99 that is related to the treatment of a foot or ankle condition, including the treatment of a foot or  
100 ankle condition that involves the soft tissues, including tendons, ligaments, and nerves, of the  
101 foot or ankle, except that the individual may only:

102 (a) treat a fracture of the tibia if at least one portion of the fracture line enters the ankle  
103 joint;

104 (b) treat a foot or ankle condition using hardware, including screws, plates, staples,  
105 pins, and wires, if at least one portion of the hardware system is attached to a bony structure at  
106 or below the ankle mortise; and

107 (c) place hardware for the treatment of soft tissues in the foot or ankle no more  
108 proximal than the distal 10 centimeters of the tibia.

109 (3) An individual licensed as a podiatric physician under this chapter may not perform  
110 the procedures described in Subsection (2) unless the individual:

111 (a) (i) graduated on or after June 1, 2006 from a three-year residency program in  
112 podiatric medicine and surgery that was accredited, at the time of graduation, by the Council on  
113 Podiatric Medical Education; and

114 (ii) is board certified in reconstructive rearfoot and ankle surgery by the American  
115 Board of Foot and Ankle Surgery;

116 (b) (i) graduated on or after June 1, 2006 from a three-year residency program in  
117 podiatric medicine and surgery that was accredited, at the time of graduation, by the Council on  
118 Podiatric Medical Education;

119 (ii) is board qualified in reconstructive rearfoot ankle surgery by the American Board  
120 of Foot and Ankle Surgery; and

121 (iii) provides the division documentation that the podiatric physician has completed  
122 training or experience, that the division determines is acceptable, in standard or advanced  
123 midfoot, rearfoot, and ankle procedures; or

124 (c) (i) graduated before June 1, 2006, from a residency program in podiatric medicine  
125 and surgery that was at least two years in length and that was accredited, at the time of  
126 graduation, by the Council on Podiatric Medical Education;

127 (ii) (A) is board certified in reconstructive rearfoot ankle surgery by the American  
128 Board of Foot and Ankle Surgery;

129 (B) if the residency described in Subsection (3)(c)(i) is a PSR-24 24-month podiatric  
130 surgical residency, provides proof that the individual completed the residency, to a hospital that  
131 is accredited by the Joint Commission and meets the hospital's credentialing criteria for foot  
132 and ankle surgery; or

133 (C) in addition to the residency described in Subsection (3)(c)(i), has completed a  
134 fellowship in foot and ankle surgery that was accredited by the Council on Podiatric Medical  
135 Education at the time of completion; and

136 (iii) provides the division documentation that the podiatric physician has completed  
137 training and experience, that the division determines is acceptable, in standard or advanced  
138 midfoot, rearfoot, and ankle procedures.

139 (4) An individual licensed as a podiatric physician under this chapter may not perform  
140 an amputation proximal to Chopart's joint.

141 (5) An individual licensed as a podiatric physician under this chapter may not perform  
142 a surgical treatment on an ankle, on a governing structure of the foot or ankle above the ankle,  
143 or on a structure related to the foot or ankle above the ankle, unless the individual performs the  
144 surgical treatment:

145 (a) in an ambulatory surgical facility, a general acute hospital, or a specialty hospital, as  
146 defined in Section 26-21-2; and

147 (b) subject to review by a quality care review body that includes qualified, licensed  
148 physicians and surgeons.

149 Section 3. Section **58-5a-302** is amended to read:

150 **58-5a-302. Qualifications to practice podiatry.**

151 An applicant for licensure to practice podiatry shall:

- 152 (1) submit an application in a form as prescribed by the division;
- 153 (2) pay a fee as determined by the department under Section 63J-1-504;
- 154 (3) be of good moral character;
- 155 (4) be a graduate of a college of podiatric medicine accredited by the Council of

156 Podiatric Education;

- 157 (5) if licensed on or after July 1, 2015, have completed [~~one year~~] two years of

158 postgraduate training in a residency program recognized by the board; and

- 159 (6) pass examinations required by rule.

160 Section 4. Section 58-5a-306 is amended to read:

161 **58-5a-306. Exemptions from licensure.**

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

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

- 169 (2) a student engaged in activities that constitute the practice of podiatry while in  
170 training in a recognized school approved by the division to the extent the activities are under  
171 the supervision of qualified faculty or staff and the activities are a defined part of the training  
172 program;

- 173 (3) a person engaged in an internship, residency, preceptorship, postceptorship,  
174 fellowship, apprenticeship, or on-the-job training program approved by the division while  
175 under the supervision of qualified persons;

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

181 the practice of podiatry in the state;

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

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

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

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

192 (b) does not perform surgical procedures;

193 (c) does not prescribe prescription medications;

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

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

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

199 **58-5a-501. Unlawful conduct -- Penalties.**

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