

# HB0024S01 compared with HB0024

~~{deleted text}~~ shows text that was in HB0024 but was deleted in HB0024S01.

inserted text shows text that was not in HB0024 but was inserted into HB0024S01.

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Representative Brad M. Daw proposes the following substitute bill:

## HEALTH CARE PROFESSIONAL LICENSING AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brad M. Daw**

Senate Sponsor: \_\_\_\_\_

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### LONG TITLE

#### ~~{Committee Note:~~

~~\_\_\_\_\_ The Health and Human Services Interim Committee recommended this bill.~~

~~\_\_\_\_\_ Legislative Vote: 13 voting for 0 voting against \_\_\_\_\_ 4 absent~~

#### ~~{General Description:~~

This bill amends the definition of unprofessional conduct for prescribing health care professionals and pharmacists.

#### **Highlighted Provisions:**

This bill:

- ▶ adds a provision to each health care profession's definition of unprofessional conduct to include:
  - knowingly entering false or misleading information on a medical record; or
  - knowingly altering a medical record for the purpose of concealing any

## HB0024S01 compared with HB0024

circumstance related to the health care provided to a patient.

### 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 2015, Chapter 230

**58-16a-502**, as last amended by Laws of Utah 2012, Chapter 234

**58-17b-502**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

**58-31b-502**, as last amended by Laws of Utah 2019, Chapter 233

**58-44a-502**, as last amended by Laws of Utah 2012, Chapter 285

**58-67-502**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

**58-68-502**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

**58-69-502**, as last amended by Laws of Utah 2006, Chapter 158

**58-70a-503**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

**58-71-502**, as enacted by Laws of Utah 1996, Chapter 282

**[58-83-502](#)**, as last amended by [Laws of Utah 2015, Chapter 321](#)

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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.
- (4) "Practice of podiatry" means the diagnosis and treatment of conditions affecting the

## HB0024S01 compared with HB0024

human foot and ankle and their manifestations of systemic conditions by all appropriate and lawful means, subject to Section 58-5a-103.

(5) "Unlawful conduct" 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, foot specialist, or D.P.M.; or

(ii) implying or representing that the individual is qualified to practice podiatry.

(6) "Unprofessional conduct" includes, for an individual licensed under this chapter:

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

(b) communicating to a third party, without the consent of the patient, information the individual acquires in treating the patient, except as necessary for professional consultation regarding treatment of the patient;

(c) allowing the individual's name or license to be used by an individual who is not licensed to practice podiatry under this chapter;

(d) except as described in Section 58-5a-306, employing, directly or indirectly, any unlicensed individual to practice podiatry;

(e) using alcohol or drugs, to the extent the individual's use of alcohol or drugs impairs the individual's ability to practice podiatry;

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

(g) gross incompetency in the practice of podiatry;

(h) willfully and intentionally making a false statement or entry in hospital records, medical records, or reports;

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

(j) willfully using false or fraudulent advertising; ~~and~~

(k) conduct the division defines as unprofessional conduct by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[-]; or

~~(l) knowingly;~~

~~(i) entering into any medical record any false or misleading information; or~~

## HB0024S01 compared with HB0024

~~(ii) altering} falsely making an entry in, or altering, a medical record ~~{in any way for the purpose of concealing an act, omission, or record of events, medical condition, or any other circumstance related to the patient and the medical or podiatric care provided}~~; with the intent to conceal:~~

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (6)(a) through (k) or Subsection 58-1-501(1).

Section 2. Section **58-16a-502** is amended to read:

### **58-16a-502. Unprofessional conduct.**

"Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(1) using or employing the services of an optometric assistant to assist a licensee in any manner not in accordance with:

(a) the generally recognized practices and standards of ethics of the profession; or

(b) applicable state law or division rule;

(2) failure to refer a patient to an appropriate licensed practitioner when:

(a) the patient's condition does not respond to treatment; or

(b) the treatment is not within the scope of competence or licensure of the licensee;

(3) providing confidential information regarding a patient to any third party who does not have a legal and professional ground for obtaining the information;

(4) knowingly prescribing, selling, giving away, or administering any prescription drug unless:

(a) for a legitimate medical purpose;

(b) upon a proper diagnosis indicating the use of the drug in the amount prescribed or provided; and

(c) in compliance with Section 58-17b-309;

(5) giving or receiving directly or indirectly any fee, commission, rebate, or other compensation for professional services not actually and personally rendered, except as part of a legal relationship within a lawful professional partnership, corporation, or association;

(6) failure to transfer pertinent and necessary information from a patient's medical records to another optometrist or physician when so requested by the patient or his representative, as designated in writing; [or]

## HB0024S01 compared with HB0024

(7) failure to provide a contact lens prescription to a person who sells contact lenses in accordance with Section 58-16a-306[-]; or

(8) ~~knowingly~~

~~(a) entering into any medical record any false or misleading information; or~~

~~(b) altering} falsely making an entry in, or altering, a medical record ~~{in any way for the purpose of concealing an act, omission, or record of events, medical condition, or any other circumstance related to the patient and the medical or optometric care provided}~~ with the intent to conceal:~~

(a) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(b) conduct described in Subsections (1) through (7) or Subsection 58-1-501(1).

Section 3. Section **58-17b-502** is amended to read:

### **58-17b-502. Unprofessional conduct.**

(1) "Unprofessional conduct" includes:

(a) willfully deceiving or attempting to deceive the division, the board, or their agents as to any relevant matter regarding compliance under this chapter;

(b) except as provided in Subsection (2):

(i) paying or offering rebates to practitioners or any other health care providers, or receiving or soliciting rebates from practitioners or any other health care provider; or

(ii) paying, offering, receiving, or soliciting compensation in the form of a commission, bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care provider, for the purpose of obtaining referrals;

(c) misbranding or adulteration of any drug or device or the sale, distribution, or dispensing of any outdated, misbranded, or adulterated drug or device;

(d) engaging in the sale or purchase of drugs or devices that are samples or packages bearing the inscription "sample" or "not for resale" or similar words or phrases;

(e) except as provided in Section 58-17b-503 or Part 9, Charitable Prescription Drug Recycling Act, accepting back and redistributing any unused drug, or a part of it, after it has left the premises of any pharmacy, unless the drug is in a unit pack, as defined in Section 58-17b-503, or the manufacturer's sealed container, as defined in rule;

(f) an act in violation of this chapter committed by a person for any form of

## HB0024S01 compared with HB0024

compensation if the act is incidental to the person's professional activities, including the activities of a pharmacist, pharmacy intern, or pharmacy technician;

(g) violating:

(i) the federal Controlled Substances Act, Title II, P.L. 91-513;

(ii) Title 58, Chapter 37, Utah Controlled Substances Act; or

(iii) rules or regulations adopted under either act;

(h) requiring or permitting pharmacy interns or technicians to engage in activities outside the scope of practice for their respective license classifications, as defined in this chapter and division rules made in collaboration with the board, or beyond their scope of training and ability;

(i) administering:

(i) without appropriate training, as defined by rule;

(ii) without a physician's order, when one is required by law; and

(iii) in conflict with a practitioner's written guidelines or written protocol for administering;

(j) disclosing confidential patient information in violation of the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended, or other applicable law;

(k) engaging in the practice of pharmacy without a licensed pharmacist designated as the pharmacist-in-charge;

(l) failing to report to the division any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency, or court for conduct that in substance would be considered unprofessional conduct under this section;

(m) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner;

(n) failing to act in accordance with Title 26, Chapter 64, Family Planning Access Act, when dispensing a self-administered hormonal contraceptive under a standing order; ~~and~~

(o) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act[-];

or

(p)  ~~knowingly~~;

## HB0024S01 compared with HB0024

~~(i) entering into any medical record any false or misleading information; or~~  
~~(ii) altering} falsely making an entry in, or altering, a medical record ~~{in any way for the purpose of concealing an act, omission, or record of events, medical condition, or any other circumstance related to the patient and the medical or pharmaceutical care provided};~~ with the intent to conceal:~~

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (o) or Subsection 58-1-501(1).

(2) Subsection (1)(b) does not apply to:

(a) giving or receiving a price discount based on purchase volume;

(b) passing along a pharmaceutical manufacturer's rebate; or

(c) providing compensation for services to a veterinarian.

(3) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(a) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(b) when acting as a state central patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central patient portal medical provider services.

(4) Notwithstanding Subsection (3), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a pharmacist described in Subsections (3)(a) and (b).

Section 4. Section **58-31b-502** is amended to read:

**58-31b-502. Unprofessional conduct.**

(1) "Unprofessional conduct" includes:

(a) failure to safeguard a patient's right to privacy as to the patient's person, condition, diagnosis, personal effects, or any other matter about which the licensee is privileged to know because of the licensee's or person with a certification's position or practice as a nurse or practice as a medication aide certified;

(b) failure to provide nursing service or service as a medication aide certified in a manner that demonstrates respect for the patient's human dignity and unique personal character and needs without regard to the patient's race, religion, ethnic background, socioeconomic

## HB0024S01 compared with HB0024

status, age, sex, or the nature of the patient's health problem;

(c) engaging in sexual relations with a patient during any:

(i) period when a generally recognized professional relationship exists between the person licensed or certified under this chapter and the patient; or

(ii) extended period when a patient has reasonable cause to believe a professional relationship exists between the person licensed or certified under the provisions of this chapter and the patient;

(d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using information about a patient or exploiting the licensee's or the person with a certification's professional relationship between the licensee or holder of a certification under this chapter and the patient; or

(ii) exploiting the patient by use of the licensee's or person with a certification's knowledge of the patient obtained while acting as a nurse or a medication aide certified;

(e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

(f) unauthorized taking or personal use of nursing supplies from an employer;

(g) unauthorized taking or personal use of a patient's personal property;

~~(h) knowingly~~

~~(i) entering into any medical record any false or misleading information or~~

~~(ii) altering a medical record in any way for the purpose of concealing an act, omission, or record of events, medical condition, or any other circumstance related to the patient and the medical or nursing care provided;~~

~~(h)~~ (h) unlawful or inappropriate delegation of nursing care;

~~(i)~~ (i) failure to exercise appropriate supervision of persons providing patient care services under supervision of the licensed nurse;

~~(k)~~ (i) employing or aiding and abetting the employment of an unqualified or unlicensed person to practice as a nurse;

~~(k)~~ (k) failure to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report;

~~(m)~~ (l) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by a court;



## HB0024S01 compared with HB0024

~~[(n)]~~ [(m)] failure to pay a penalty imposed by the division;

~~[(o)]~~ [(n)] prescribing a Schedule II controlled substance without complying with the requirements in Section 58-31b-803, if applicable;

~~[(p)]~~ [(o)] violating Section 58-31b-801;

~~[(q)]~~ [(p)] violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; and

~~[(r)]~~ [(q)] establishing or operating a pain clinic without a consultation and referral plan for Schedule II or III controlled substances~~[-]; or~~

[(r) falsely making an entry in, or altering, a medical record with the intent to conceal:

[(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

[(ii) conduct described in Subsections (1)(a) through (q) or Subsection 58-1-501(1).

(2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis.

(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

Section 5. Section **58-44a-502** is amended to read:

### **58-44a-502. Unprofessional conduct.**

"Unprofessional conduct" includes:

(1) disregard for a patient's dignity or right to privacy as to ~~[(his)]~~ the patient's person, condition, possessions, or medical record;

(2) engaging in an act, practice, or omission which when considered with the duties and responsibilities of a certified nurse midwife does or could jeopardize the health, safety, or welfare of a patient or the public;

(3) failure to confine one's practice as a certified nurse midwife to those acts or practices permitted by law;

(4) failure to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record

## HB0024S01 compared with HB0024

such a report;

(5) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by the court;

(6) failure to pay a penalty imposed by the division;

(7) prescribing a schedule II-III controlled substance without a consulting physician;

[and]

(8) (a) failure to have and maintain a safe mechanism for obtaining medical consultation, collaboration, and referral with a consulting physician, including failure to identify one or more consulting physicians in the written documents required by Subsection 58-44a-102(9)(b)(iii); or

(b) representing that the certified nurse midwife is in compliance with Subsection (8)(a) when the certified nurse midwife is not in compliance with Subsection (8)(a)[-]; or

(9) ~~knowingly:~~

~~(a) entering into any medical record any false or misleading information; or~~

~~(b) altering} falsely making an entry in, or altering, a medical record ~~{in any way for the purpose of concealing an act, omission, or record of events, medical condition, or any other circumstance related to the patient and the medical or midwife care provided}~~ with the intent to conceal:~~

(a) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(b) conduct described in Subsections (1) through (8) or Subsection 58-1-501(1).

Section 6. Section **58-67-502** is amended to read:

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

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

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

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

(c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical

## HB0024S01 compared with HB0024

Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; [or]

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act[?];

or

~~(e) knowingly:~~

~~(i) entering into any medical record any false or misleading information; or~~

~~(ii) altering, falsely making an entry in, or altering, a medical record ~~in any way for the purpose of concealing an act, omission, or record of events, medical condition, or any other circumstance related to the patient and the medical care provided,~~ with the intent to conceal:~~

~~(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or~~

~~(ii) conduct described in Subsections (1)(a) through (d) or Subsection 58-1-501(1).~~

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

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

(iii) treating an eligible patient with the investigational drug or investigational device;

or

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central patient portal medical provider services.

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician described in Subsection (2)(b).

Section 7. Section **58-68-502** is amended to read:

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

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

## HB0024S01 compared with HB0024

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

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

(c) making a material misrepresentation regarding the qualifications for licensure under Section 58-68-302.5; [or]

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act[-];  
or

(e) ~~knowingly:~~

~~(i) entering into any medical record any false or misleading information; or~~  
~~(ii) altering} falsely making an entry in, or altering, a medical record ~~{in any way for the purpose of concealing an act, omission, or record of events, medical condition, or any other circumstance related to the patient and the medical care provided}~~ with the intent to conceal:~~

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (d) or Subsection 58-1-501(1).

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

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

(iii) treating an eligible patient with the investigational drug or investigational device;

or

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central patient portal medical provider services.

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and

## HB0024S01 compared with HB0024

in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician described in Subsection (2)(b).

Section 8. Section **58-69-502** is amended to read:

### **58-69-502. Unprofessional conduct.**

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) sharing professional fees with an unlicensed person or paying any person for sending or referring a patient;

(b) making an unsubstantiated claim of superiority in training or skill as a dentist or dental hygienist or in the performance of professional services;

(c) refusing authorized agents of the division or state or local health authorities access to the facilities related to the practice of dentistry or dental hygiene during normal business hours for the purpose of inspection; [~~and~~]

(d) failing to maintain facilities, instruments, equipment, supplies, appliances, or other property or conditions related to the practice of dentistry in a sanitary condition consistent with the standards and ethics of the professions of dentistry or dental hygiene[~~-~~]; or

(e)  ~~knowingly:~~

~~(i) entering into any medical record any false or misleading information; or~~

~~(ii) altering} falsely making an entry in, or altering, a medical record  ~~in any way for the purpose of concealing an act, omission, or record of events, medical condition, or any other circumstance related to the patient and the medical or dental care provided~~ } with the intent to conceal:~~

~~(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or~~

~~(ii) conduct described in Subsections (1)(a) through (d) or Subsection 58-1-501(1).~~

(2) For purposes of Subsection (1)(b), an unsubstantiated claim of superiority:

(a) includes for the practice of dentistry:

(i) advertising or otherwise holding oneself out to the public as practicing a dental specialty in which the dentist has not successfully completed the education specified for the dental specialty as defined by the American Dental Association; and

(ii) using the following words in advertising "Endodontist," "Orthodontist," "Oral and

## HB0024S01 compared with HB0024

Maxillofacial Surgeon," "Specialist," "Board Certified," "Diplomat," "Practice Limited to," "Pediatric Dentist," "Periodontist," or "Limited to Specialty of" when the dentist has not successfully completed the education specified for the dental specialty as defined by the American Dental Association; and

(b) does not include a dentist who advertises as being qualified in a recognized specialty area of dental practice so long as each such advertisement, regardless of form, contains a prominent disclaimer that the dentist is licensed as a general dentist or that the specialty services will be provided by a general dentist.

Section 9. Section **58-70a-503** is amended to read:

### **58-70a-503. Unprofessional conduct.**

(1) "Unprofessional conduct" includes:

(a) violation of a patient confidence to any person who does not have a legal right and a professional need to know the information concerning the patient;

(b) knowingly prescribing, selling, giving away, or directly or indirectly administering, or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts prescribed or provided;

(c) prescribing prescription drugs for oneself or administering prescription drugs to oneself, except those that have been legally prescribed for the physician assistant by a licensed practitioner and that are used in accordance with the prescription order for the condition diagnosed;

(d) failure to maintain at the practice site a delegation of services agreement that accurately reflects current practices;

(e) failure to make the delegation of services agreement available to the division for review upon request;

(f) in a practice that has physician assistant ownership interests, failure to allow the supervising physician the independent final decision making authority on patient treatment decisions, as set forth in the delegation of services agreement or as defined by rule; ~~and~~

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

~~(h) knowingly;~~

## HB0024S01 compared with HB0024

~~(i) entering into any medical record any false or misleading information; or~~  
~~(ii) altering} falsely making an entry in, or altering, a medical record ~~{in any way for the purpose of concealing an act, omission, or record of events, medical condition, or any other circumstance related to the patient and the medical care provided}~~ with the intent to conceal:~~

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (g) or Subsection 58-1-501(1).

(2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis.

(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician assistant described in Subsection (2).

Section 10. Section **58-71-502** is amended to read:

### **58-71-502. Unprofessional conduct.**

"Unprofessional conduct" includes:

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

(2) ~~{knowingly:~~

~~(a) entering into any medical record any false or misleading information; or~~

~~(b) altering} falsely making an entry in, or altering, a medical record ~~{in any way for the purpose of concealing an act, omission, or record of events, medical condition, or any other circumstance related to the patient and the medical or naturopathic care provided:~~~~

~~} with the intent to conceal:~~

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsection (1) or Subsection 58-1-501(1).

Section 11. Section **58-83-502** is amended to read:

### **58-83-502. Unprofessional conduct.**

"Unprofessional conduct" includes, in addition to the definition in Section 58-1-501 and

## HB0024S01 compared with HB0024

as may be further defined by administrative rule:

(1) except as provided in Section 58-83-306, online prescribing, dispensing, or facilitation with respect to a person under the age of 18 years;

(2) using the name or official seal of the state, the Utah Department of Commerce, or the Utah Division of Occupational and Professional Licensing, or their boards, in an unauthorized manner;

(3) failing to respond promptly to a request by the division for information including:

(a) an audit of the website; or

(b) records of the online prescriber, the Internet facilitator, or the online contract pharmacy;

(4) using an online prescriber, online contract pharmacy, or Internet facilitator without approval of the division;

(5) failing to inform a patient of the patient's freedom of choice in selecting who will dispense a prescription in accordance with Subsection 58-83-305(1)(n);

(6) failing to keep the division informed of the name and contact information of the Internet facilitator or online contract pharmacy; ~~and~~

(7) violating the dispensing and labeling requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy[-]; or

(8) falsely making an entry in, or altering, a medical record with the intent to conceal:

(a) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(b) conduct described in Subsections (1) through (7) or Subsection 58-1-501(1).