

**Senator J. Stuart Adams** proposes the following substitute bill:

**ADMINISTRATION OF ANESTHESIA AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael S. Kennedy**

Senate Sponsor: J. Stuart Adams

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**LONG TITLE**

**General Description:**

This bill amends professional licensing acts in the Division of Occupational and Professional Licensing Act to require informed consent and certain patient monitoring of patients who are sedated and establishes a database for adverse events.

**Highlighted Provisions:**

This bill:

- ▶ requires the Department of Health to:
  - create a database of adverse events from the administration of sedation or anesthesia in outpatient settings; and
  - publish a report regarding the number of adverse events by types of provider and facility and submit a yearly report to the Health and Human Services Interim Committee;
- ▶ requires a health care provider who administers sedation intravenously to a patient in an outpatient setting that is not an emergency department:
  - to obtain informed consent from the patient; and
  - to report adverse events from the sedation or anesthesia to the Department of Health;
- ▶ makes it unprofessional conduct to fail to report an adverse event from outpatient



- 26 sedation or anesthesia;
- 27       ▶ provides whistle blower protections to a health care provider who reports an adverse
- 28 event; and
- 29       ▶ requires a health care provider who administers sedation or anesthesia intravenously
- 30 to have access to a crash cart during the anesthesia procedure.

31 **Money Appropriated in this Bill:**

32       None

33 **Other Special Clauses:**

34       None

35 **Utah Code Sections Affected:**

36 AMENDS:

37       **63I-1-226**, as last amended by Laws of Utah 2016, Chapters 89, 170, 279, and 327

38       **63I-1-258**, as last amended by Laws of Utah 2016, Chapters 89 and 294

39 ENACTS:

- 40       **26-1-40**, Utah Code Annotated 1953
- 41       **58-5a-502**, Utah Code Annotated 1953
- 42       **58-31b-502.5**, Utah Code Annotated 1953
- 43       **58-67-502.5**, Utah Code Annotated 1953
- 44       **58-68-502.5**, Utah Code Annotated 1953
- 45       **58-69-502.5**, Utah Code Annotated 1953



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

48       Section 1. Section **26-1-40** is enacted to read:

49       **26-1-40. Reports of anesthesia adverse events- whistle blower protections.**

50       (1) (a) Beginning January 1, 2018, the department shall create a database of deaths and  
51 adverse events from the administration of sedation or anesthesia in outpatient settings that are  
52 not emergency departments in the state.

53       (b) The database required by Subsection (1)(a) shall include reports submitted by  
54 health care providers under Sections [58-5a-502](#), [58-31b-502.5](#), [58-67-502.5](#), [58-68-502.5](#), and  
55 [58-69-502.5](#).

56       (2) The department shall adopt administrative rules under Title 63G, Chapter 3, Utah

57 Administrative Rulemaking Act, regarding:

58 (a) the format of the reports; and

59 (b) what constitutes a reportable adverse event, which shall include at least the  
60 administration of intravenous sedation or anesthesia when there is:

61 (i) an escalation of care required for the patient; or

62 (ii) a rescue of a patient from a deeper level of sedation than was intended.

63 (3) (a) Information the department receives under this section that identifies a  
64 particular individual is subject to Title 63G, Chapter 2, Government Records Access and  
65 Management Act, and the federal Health Insurance Portability and Accountability Act of 1996.

66 (b) Beginning July 1, 2018, and on or before July 1 of each year thereafter, the  
67 department shall:

68 (i) publicly report:

69 (A) the number of deaths and adverse events reported under Subsection (1);

70 (B) the type of health care providers, by license category and specialty, who submitted  
71 reports under Subsection (1) and who administered the sedation or anesthesia that resulted in  
72 an adverse event; and

73 (C) the type of facility in which the death or adverse event took place; and

74 (ii) submit a report to the Health and Human Services Interim Committee with the  
75 information required by this Subsection (3).

76 (4) An employer of a health care provider who submits a report under this section may  
77 not take an adverse employment action against the reporting health care provider if the  
78 employment action is based on the provider submitting a report under this section.

79 (5) (a) This section sunsets in accordance with Section [631-1-226](#).

80 (b) The sunset review of this section shall include an analysis of:

81 (i) the number and types of adverse events reported under this section;

82 (ii) the types of health care providers and locations involved in the adverse events;

83 (iii) the adequacy of sedation and anesthesia requirements in Sections [58-5a-502](#),  
84 [58-31b-502.5](#), [58-67-502.5](#), [58-68-502.5](#), and [58-69-502.5](#) related to the adverse events  
85 reported under this section; and

86 (iv) the adequacy of the reporting requirements under this section and the need for  
87 additional protections for health care providers who report events under this section.

88 Section 2. Section **58-5a-502** is enacted to read:

89 **Part 5. Unprofessional and Unlawful Conduct -- Penalties**

90 **58-5a-502. Unprofessional conduct.**

91 In addition to unprofessional conduct as defined in Section [58-5a-102](#), it is  
92 unprofessional conduct for an individual licensed under this chapter to administer sedation or  
93 anesthesia intravenously to a patient in an outpatient setting that is not an emergency  
94 department without:

95 (1) first obtaining consent from the patient in writing, which shall include:

96 (a) the type of sedation or anesthesia being administered;

97 (b) the identity and type of license or permit under this title of the person who is  
98 performing the procedure for which the sedation or anesthesia will be administered;

99 (c) the identity and type of license or permit under this title of the person who will be  
100 administering the sedation or anesthesia; and

101 (d) monitoring that will occur during the sedation or anesthesia, including monitoring  
102 of the patient's oxygenation, ventilation and circulation;

103 (2) reporting any adverse event under Section [26-1-40](#); and

104 (3) having access during the procedure to an advanced cardiac life support crash cart  
105 with equipment that is regularly maintained according to guidelines established by the  
106 American Heart Association.

107 Section 3. Section **58-31b-502.5** is enacted to read:

108 **58-31b-502.5. Anesthesia and sedation -- Unprofessional conduct.**

109 In addition to unprofessional conduct as defined in Section [58-31b-502](#), it is  
110 unprofessional conduct for an individual licensed under this chapter to administer sedation or  
111 anesthesia intravenously to a patient in an outpatient setting that is not an emergency  
112 department without:

113 (1) first obtaining consent from the patient in writing, which shall include:

114 (a) the type of sedation or anesthesia being administered;

115 (b) the identity and type of license or permit under this title of the person who is  
116 performing the procedure for which the sedation or anesthesia will be administered;

117 (c) the identity and type of license or permit under this title of the person who will be  
118 administering the sedation or anesthesia; and

119 (d) monitoring that will occur during the sedation or anesthesia, including monitoring  
120 the patient's oxygenation, ventilation and circulation;

121 (2) reporting any adverse event under Section 26-1-40; and

122 (3) having access during the procedure to an advanced cardiac life support crash cart  
123 with equipment that is regularly maintained according to guidelines established by the  
124 American Heart Association.

125 Section 4. Section 58-67-502.5 is enacted to read:

126 **58-67-502.5. Anesthesia and sedation -- Unprofessional conduct.**

127 In addition to unprofessional conduct as defined in Section 58-67-502, it is  
128 unprofessional conduct for an individual licensed under this chapter to administer sedation or  
129 anesthesia intravenously to a patient in an outpatient setting that is not an emergency  
130 department without:

131 (1) first obtaining consent from the patient in writing, which shall include:

132 (a) the type of sedation or anesthesia being administered;

133 (b) the identity and type of license or permit under this title of the person who is  
134 performing the procedure for which the sedation or anesthesia will be administered;

135 (c) the identity and type of license or permit under this title of the person who will be  
136 administering the sedation or anesthesia; and

137 (d) monitoring that will occur during the sedation or anesthesia, including monitoring  
138 of the patient's oxygenation, ventilation and circulation;

139 (2) reporting any adverse event under Section 26-1-40; and

140 (3) having access during the procedure to an advanced cardiac life support crash cart  
141 with equipment that is regularly maintained according to guidelines established by the  
142 American Heart Association.

143 Section 5. Section 58-68-502.5 is enacted to read:

144 **58-68-502.5. Anesthesia and sedation -- Unprofessional conduct.**

145 In addition to unprofessional conduct as defined in Section 58-68-502, it is  
146 unprofessional conduct for an individual licensed under this chapter to administer sedation or  
147 anesthesia intravenously to a patient in an outpatient setting that is not an emergency  
148 department without:

149 (1) first obtaining consent from the patient in writing, which shall include:

- 150 (a) the type of sedation or anesthesia being administered;
- 151 (b) the identity and type of license or permit under this title of the person who is
- 152 performing the procedure for which the sedation or anesthesia will be administered;
- 153 (c) the identity and type of license or permit under this title of the person who will be
- 154 administering the sedation or anesthesia; and
- 155 (d) monitoring that will occur during the sedation or anesthesia, including monitoring
- 156 of the patient's oxygenation, ventilation and circulation;
- 157 (2) reporting any adverse event under Section 26-1-40; and
- 158 (3) having access during the procedure to an advanced cardiac life support crash cart
- 159 with equipment that is regularly maintained according to guidelines established by the
- 160 American Heart Association.

161 Section 6. Section **58-69-502.5** is enacted to read:

162 **58-69-502.5. Anesthesia and sedation -- Unprofessional conduct.**

163 In addition to unprofessional conduct as defined in Section 58-68-502, it is

164 unprofessional conduct for an individual licensed under this chapter to administer sedation or

165 anesthesia intravenously to a patient in an outpatient setting that is not an emergency

166 department without:

- 167 (1) first obtaining consent from the patient in writing, which shall include:
- 168 (a) the type of sedation or anesthesia being administered;
- 169 (b) the identity and type of license or permit under this title of the person who is
- 170 performing the procedure for which the sedation or anesthesia will be administered;
- 171 (c) the identity and type of license or permit under this title of the person who will be
- 172 administering the sedation or anesthesia; and
- 173 (d) monitoring that will occur during the sedation or anesthesia, including monitoring
- 174 of the patient's oxygenation, ventilation and circulation;
- 175 (2) reporting any adverse event under Section 26-1-40; and
- 176 (3) having access during the procedure to an advanced cardiac life support crash cart
- 177 with equipment that is regularly maintained according to guidelines established by the
- 178 American Heart Association.

179 Section 7. Section **63I-1-226** is amended to read:

180 **63I-1-226. Repeal dates, Title 26.**

- 181            (1) Section 26-1-40 is repealed July 1, 2021.
- 182            [(+)] (2) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed  
183 July 1, 2025.
- 184            [(2)] (3) Section 26-10-11 is repealed July 1, 2020.
- 185            [(3)] (4) Section 26-21-23, Licensing of non-Medicaid nursing care facility beds, is  
186 repealed July 1, 2018.
- 187            [(4)] (5) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1,  
188 2024.
- 189            [(5)] (6) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1,  
190 2019.
- 191            [(6)] (7) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1,  
192 2021.
- 193            [(7)] (8) Section 26-38-2.5 is repealed July 1, 2017.
- 194            [(8)] (9) Section 26-38-2.6 is repealed July 1, 2017.
- 195            [~~(9) Title 26, Chapter 52, Autism Treatment Account, is repealed July 1, 2016.~~]
- 196            (10) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed July 1, 2021.
- 197            Section 8. Section **63I-1-258** is amended to read:
- 198            **63I-1-258. Repeal dates, Title 58.**
- 199            (1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is  
200 repealed July 1, 2026.
- 201            (2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.
- 202            (3) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2018.
- 203            (4) Section 58-37-4.3 is repealed July 1, 2021.
- 204            (5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.
- 205            (6) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is  
206 repealed July 1, 2019.
- 207            (7) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.
- 208            (8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July  
209 1, 2023.
- 210            (9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.
- 211            (10) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1,

212 2026.

213 (11) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.

214 (12) Title 58, Chapter 86, State Certification of Commercial Interior Designers Act, is  
215 repealed July 1, 2021.

216 (13) The following sections are repealed on July 1, 2021:

217 (a) Section [58-5a-502](#);

218 (b) Section [58-31b-502.5](#);

219 (c) Section [58-67-502.5](#);

220 (d) Section [58-68-502.5](#); and

221 (e) Section [58-69-502.5](#).