

Representative Stewart E. Barlow proposes the following substitute bill:

MEDICAL SCHOOL GRADUATES ASSOCIATE PHYSICIAN

LICENSURE

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stewart E. Barlow

Senate Sponsor: Brian E. Shiozawa

LONG TITLE

General Description:

This bill creates a restricted license enabling a medical school graduate to practice medicine under certain conditions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the restricted associate physician license;
- ▶ describes licensure requirements;
- ▶ describes the scope of practice of a restricted associate physician license;
- ▶ permits a qualified physician to enter into a cooperative practice arrangement with a

licensed associate physician;

- ▶ describes a cooperative practice arrangement;
- ▶ requires the Division of Occupational and Professional Licensing to make rules

regarding:

- the approval of cooperative practice arrangements; and
 - educational methods and programs for associate physicians; and
- ▶ makes technical changes.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 This bill provides a special effective date.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **58-67-102**, as last amended by Laws of Utah 2013, Chapter 262

33 **58-67-303**, as last amended by Laws of Utah 2011, Chapter 206

34 **58-67-304**, as last amended by Laws of Utah 2011, Chapters 161 and 214

35 **58-67-502**, as last amended by Laws of Utah 2015, Chapters 110 and 206

36 **58-67-601**, as last amended by Laws of Utah 2013, Chapter 364

37 **58-68-102**, as last amended by Laws of Utah 2013, Chapter 262

38 **58-68-303**, as last amended by Laws of Utah 2005, Chapter 94

39 **58-68-304**, as last amended by Laws of Utah 2011, Chapters 161 and 214

40 **58-68-502**, as last amended by Laws of Utah 2015, Chapters 110 and 206

41 **58-68-601**, as last amended by Laws of Utah 2013, Chapter 364

42 ENACTS:

43 **58-67-302.8**, Utah Code Annotated 1953

44 **58-67-807**, Utah Code Annotated 1953

45 **58-68-302.5**, Utah Code Annotated 1953

46 **58-68-807**, Utah Code Annotated 1953



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

49 Section 1. Section **58-67-102** is amended to read:

50 **58-67-102. Definitions.**

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

52 (1) "Ablative procedure" means a procedure that is expected to excise, vaporize,
53 disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium:
54 YAG lasers, and excluding hair removal.

55 (2) "ACGME" means the Accreditation Council for Graduate Medical Education of the
56 American Medical Association.

57 (3) "Administrative penalty" means a monetary fine or citation imposed by the division
58 for acts or omissions determined to constitute unprofessional or unlawful conduct, in
59 accordance with a fine schedule established by the division in collaboration with the board, as a
60 result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4,
61 Administrative Procedures Act.

62 (4) "Associate physician" means an individual licensed under Section [58-67-302.8](#).

63 [~~4~~] (5) "Board" means the Physicians Licensing Board created in Section [58-67-201](#).

64 (6) "Collaborating physician" means an individual licensed under Section [58-67-302](#)

65 who enters into a collaborative practice arrangement with an associate physician.

66 (7) "Collaborative practice arrangement" means the arrangement described in Section

67 [58-67-807](#).

68 [~~5~~] (8) (a) "Cosmetic medical device" means tissue altering energy based devices that
69 have the potential for altering living tissue and that are used to perform ablative or nonablative
70 procedures, such as American National Standards Institute (ANSI) designated Class IIIb and
71 Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic devices, and
72 excludes ANSI designated Class IIIa and lower powered devices.

73 (b) Notwithstanding Subsection [~~5~~] (8)(a), if an ANSI designated Class IIIa and lower
74 powered device is being used to perform an ablative procedure, the device is included in the
75 definition of cosmetic medical device under Subsection [~~5~~] (8)(a).

76 [~~6~~] (9) "Cosmetic medical procedure":

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

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

80 [~~7~~] (10) "Diagnose" means:

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

85 (b) to attempt to conduct an examination or determination described under Subsection
86 [~~7~~] (10)(a);

87 (c) to hold oneself out as making or to represent that one is making an examination or

88 determination as described in Subsection ~~[(7)]~~ (10)(a); or

89 (d) to make an examination or determination as described in Subsection ~~[(7)]~~ (10)(a)
90 upon or from information supplied directly or indirectly by another person, whether or not in
91 the presence of the person making or attempting the diagnosis or examination.

92 ~~[(8)]~~ (11) "LCME" means the Liaison Committee on Medical Education of the
93 American Medical Association.

94 ~~[(9)]~~ (12) "Medical assistant" means an unlicensed individual working under the
95 indirect supervision of a licensed physician and surgeon and engaged in specific tasks assigned
96 by the licensed physician and surgeon in accordance with the standards and ethics of the
97 profession.

98 (13) "Medically underserved area" means a geographic area in which there is a
99 shortage of primary care health services for residents, as determined by the Department of
100 Health.

101 (14) "Medically underserved population" means a specified group of people living in a
102 defined geographic area with a shortage of primary care health services, as determined by the
103 Department of Health.

104 ~~[(10)]~~ (15) (a) (i) "Nonablative procedure" means a procedure that is expected or
105 intended to alter living tissue, but is not intended or expected to excise, vaporize, disintegrate,
106 or remove living tissue.

107 (ii) Notwithstanding Subsection ~~[(10)]~~ (15)(a)(i), nonablative procedure includes hair
108 removal.

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

110 (i) a superficial procedure as defined in Section 58-1-102;

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

112 (iii) the use of photo therapy and lasers for neuromusculoskeletal treatments that are
113 performed by an individual licensed under this title who is acting within the individual's scope
114 of practice.

115 ~~[(11)]~~ (16) "Physician" means both physicians and surgeons licensed under Section
116 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
117 Section 58-68-301, Utah Osteopathic Medical Practice Act.

118 ~~[(12)]~~ (17) (a) "Practice of medicine" means:

119 (i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human
120 disease, ailment, injury, infirmity, deformity, pain or other condition, physical or mental, real
121 or imaginary, including to perform cosmetic medical procedures, or to attempt to do so, by any
122 means or instrumentality, and by an individual in Utah or outside the state upon or for any
123 human within the state;

124 (ii) when a person not licensed as a physician directs a licensee under this chapter to
125 withhold or alter the health care services that the licensee has ordered;

126 (iii) to maintain an office or place of business for the purpose of doing any of the acts
127 described in Subsection ~~[(12)]~~ (17)(a) whether or not for compensation; or

128 (iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
129 treatment of human diseases or conditions in any printed material, stationery, letterhead,
130 envelopes, signs, or advertisements, the designation "doctor," "doctor of medicine,"
131 "physician," "surgeon," "physician and surgeon," "Dr.," "M.D.," or any combination of these
132 designations in any manner which might cause a reasonable person to believe the individual
133 using the designation is a licensed physician and surgeon, and if the party using the designation
134 is not a licensed physician and surgeon, the designation must additionally contain the
135 description of the branch of the healing arts for which the person has a license, provided that an
136 individual who has received an earned degree of doctor of medicine degree but is not a licensed
137 physician and surgeon in Utah may use the designation "M.D." if it is followed by "Not
138 Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

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

140 (i) except for an ablative medical procedure as provided in Subsection ~~[(12)]~~
141 ~~(17)~~(b)(ii), the conduct described in Subsection ~~[(12)]~~ (17)(a)(i) that is performed in
142 accordance with a license issued under another chapter of this title;

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

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

147 ~~[(13)]~~ (18) "Prescription device" means an instrument, apparatus, implement, machine,
148 contrivance, implant, in vitro reagent, or other similar or related article, and any component
149 part or accessory, which is required under federal or state law to be prescribed by a practitioner

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

152 ~~[(14)]~~ (19) "Prescription drug" means a drug that is required by federal or state law or
153 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

154 ~~[(15)]~~ (20) "SPEX" means the Special Purpose Examination of the Federation of State
155 Medical Boards.

156 ~~[(16)]~~ (21) "Unlawful conduct" ~~[is as]~~ means the same as that term is defined in
157 Sections 58-1-501 and 58-67-501.

158 ~~[(17)]~~ (22) "Unprofessional conduct" ~~[is as]~~ means the same as that term is defined in
159 Sections 58-1-501 and 58-67-502, and as may be further defined by division rule.

160 Section 2. Section 58-67-302.8 is enacted to read:

161 **58-67-302.8. Restricted licensing of an associate physician.**

162 (1) An individual may apply for a restricted license as an associate physician if the
163 individual:

164 (a) meets the requirements described in Subsections 58-67-302(1)(a) through (c),
165 (1)(d)(i), and (1)(g) through (j);

166 (b) successfully completes Step 1 and Step 2 of the United States Medical Licensing
167 Examination or the equivalent steps of another board-approved medical licensing examination:

168 (i) within three years after the day on which the applicant graduates from a program
169 described in Subsection 58-67-302(1)(d)(i); and

170 (ii) within two years before applying for a restricted license as an associate physician;
171 and

172 (c) is not currently enrolled in and has not completed a residency program.

173 (2) Before a licensed associate physician may engage in the practice of medicine as
174 described in Subsection (3), the licensed associate physician shall:

175 (a) enter into a collaborative practice arrangement described in Section 58-67-807
176 within six months after the associate physician's initial licensure; and

177 (b) receive division approval of the collaborative practice arrangement.

178 (3) An associate physician's scope of practice is limited to primary care services to
179 medically underserved populations or in medically underserved areas within the state.

180 Section 3. Section 58-67-303 is amended to read:

181 **58-67-303. Term of license -- Expiration -- Renewal.**

182 (1) (a) Except as provided in Section 58-67-302.7, the division shall issue each license
183 under this chapter in accordance with a two-year renewal cycle established by division rule.

184 (b) The division may by rule extend or shorten a renewal period by as much as one year
185 to stagger the renewal cycles it administers.

186 (2) At the time of renewal, the licensee shall show compliance with:

187 (a) continuing education renewal requirements; and

188 (b) the requirement for designation of a contact person and alternate contact person for
189 access to medical records and notice to patients as required by Subsections 58-67-304(1)(b)
190 and (c).

191 (3) Each license issued under this chapter expires on the expiration date shown on the
192 license unless renewed in accordance with Section 58-1-308.

193 (4) An individual may not be licensed as an associate physician for more than a total of
194 four years.

195 Section 4. Section 58-67-304 is amended to read:

196 **58-67-304. License renewal requirements.**

197 (1) As a condition precedent for license renewal, each licensee shall, during each
198 two-year licensure cycle or other cycle defined by division rule:

199 (a) complete qualified continuing professional education requirements in accordance
200 with the number of hours and standards defined by division rule made in collaboration with the
201 board;

202 (b) appoint a contact person for access to medical records and an alternate contact
203 person for access to medical records in accordance with Subsection 58-67-302(1)(i); ~~and~~

204 (c) if the licensee practices medicine in a location with no other persons licensed under
205 this chapter, provide some method of notice to the licensee's patients of the identity and
206 location of the contact person and alternate contact person for the licensee~~[-]; and~~

207 (d) if the licensee is an associate physician licensed under Section 58-67-302.8,
208 successfully complete the educational methods and programs described in Subsection
209 58-67-807(4).

210 (2) If a renewal period is extended or shortened under Section 58-67-303, the
211 continuing education hours required for license renewal under this section are increased or

212 decreased proportionally.

213 (3) An application to renew a license under this chapter shall:

214 (a) require a physician to answer the following question: "Do you perform elective
215 abortions in Utah in a location other than a hospital?"; and

216 (b) immediately following the question, contain the following statement: "For purposes
217 of the immediately preceding question, elective abortion means an abortion other than one of
218 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is
219 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of
220 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a
221 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where
222 the woman is pregnant as a result of rape or incest."

223 (4) In order to assist the Department of Health in fulfilling its responsibilities relating
224 to the licensing of an abortion clinic, if a physician responds positively to the question
225 described in Subsection (3)(a), the division shall, within 30 days after the day on which it
226 renews the physician's license under this chapter, inform the Department of Health in writing:

227 (a) of the name and business address of the physician; and

228 (b) that the physician responded positively to the question described in Subsection
229 (3)(a).

230 Section 5. Section **58-67-502** is amended to read:

231 **58-67-502. Unprofessional conduct.**

232 (1) "Unprofessional conduct" includes, in addition to the definition in Section
233 [58-1-501](#):

234 (a) using or employing the services of any individual to assist a licensee in any manner
235 not in accordance with the generally recognized practices, standards, or ethics of the
236 profession, state law, or division rule;

237 (b) making a material misrepresentation regarding the qualifications for licensure under
238 Section [58-67-302.7](#) or Section [58-67-302.8](#); or

239 (c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
240 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable.

241 (2) "Unprofessional conduct" does not include, in compliance with Section [58-85-103](#):

242 (a) obtaining an investigational drug or investigational device;

- 243 (b) administering the investigational drug to an eligible patient; or
- 244 (c) treating an eligible patient with the investigational drug or investigational device.

245 Section 6. Section **58-67-601** is amended to read:

246 **58-67-601. Mentally incompetent or incapacitated physician.**

247 (1) As used in this section:

248 (a) "Incapacitated person" means a person who is incapacitated, as defined in Section
249 [75-1-201](#).

250 (b) "Mental illness" [~~is as~~] means the same as that term is defined in Section
251 [62A-15-602](#).

252 (c) "Physician" means an individual licensed under this chapter.

253 (2) If a court of competent jurisdiction determines a physician is an incapacitated
254 person or that the physician has a mental illness and is unable to safely engage in the practice
255 of medicine, the director shall immediately suspend the license of the physician upon the entry
256 of the judgment of the court, without further proceedings under Title 63G, Chapter 4,
257 Administrative Procedures Act, regardless of whether an appeal from the court's ruling is
258 pending. The director shall promptly notify the physician, in writing, of the suspension.

259 (3) (a) If the division and a majority of the board find reasonable cause to believe a
260 physician, who is not determined judicially to be an incapacitated person or to have a mental
261 illness, is incapable of practicing medicine with reasonable skill regarding the safety of
262 patients, because of illness, excessive use of drugs or alcohol, or as a result of any mental or
263 physical condition, the board shall recommend that the director file a petition with the division,
264 and cause the petition to be served upon the physician with a notice of hearing on the sole issue
265 of the capacity of the physician to competently and safely engage in the practice of medicine.

266 (b) The hearing shall be conducted under Section [58-1-109](#), and Title 63G, Chapter 4,
267 Administrative Procedures Act, except as provided in Subsection (4).

268 (4) (a) Every physician who accepts the privilege of being licensed under this chapter
269 gives consent to:

270 (i) submitting at the physician's own expense to an immediate mental or physical
271 examination when directed in writing by the division and a majority of the board to do so; and

272 (ii) the admissibility of the reports of the examining physician's testimony or
273 examination, and waives all objections on the ground the reports constitute a privileged

274 communication.

275 (b) The examination may be ordered by the division, with the consent of a majority of
276 the board, only upon a finding of reasonable cause to believe:

277 (i) the physician has a mental illness, is incapacitated, or otherwise unable to practice
278 medicine with reasonable skill and safety; and

279 (ii) immediate action by the division and the board is necessary to prevent harm to the
280 physician's patients or the general public.

281 (c) (i) Failure of a physician to submit to the examination ordered under this section is
282 a ground for the division's immediate suspension of the physician's license by written order of
283 the director.

284 (ii) The division may enter the order of suspension without further compliance with
285 Title 63G, Chapter 4, Administrative Procedures Act, unless the division finds the failure to
286 submit to the examination ordered under this section was due to circumstances beyond the
287 control of the physician and was not related directly to the illness or incapacity of the
288 physician.

289 (5) (a) A physician whose license is suspended under Subsection (2) or (3) has the right
290 to a hearing to appeal the suspension within 10 days after the license is suspended.

291 (b) The hearing held under this subsection shall be conducted in accordance with
292 Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists
293 for the continuance of the order of suspension in order to prevent harm to the physician's
294 patients or the general public.

295 (6) A physician whose license is revoked, suspended, or in any way restricted under
296 this section may request the division and the board to consider, at reasonable intervals,
297 evidence presented by the physician, under procedures established by division rule, regarding
298 any change in the physician's condition, to determine whether:

299 (a) the physician is or is not able to safely and competently engage in the practice of
300 medicine; and

301 (b) the physician is qualified to have the physician's license to practice under this
302 chapter restored completely or in part.

303 Section 7. Section 58-67-807 is enacted to read:

304 **58-67-807. Collaborative practice arrangement.**

305 (1) (a) The division, in consultation with the board, shall make rules in accordance
306 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the approval of a
307 collaborative practice arrangement.

308 (b) The division shall require a collaborative practice arrangement to:

309 (i) limit the associate physician to providing primary care services to medically
310 underserved populations or in medically underserved areas within the state;

311 (ii) be consistent with the skill, training, and competence of the associate physician;

312 (iii) specify jointly agreed-upon protocols, or standing orders for the delivery of health
313 care services by the associate physician;

314 (iv) provide complete names, home and business addresses, zip codes, and telephone
315 numbers of the collaborating physician and the associate physician;

316 (v) list all other offices or locations besides those listed in Subsection (1)(b)(iv) where
317 the collaborating physician authorizes the associate physician to prescribe;

318 (vi) require at every office where the associate physician is authorized to prescribe in
319 collaboration with a physician a prominently displayed disclosure statement informing patients
320 that patients may be seen by an associate physician and have the right to see the collaborating
321 physician;

322 (vii) specify all specialty or board certifications of the collaborating physician and all
323 certifications of the associate physician;

324 (viii) specify the manner of collaboration between the collaborating physician and the
325 associate physician, including how the collaborating physician and the associate physician
326 shall:

327 (A) engage in collaborative practice consistent with each professional's skill, training,
328 education, and competence;

329 (B) maintain geographic proximity, except as provided in Subsection (1)(d); and

330 (C) provide oversight of the associate physician during the absence, incapacity,
331 infirmity, or emergency of the collaborating physician;

332 (ix) describe the associate physician's controlled substance prescriptive authority in
333 collaboration with the collaborating physician, including:

334 (A) a list of the controlled substances the collaborating physician authorizes the
335 associate physician to prescribe; and

336 (B) documentation that the authorization to prescribe the controlled substances is
337 consistent with the education, knowledge, skill, and competence of the associate physician and
338 the collaborating physician;

339 (x) list all other written practice arrangements of the collaborating physician and the
340 associate physician;

341 (xi) specify the duration of the written practice arrangement between the collaborating
342 physician and the associate physician; and

343 (xii) describe the time and manner of the collaborating physician's review of the
344 associate physician's delivery of health care services, including provisions that the
345 collaborating physician, or another physician designated in the collaborative practice
346 arrangement, shall review every 14 days:

347 (A) a minimum of 10% of the charts documenting the associate physician's delivery of
348 health care services; and

349 (B) a minimum of 20% of the charts in which the associate physician prescribes a
350 controlled substance, which may be counted in the number of charts to be reviewed under
351 Subsection (1)(b)(xii)(A).

352 (c) An associate physician and the collaborating physician may modify a collaborative
353 practice arrangement, but the changes to the collaborative practice arrangement are not binding
354 unless:

355 (i) the associate physician notifies the division within 10 days after the day on which
356 the changes are made; and

357 (ii) the division approves the changes.

358 (d) If the collaborative practice arrangement provides for an associate physician to
359 practice in a medically underserved area:

360 (i) the collaborating physician shall document the completion of at least a two-month
361 period of time during which the associate physician shall practice with the collaborating
362 physician continuously present before practicing in a setting where the collaborating physician
363 is not continuously present; and

364 (ii) the collaborating physician shall document the completion of at least 120 hours in a
365 four-month period by the associate physician during which the associate physician shall
366 practice with the collaborating physician on-site before prescribing a controlled substance

367 when the collaborating physician is not on-site.

368 (2) An associate physician:

369 (a) shall clearly identify himself or herself as an associate physician;

370 (b) is permitted to use the title "doctor" or "Dr."; and

371 (c) if authorized under a collaborative practice arrangement to prescribe Schedule III

372 through V controlled substances, shall register with the United States Drug Enforcement

373 Administration as part of the drug enforcement administration's mid-level practitioner registry.

374 (3) (a) A physician or surgeon licensed and in good standing under Section [58-67-302](#)

375 may enter into a collaborative practice arrangement with an associate physician licensed under

376 Section [58-67-302.8](#).

377 (b) A physician or surgeon may not enter into a collaborative practice arrangement

378 with more than three full-time equivalent associate physicians.

379 (c) (i) No contract or other agreement shall:

380 (A) require a physician to act as a collaborating physician for an associate physician

381 against the physician's will;

382 (B) deny a collaborating physician the right to refuse to act as a collaborating

383 physician, without penalty, for a particular associate physician; or

384 (C) limit the collaborating physician's ultimate authority over any protocols or standing

385 orders or in the delegation of the physician's authority to any associate physician.

386 (ii) Subsection (3)(c)(i)(C) does not authorize a physician, in implementing protocols,

387 standing orders, or delegation, to violate a hospital's established applicable standards for safe

388 medical practice.

389 (d) A collaborating physician is responsible at all times for the oversight of the

390 activities of, and accepts responsibility for, the primary care services rendered by the associate

391 physician.

392 (4) The division shall make rules, in consultation with the board, the deans of medical

393 schools in the state, and primary care residency program directors in the state, and in

394 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing

395 educational methods and programs that:

396 (a) an associate physician shall complete throughout the duration of the collaborative

397 practice arrangement;

398 (b) shall facilitate the advancement of the associate physician's medical knowledge and
399 capabilities; and

400 (c) may lead to credit toward a future residency program.

401 Section 8. Section **58-68-102** is amended to read:

402 **58-68-102. Definitions.**

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

404 (1) "Ablative procedure" means a procedure that is expected to excise, vaporize,
405 disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium:
406 YAG lasers, and excluding hair removal.

407 (2) "ACGME" means the Accreditation Council for Graduate Medical Education of the
408 American Medical Association.

409 (3) "Administrative penalty" means a monetary fine imposed by the division for acts or
410 omissions determined to constitute unprofessional or unlawful conduct, as a result of an
411 adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative
412 Procedures Act.

413 (4) "AOA" means the American Osteopathic Association.

414 (5) "Associate physician" means an individual licensed under Section 58-68-302.5.

415 ~~[(5)]~~ (6) "Board" means the Osteopathic Physician and Surgeon's Licensing Board
416 created in Section **58-68-201**.

417 (7) "Collaborating physician" means an individual licensed under Section 58-68-302
418 who enters into a collaborative practice arrangement with an associate physician.

419 (8) "Collaborative practice arrangement" means the arrangement described in Section
420 58-68-807.

421 ~~[(6)]~~ (9) (a) "Cosmetic medical device" means tissue altering energy based devices that
422 have the potential for altering living tissue and that are used to perform ablative or nonablative
423 procedures, such as American National Standards Institute (ANSI) designated Class IIIb and
424 Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic devices and
425 excludes ANSI designated Class IIIa and lower powered devices.

426 (b) Notwithstanding Subsection ~~[(6)]~~ (9)(a), if an ANSI designated Class IIIa and lower
427 powered device is being used to perform an ablative procedure, the device is included in the
428 definition of cosmetic medical device under Subsection ~~[(6)]~~ (9)(a).

429 ~~[(7)]~~ (10) "Cosmetic medical procedure":

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

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

433 ~~[(8)]~~ (11) "Diagnose" means:

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

438 (b) to attempt to conduct an examination or determination described under Subsection
439 ~~(8)~~(a);

440 (c) to hold oneself out as making or to represent that one is making an examination or
441 determination as described in Subsection ~~[(8)]~~ (11)(a); or

442 (d) to make an examination or determination as described in Subsection ~~[(8)]~~ (11)(a)
443 upon or from information supplied directly or indirectly by another person, whether or not in
444 the presence of the person making or attempting the diagnosis or examination.

445 ~~[(9)]~~ (12) "Medical assistant" means an unlicensed individual working under the
446 indirect supervision of a licensed osteopathic physician and surgeon and engaged in specific
447 tasks assigned by the licensed osteopathic physician and surgeon in accordance with the
448 standards and ethics of the profession.

449 (13) "Medically underserved area" means a geographic area in which there is a
450 shortage of primary care health services for residents, as determined by the Department of
451 Health.

452 (14) "Medically underserved population" means a specified group of people living in a
453 defined geographic area with a shortage of primary care health services, as determined by the
454 Department of Health.

455 ~~[(10)]~~ (15) (a) (i) "Nonablative procedure" means a procedure that is expected or
456 intended to alter living tissue, but is not expected or intended to excise, vaporize, disintegrate,
457 or remove living tissue.

458 (ii) Notwithstanding Subsection ~~[(10)]~~ (15)(a)(i), nonablative procedure includes hair
459 removal.

460 (b) "Nonablative procedure" does not include:
461 (i) a superficial procedure as defined in Section 58-1-102;
462 (ii) the application of permanent make-up; or
463 (iii) the use of photo therapy lasers for neuromusculoskeletal treatments that are
464 preformed by an individual licensed under this title who is acting within the individual's scope
465 of practice.

466 [~~(H)~~] (16) "Physician" means both physicians and surgeons licensed under Section
467 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
468 Section 58-68-301, Utah Osteopathic Medical Practice Act.

469 [~~(12)~~] (17) (a) "Practice of osteopathic medicine" means:

470 (i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human
471 disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real
472 or imaginary, or to attempt to do so, by any means or instrumentality, which in whole or in part
473 is based upon emphasis of the importance of the musculoskeletal system and manipulative
474 therapy in the maintenance and restoration of health, by an individual in Utah or outside of the
475 state upon or for any human within the state;

476 (ii) when a person not licensed as a physician directs a licensee under this chapter to
477 withhold or alter the health care services that the licensee has ordered;

478 (iii) to maintain an office or place of business for the purpose of doing any of the acts
479 described in Subsection [~~(12)~~] (17)(a) whether or not for compensation; or

480 (iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
481 treatment of human diseases or conditions, in any printed material, stationery, letterhead,
482 envelopes, signs, or advertisements, the designation "doctor," "doctor of osteopathic medicine,"
483 "osteopathic physician," "osteopathic surgeon," "osteopathic physician and surgeon," "Dr.,"
484 "D.O.," or any combination of these designations in any manner which might cause a
485 reasonable person to believe the individual using the designation is a licensed osteopathic
486 physician, and if the party using the designation is not a licensed osteopathic physician, the
487 designation must additionally contain the description of the branch of the healing arts for which
488 the person has a license, provided that an individual who has received an earned degree of
489 doctor of osteopathic medicine but is not a licensed osteopathic physician and surgeon in Utah
490 may use the designation "D.O." if it is followed by "Not Licensed" or "Not Licensed in Utah"

491 in the same size and style of lettering.

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

493 (i) except for an ablative medical procedure as provided in Subsection [~~(12)~~]

494 (17)(b)(ii), the conduct described in Subsection [~~(12)~~] (17)(a)(i) that is performed in

495 accordance with a license issued under another chapter of this title;

496 (ii) an ablative cosmetic medical procedure if the scope of practice for the person

497 performing the ablative cosmetic medical procedure includes the authority to operate or

498 perform a surgical procedure; or

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

500 [~~(13)~~] (18) "Prescription device" means an instrument, apparatus, implement, machine,

501 contrivance, implant, in vitro reagent, or other similar or related article, and any component

502 part or accessory, which is required under federal or state law to be prescribed by a practitioner

503 and dispensed by or through a person or entity licensed under this chapter or exempt from

504 licensure under this chapter.

505 [~~(14)~~] (19) "Prescription drug" means a drug that is required by federal or state law or

506 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

507 [~~(15)~~] (20) "SPEX" means the Special Purpose Examination of the Federation of State

508 Medical Boards.

509 [~~(16)~~] (21) "Unlawful conduct" [~~is as~~] means the same as that term is defined in

510 Sections 58-1-501 and 58-68-501.

511 [~~(17)~~] (22) "Unprofessional conduct" [~~is as~~] means the same as that term is defined in

512 Sections 58-1-501 and 58-68-502 and as may be further defined by division rule.

513 Section 9. Section **58-68-302.5** is enacted to read:

514 **58-68-302.5. Restricted licensing of an associate physician.**

515 (1) An individual may apply for a restricted license as an associate physician if the
516 individual:

517 (a) meets the requirements described in Subsections 58-68-302(1)(a) through (c),

518 (1)(d)(i), and (1)(g) through (j);

519 (b) successfully completes Step 1 and Step 2 of the United States Medical Licensing

520 Examination or the equivalent steps of another board-approved medical licensing examination:

521 (i) within three years after the day on which the applicant graduates from a program

522 described in Subsection 58-68-302(1)(d)(i); and
523 (ii) within two years before applying for a restricted license as an associate physician;
524 and

525 (c) is not currently enrolled in and has not completed a residency program.

526 (2) Before a licensed associate physician may engage in the practice of medicine as
527 described in Subsection (3), the licensed associate physician shall:

528 (a) enter into a collaborative practice arrangement described in Section 58-68-807
529 within six months after the associate physician's initial licensure; and

530 (b) receive division approval of the collaborative practice arrangement.

531 (3) An associate physician's scope of practice is limited to primary care services to
532 medically underserved populations or in medically underserved areas within the state.

533 Section 10. Section **58-68-303** is amended to read:

534 **58-68-303. Term of license -- Expiration -- Renewal.**

535 (1) (a) The division shall issue each license under this chapter in accordance with a
536 two-year renewal cycle established by division rule.

537 (b) The division may by rule extend or shorten a renewal period by as much as one year
538 to stagger the renewal cycles it administers.

539 (2) At the time of renewal, the licensee shall show compliance with:

540 (a) continuing education renewal requirements; and

541 (b) the requirement for designation of a contact person and alternate contact person for
542 access to medical records and notice to patients as required by Subsections 58-68-304(1)(b)
543 and (c).

544 (3) Each license issued under this chapter expires on the expiration date shown on the
545 license unless renewed in accordance with Section 58-1-308.

546 (4) An individual may not be licensed as an associate physician for more than a total of
547 four years.

548 Section 11. Section **58-68-304** is amended to read:

549 **58-68-304. License renewal requirements.**

550 (1) As a condition precedent for license renewal, each licensee shall, during each
551 two-year licensure cycle or other cycle defined by division rule:

552 (a) complete qualified continuing professional education requirements in accordance

553 with the number of hours and standards defined by division rule in collaboration with the
554 board;

555 (b) appoint a contact person for access to medical records and an alternate contact
556 person for access to medical records in accordance with Subsection [58-68-302\(1\)\(i\)](#); ~~and~~

557 (c) if the licensee practices osteopathic medicine in a location with no other persons
558 licensed under this chapter, provide some method of notice to the licensee's patients of the
559 identity and location of the contact person and alternate contact person for access to medical
560 records for the licensee in accordance with Subsection [58-68-302\(1\)\(j\)](#)~~[-]~~; and

561 (d) if the licensee is an associate physician licensed under Section [58-68-302.5](#),
562 successfully complete the educational methods and programs described in Subsection
563 [58-68-807\(4\)](#).

564 (2) If a renewal period is extended or shortened under Section [58-68-303](#), the
565 continuing education hours required for license renewal under this section are increased or
566 decreased proportionally.

567 (3) An application to renew a license under this chapter shall:

568 (a) require a physician to answer the following question: "Do you perform elective
569 abortions in Utah in a location other than a hospital?"; and

570 (b) immediately following the question, contain the following statement: "For purposes
571 of the immediately preceding question, elective abortion means an abortion other than one of
572 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is
573 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of
574 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a
575 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where
576 the woman is pregnant as a result of rape or incest."

577 (4) In order to assist the Department of Health in fulfilling its responsibilities relating
578 to the licensing of an abortion clinic, if a physician responds positively to the question
579 described in Subsection (3)(a), the division shall, within 30 days after the day on which it
580 renews the physician's license under this chapter, inform the Department of Health in writing:

581 (a) of the name and business address of the physician; and

582 (b) that the physician responded positively to the question described in Subsection
583 (3)(a).

584 Section 12. Section **58-68-502** is amended to read:

585 **58-68-502. Unprofessional conduct.**

586 (1) "Unprofessional conduct" includes, in addition to the definition in Section
587 [58-1-501](#):

588 (a) using or employing the services of any individual to assist a licensee in any manner
589 not in accordance with the generally recognized practices, standards, or ethics of the
590 profession, state law, or division rule; ~~[or]~~

591 (b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
592 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable~~[-]; or~~

593 (c) making a material misrepresentation regarding the qualifications for licensure under
594 Section [58-68-302.5](#).

595 (2) "Unprofessional conduct" does not include, in compliance with Section [58-85-103](#):

596 (a) obtaining an investigational drug or investigational device;

597 (b) administering the investigational drug to an eligible patient; or

598 (c) treating an eligible patient with the investigational drug or investigational device.

599 Section 13. Section **58-68-601** is amended to read:

600 **58-68-601. Mentally incompetent or incapacitated osteopathic physician.**

601 (1) As used in this section:

602 (a) "Incapacitated person" means a person who is incapacitated, as defined in Section
603 [75-1-201](#).

604 (b) "Licensee" means an individual licensed under this chapter.

605 ~~[(b)]~~ (c) "Mental illness" ~~[is as]~~ means the same as that term is defined in Section
606 [62A-15-602](#).

607 (2) If a court of competent jurisdiction determines ~~[an osteopathic physician and~~
608 ~~surgeon]~~ a licensee is an incapacitated person or that the ~~[physician or surgeon]~~ licensee has a
609 mental illness and is unable to safely engage in the practice of medicine, the director shall
610 immediately suspend the license of the ~~[osteopathic physician and surgeon]~~ licensee upon the
611 entry of the judgment of the court, without further proceedings under Title 63G, Chapter 4,
612 Administrative Procedures Act, regardless of whether an appeal from the court's ruling is
613 pending. The director shall promptly notify the ~~[osteopathic physician and surgeon]~~ licensee,
614 in writing, of the suspension.

615 (3) (a) If the division and a majority of the board find reasonable cause to believe [~~an~~
616 ~~osteopathic physician and surgeon~~] licensee, who is not determined judicially to be an
617 incapacitated person or to have a mental illness, is incapable of practicing osteopathic medicine
618 with reasonable skill regarding the safety of patients, because of illness, excessive use of drugs
619 or alcohol, or as a result of any mental or physical condition, the board shall recommend that
620 the director file a petition with the division, and cause the petition to be served upon the
621 [~~osteopathic physician and surgeon~~] licensee with a notice of hearing on the sole issue of the
622 capacity of the [~~osteopathic physician and surgeon~~] licensee to competently and [~~safety~~] safely
623 engage in the practice of medicine.

624 (b) The hearing shall be conducted under Section [58-1-109](#), and Title 63G, Chapter 4,
625 Administrative Procedures Act, except as provided in Subsection (4).

626 (4) (a) Every [~~osteopathic physician and surgeon~~] individual who accepts the privilege
627 of being licensed under this chapter gives consent to:

628 (i) submitting at the [~~physician's or surgeon's~~] licensee's own expense to an immediate
629 mental or physical examination when directed in writing by the division and a majority of the
630 board to do so; and

631 (ii) the admissibility of the reports of the examining physician's testimony or
632 examination, and waives all objections on the ground the reports constitute a privileged
633 communication.

634 (b) The examination may be ordered by the division, with the consent of a majority of
635 the board, only upon a finding of reasonable cause to believe:

636 (i) the [~~osteopathic physician and surgeon~~] licensee has a mental illness, is
637 incapacitated, or otherwise unable to practice medicine with reasonable skill and safety; and

638 (ii) immediate action by the division and the board is necessary to prevent harm to the
639 [~~osteopathic physician and surgeon's~~] licensee's patients or the general public.

640 (c) (i) Failure of [~~an osteopathic physician and surgeon~~] a licensee to submit to the
641 examination ordered under this section is a ground for the division's immediate suspension of
642 the [~~osteopathic physician and surgeon's~~] licensee's license by written order of the director.

643 (ii) The division may enter the order of suspension without further compliance with
644 Title 63G, Chapter 4, Administrative Procedures Act, unless the division finds the failure to
645 submit to the examination ordered under this section was due to circumstances beyond the

646 control of the [~~osteopathic physician and surgeon~~] licensee and was not related directly to the
647 illness or incapacity of the [~~osteopathic physician and surgeon~~] licensee.

648 (5) (a) [~~An osteopathic physician and surgeon~~] A licensee whose license is suspended
649 under Subsection (2) or (3) has the right to a hearing to appeal the suspension within 10 days
650 after the license is suspended.

651 (b) The hearing held under this subsection shall be conducted in accordance with
652 Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists
653 for the continuance of the order of suspension in order to prevent harm to the [~~osteopathic
654 physician and surgeon's~~] licensee's patients or the general public.

655 (6) [~~An osteopathic physician and surgeon~~] A licensee whose license is revoked,
656 suspended, or in any way restricted under this section may request the division and the board to
657 consider, at reasonable intervals, evidence presented by the [~~osteopathic physician and surgeon~~]
658 licensee, under procedures established by division rule, regarding any change in the
659 [~~osteopathic physician and surgeon's~~] licensee's condition, to determine whether:

660 (a) the [~~physician or surgeon~~] licensee is or is not able to safely and competently
661 engage in the practice of medicine; and

662 (b) the [~~physician or surgeon~~] licensee is qualified to have the [~~physician's or
663 surgeon's~~] licensee's license to practice under this chapter restored completely or in part.

664 Section 14. Section 58-68-807 is enacted to read:

665 **58-68-807. Collaborative practice arrangement.**

666 (1) (a) The division, in consultation with the board, shall make rules in accordance
667 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the approval of a
668 collaborative practice arrangement.

669 (b) The division shall require a collaborative practice arrangement to:

670 (i) limit the associate physician to providing primary care services to medically
671 underserved populations or in medically underserved areas within the state;

672 (ii) be consistent with the skill, training, and competence of the associate physician;

673 (iii) specify jointly agreed-upon protocols, or standing orders for the delivery of health
674 care services by the associate physician;

675 (iv) provide complete names, home and business addresses, zip codes, and telephone
676 numbers of the collaborating physician and the associate physician;

677 (v) list all other offices or locations besides those listed in Subsection (1)(b)(iv) where
678 the collaborating physician authorizes the associate physician to prescribe;

679 (vi) require at every office where the associate physician is authorized to prescribe in
680 collaboration with a physician a prominently displayed disclosure statement informing patients
681 that patients may be seen by an associate physician and have the right to see the collaborating
682 physician;

683 (vii) specify all specialty or board certifications of the collaborating physician and all
684 certifications of the associate physician;

685 (viii) specify the manner of collaboration between the collaborating physician and the
686 associate physician, including how the collaborating physician and the associate physician
687 shall:

688 (A) engage in collaborative practice consistent with each professional's skill, training,
689 education, and competence;

690 (B) maintain geographic proximity, except as provided in Subsection (1)(d); and

691 (C) provide oversight of the associate physician during the absence, incapacity,
692 infirmity, or emergency of the collaborating physician;

693 (ix) describe the associate physician's controlled substance prescriptive authority in
694 collaboration with the collaborating physician, including:

695 (A) a list of the controlled substances the collaborating physician authorizes the
696 associate physician to prescribe; and

697 (B) documentation that the authorization to prescribe the controlled substances is
698 consistent with the education, knowledge, skill, and competence of the associate physician and
699 the collaborating physician;

700 (x) list all other written practice arrangements of the collaborating physician and the
701 associate physician;

702 (xi) specify the duration of the written practice arrangement between the collaborating
703 physician and the associate physician; and

704 (xii) describe the time and manner of the collaborating physician's review of the
705 associate physician's delivery of health care services, including provisions that the
706 collaborating physician, or another physician designated in the collaborative practice
707 arrangement, shall review every 14 days;

708 (A) a minimum of 10% of the charts documenting the associate physician's delivery of
709 health care services; and

710 (B) a minimum of 20% of the charts in which the associate physician prescribes a
711 controlled substance, which may be counted in the number of charts to be reviewed under
712 Subsection (1)(b)(xii)(A).

713 (c) An associate physician and the collaborating physician may modify a collaborative
714 practice arrangement, but the changes to the collaborative practice arrangement are not binding
715 unless:

716 (i) the associate physician notifies the division within 10 days after the day on which
717 the changes are made; and

718 (ii) the division approves the changes.

719 (d) If the collaborative practice arrangement provides for an associate physician to
720 practice in a medically underserved area:

721 (i) the collaborating physician shall document the completion of at least a two-month
722 period of time during which the associate physician shall practice with the collaborating
723 physician continuously present before practicing in a setting where the collaborating physician
724 is not continuously present; and

725 (ii) the collaborating physician shall document the completion of at least 120 hours in a
726 four-month period by the associate physician during which the associate physician shall
727 practice with the collaborating physician on-site before prescribing a controlled substance
728 when the collaborating physician is not on-site.

729 (2) An associate physician:

730 (a) shall clearly identify himself or herself as an associate physician;

731 (b) is permitted to use the title "doctor" or "Dr."; and

732 (c) if authorized under a collaborative practice arrangement to prescribe Schedule III
733 through V controlled substances, shall register with the United States Drug Enforcement
734 Administration as part of the drug enforcement administration's mid-level practitioner registry.

735 (3) (a) A physician or surgeon licensed and in good standing under Section [58-68-302](#)
736 may enter into a collaborative practice arrangement with an associate physician licensed under
737 Section [58-68-302.5](#).

738 (b) A physician or surgeon may not enter into a collaborative practice arrangement

739 with more than three full-time equivalent associate physicians.

740 (c) (i) No contract or other agreement shall:

741 (A) require a physician to act as a collaborating physician for an associate physician
742 against the physician's will;

743 (B) deny a collaborating physician the right to refuse to act as a collaborating
744 physician, without penalty, for a particular associate physician; or

745 (C) limit the collaborating physician's ultimate authority over any protocols or standing
746 orders or in the delegation of the physician's authority to any associate physician.

747 (ii) Subsection (3)(c)(i)(C) does not authorize a physician, in implementing such
748 protocols, standing orders, or delegation, to violate a hospital's established applicable standards
749 for safe medical practice.

750 (d) A collaborating physician is responsible at all times for the oversight of the
751 activities of, and accepts responsibility for, the primary care services rendered by the associate
752 physician.

753 (4) The division shall make rules, in consultation with the board, the deans of medical
754 schools in the state, and primary care residency program directors in the state, and in
755 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing
756 educational methods and programs that:

757 (a) an associate physician shall complete throughout the duration of the collaborative
758 practice arrangement;

759 (b) shall facilitate the advancement of the associate physician's medical knowledge and
760 capabilities; and

761 (c) may lead to credit toward a future residency program.

762 **Section 15. Effective date.**

763 This bill takes effect on July 1, 2018.