

Representative Rex P. Shipp proposes the following substitute bill:

MEDICAL PRACTICE AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rex P. Shipp

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill enacts provisions relating to a transgender procedure on a minor.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ makes it unprofessional conduct to perform a medically unnecessary sex characteristic-altering surgical procedure on a minor;
- ▶ modifies provisions regarding a health care malpractice cause of action relating to a puberty inhibition procedure or sex characteristic-altering surgical procedure on a minor; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-67-102, as last amended by Laws of Utah 2017, Chapter 299



26 58-67-502, as last amended by Laws of Utah 2020, Chapter 25

27 58-68-102, as last amended by Laws of Utah 2017, Chapter 299

28 58-68-502, as last amended by Laws of Utah 2020, Chapter 25

29 ENACTS:

30 78B-3-427, Utah Code Annotated 1953



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

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

34 **58-67-102. Definitions.**

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

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

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

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

46 (4) "Associate physician" means an individual licensed under Section 58-67-302.8.

47 (5) "Attempted sex change" means an attempt or effort to change an individual's body
48 to present that individual as being of a sex or gender that is different from the individual's
49 biological sex at birth.

50 (6) "Biological sex at birth" means an individual's sex, as being male or female,
51 according to distinct reproductive roles as manifested by sex and reproductive organ anatomy,
52 chromosomal makeup, and endogenous hormone profiles.

53 [~~5~~] (7) "Board" means the Physicians Licensing Board created in Section 58-67-201.

54 [~~6~~] (8) "Collaborating physician" means an individual licensed under Section
55 58-67-302 who enters into a collaborative practice arrangement with an associate physician.

56 [~~7~~] (9) "Collaborative practice arrangement" means the arrangement described in

57 Section ~~58-67-807~~.

58 ~~[(8)]~~ (10) (a) "Cosmetic medical device" means tissue altering energy based devices
59 that have the potential for altering living tissue and that are used to perform ablative or
60 nonablative procedures, such as American National Standards Institute (ANSI) designated
61 Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic
62 devices, and excludes ANSI designated Class IIIa and lower powered devices.

63 (b) Notwithstanding Subsection ~~[(8)]~~ (10)(a), if an ANSI designated Class IIIa and
64 lower powered device is being used to perform an ablative procedure, the device is included in
65 the definition of cosmetic medical device under Subsection ~~[(8)]~~ (10)(a).

66 ~~[(9)]~~ (11) "Cosmetic medical procedure":

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

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

70 ~~[(10)]~~ (12) "Diagnose" means:

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

75 (b) to attempt to conduct an examination or determination described under Subsection
76 ~~[(10)]~~ (12)(a);

77 (c) to hold oneself out as making or to represent that one is making an examination or
78 determination as described in Subsection ~~[(10)]~~ (12)(a); or

79 (d) to make an examination or determination as described in Subsection ~~[(10)]~~ (12)(a)
80 upon or from information supplied directly or indirectly by another person, whether or not in
81 the presence of the person making or attempting the diagnosis or examination.

82 ~~[(11)]~~ (13) "LCME" means the Liaison Committee on Medical Education of the
83 American Medical Association.

84 ~~[(12)]~~ (14) "Medical assistant" means an unlicensed individual working under the
85 indirect supervision of a licensed physician and surgeon and engaged in specific tasks assigned
86 by the licensed physician and surgeon in accordance with the standards and ethics of the
87 profession.

88 ~~[(13)]~~ (15) "Medically underserved area" means a geographic area in which there is a
89 shortage of primary care health services for residents, as determined by the Department of
90 Health.

91 ~~[(14)]~~ (16) "Medically underserved population" means a specified group of people
92 living in a defined geographic area with a shortage of primary care health services, as
93 determined by the Department of Health.

94 ~~[(15)]~~ (17) (a) (i) "Nonablative procedure" means a procedure that is expected or
95 intended to alter living tissue, but is not intended or expected to excise, vaporize, disintegrate,
96 or remove living tissue.

97 (ii) Notwithstanding Subsection ~~[(15)]~~ (17)(a)(i), nonablative procedure includes hair
98 removal.

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

100 (i) a superficial procedure as defined in Section [58-1-102](#);

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

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

105 ~~[(16)]~~ (18) "Physician" means both physicians and surgeons licensed under Section
106 [58-67-301](#), Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
107 Section [58-68-301](#), Utah Osteopathic Medical Practice Act.

108 ~~[(17)]~~ (19) (a) "Practice of medicine" means:

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

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

116 (iii) to maintain an office or place of business for the purpose of doing any of the acts
117 described in Subsection ~~[(17)]~~ (19)(a) whether or not for compensation; or

118 (iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or

119 treatment of human diseases or conditions in any printed material, stationery, letterhead,
120 envelopes, signs, or advertisements, the designation "doctor," "doctor of medicine,"
121 "physician," "surgeon," "physician and surgeon," "Dr.," "M.D.," or any combination of these
122 designations in any manner which might cause a reasonable person to believe the individual
123 using the designation is a licensed physician and surgeon, and if the party using the designation
124 is not a licensed physician and surgeon, the designation must additionally contain the
125 description of the branch of the healing arts for which the person has a license, provided that an
126 individual who has received an earned degree of doctor of medicine degree but is not a licensed
127 physician and surgeon in Utah may use the designation "M.D." if it is followed by "Not
128 Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

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

130 (i) except for an ablative medical procedure as provided in Subsection ~~[(17)]~~
131 (19)(b)(ii), the conduct described in Subsection ~~[(17)]~~ (19)(a)(i) that is performed in
132 accordance with a license issued under another chapter of this title;

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

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

137 ~~[(18)]~~ (20) "Prescription device" means an instrument, apparatus, implement, machine,
138 contrivance, implant, in vitro reagent, or other similar or related article, and any component
139 part or accessory, which is required under federal or state law to be prescribed by a practitioner
140 and dispensed by or through a person or entity licensed under this chapter or exempt from
141 licensure under this chapter.

142 ~~[(19)]~~ (21) "Prescription drug" means a drug that is required by federal or state law or
143 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

144 (22) (a) "Sex characteristic-altering surgical procedure" means, for the purpose of
145 effectuating or facilitating an individual's attempted sex change:

146 (i) castration, orchiectomy, penectomy, vaginoplasty, vulvoplasty, breast augmentation
147 surgery, or facial feminization surgery on an individual whose biological sex at birth is male;

148 (ii) mastectomy, hysterectomy, oophorectomy, metoidioplasty, phalloplasty, or chest or
149 facial masculinization procedures on an individual whose biological sex at birth is female;

150 (iii) any surgical procedure that is related to or necessary for a procedure described in
151 Subsection (22)(a)(i) or (ii), that would result in the sterilization of an individual who is
152 non-sterile; or

153 (iv) removing any otherwise healthy or non-diseased body part or tissue.

154 (b) "Sex characteristic-altering surgical procedure" does not include:

155 (i) surgery or other procedures or treatments performed on an individual who:

156 (A) is born with external biological sex characteristics that are irresolvably ambiguous;

157 (B) is born with 46, XX chromosomes with virilization;

158 (C) is born with 46, XY chromosomes with undervirilization;

159 (D) has both ovarian and testicular tissue; or

160 (E) has been diagnosed by a physician, based on genetic or biochemical testing, with a

161 sex development disorder characterized by abnormal sex chromosome structure, sex steroid

162 hormone production, or sex steroid hormone action for a male or female; or

163 (ii) removing a body part:

164 (A) because it is cancerous or diseased; or

165 (B) for a reason that is medically necessary, other than to effectuate or facilitate an

166 individual's attempted sex change.

167 [~~20~~] (23) "SPEX" means the Special Purpose Examination of the Federation of State
168 Medical Boards.

169 [~~21~~] (24) "Unlawful conduct" means the same as that term is defined in Sections
170 58-1-501 and 58-67-501.

171 [~~22~~] (25) "Unprofessional conduct" means the same as that term is defined in
172 Sections 58-1-501 and 58-67-502, and as may be further defined by division rule.

173 Section 2. Section 58-67-502 is amended to read:

174 **58-67-502. Unprofessional conduct.**

175 (1) "Unprofessional conduct" includes, in addition to the definition in Section
176 58-1-501:

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

180 (b) making a material misrepresentation regarding the qualifications for licensure under

181 Section 58-67-302.7 or Section 58-67-302.8;

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

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

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

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

188 (ii) conduct described in Subsections (1)(a) through (d) or Subsection 58-1-501(1)[:];

189 or

190 (f) performing, or causing to be performed, a sex characteristic-altering surgical
191 procedure upon an individual who is less than 18 years old.

192 (2) "Unprofessional conduct" does not include:

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

194 (i) obtaining an investigational drug or investigational device;

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

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

197 or

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

199 (i) when registered as a qualified medical provider, as that term is defined in Section
200 26-61a-102, recommending the use of medical cannabis;

201 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
202 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

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

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

208 Section 3. Section 58-68-102 is amended to read:

209 **58-68-102. Definitions.**

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

211 (1) "Ablative procedure" means a procedure that is expected to excise, vaporize,

212 disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium:
213 YAG lasers, and excluding hair removal.

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

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

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

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

222 (6) "Attempted sex change" means an attempt or effort to change an individual's body
223 to present that individual as being of a sex or gender that is different from the individual's
224 biological sex at birth.

225 (7) "Biological sex at birth" means an individual's sex, as being male or female,
226 according to distinct reproductive roles as manifested by sex and reproductive organ anatomy,
227 chromosomal makeup, and endogenous hormone profiles.

228 [~~6~~] (8) "Board" means the Osteopathic Physician and Surgeon's Licensing Board
229 created in Section 58-68-201.

230 [~~7~~] (9) "Collaborating physician" means an individual licensed under Section
231 58-68-302 who enters into a collaborative practice arrangement with an associate physician.

232 [~~8~~] (10) "Collaborative practice arrangement" means the arrangement described in
233 Section 58-68-807.

234 [~~9~~] (11) (a) "Cosmetic medical device" means tissue altering energy based devices
235 that have the potential for altering living tissue and that are used to perform ablative or
236 nonablative procedures, such as American National Standards Institute (ANSI) designated
237 Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic
238 devices and excludes ANSI designated Class IIIa and lower powered devices.

239 (b) Notwithstanding Subsection [~~9~~] (11)(a), if an ANSI designated Class IIIa and
240 lower powered device is being used to perform an ablative procedure, the device is included in
241 the definition of cosmetic medical device under Subsection [~~9~~] (11)(a).

242 [~~10~~] (12) "Cosmetic medical procedure":

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

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

246 [~~(11)~~] (13) "Diagnose" means:

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

251 (b) to attempt to conduct an examination or determination described under Subsection
252 [~~(11)~~] (13)(a);

253 (c) to hold oneself out as making or to represent that one is making an examination or
254 determination as described in Subsection [~~(11)~~] (13)(a); or

255 (d) to make an examination or determination as described in Subsection [~~(11)~~] (13)(a)
256 upon or from information supplied directly or indirectly by another person, whether or not in
257 the presence of the person making or attempting the diagnosis or examination.

258 [~~(12)~~] (14) "Medical assistant" means an unlicensed individual working under the
259 indirect supervision of a licensed osteopathic physician and surgeon and engaged in specific
260 tasks assigned by the licensed osteopathic physician and surgeon in accordance with the
261 standards and ethics of the profession.

262 [~~(13)~~] (15) "Medically underserved area" means a geographic area in which there is a
263 shortage of primary care health services for residents, as determined by the Department of
264 Health.

265 [~~(14)~~] (16) "Medically underserved population" means a specified group of people
266 living in a defined geographic area with a shortage of primary care health services, as
267 determined by the Department of Health.

268 [~~(15)~~] (17) (a) (i) "Nonablative procedure" means a procedure that is expected or
269 intended to alter living tissue, but is not expected or intended to excise, vaporize, disintegrate,
270 or remove living tissue.

271 (ii) Notwithstanding Subsection [~~(15)~~] (17)(a)(i), nonablative procedure includes hair
272 removal.

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

274 (i) a superficial procedure as defined in Section 58-1-102;
275 (ii) the application of permanent make-up; or
276 (iii) the use of photo therapy lasers for neuromusculoskeletal treatments that are
277 performed by an individual licensed under this title who is acting within the individual's scope
278 of practice.

279 ~~[(16)]~~ (18) "Physician" means both physicians and surgeons licensed under Section
280 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
281 Section 58-68-301, Utah Osteopathic Medical Practice Act.

282 ~~[(17)]~~ (19) (a) "Practice of osteopathic medicine" means:

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

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

291 (iii) to maintain an office or place of business for the purpose of doing any of the acts
292 described in Subsection ~~[(17)]~~ (19)(a) whether or not for compensation; or

293 (iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
294 treatment of human diseases or conditions, in any printed material, stationery, letterhead,
295 envelopes, signs, or advertisements, the designation "doctor," "doctor of osteopathic medicine,"
296 "osteopathic physician," "osteopathic surgeon," "osteopathic physician and surgeon," "Dr.,"
297 "D.O.," or any combination of these designations in any manner which might cause a
298 reasonable person to believe the individual using the designation is a licensed osteopathic
299 physician, and if the party using the designation is not a licensed osteopathic physician, the
300 designation must additionally contain the description of the branch of the healing arts for which
301 the person has a license, provided that an individual who has received an earned degree of
302 doctor of osteopathic medicine but is not a licensed osteopathic physician and surgeon in Utah
303 may use the designation "D.O." if it is followed by "Not Licensed" or "Not Licensed in Utah"
304 in the same size and style of lettering.

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

306 (i) except for an ablative medical procedure as provided in Subsection ~~[(+7)]~~

307 ~~(19)(b)(ii)~~, the conduct described in Subsection ~~[(+7)]~~ ~~(19)(a)(i)~~ that is performed in

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

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

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

311 perform a surgical procedure; or

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

313 ~~[(+8)]~~ ~~(20)~~ "Prescription device" means an instrument, apparatus, implement, machine,

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

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

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

317 licensure under this chapter.

318 ~~[(+9)]~~ ~~(21)~~ "Prescription drug" means a drug that is required by federal or state law or

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

320 ~~(22)~~ (a) "Sex characteristic-altering surgical procedure" means, for the purpose of

321 effectuating or facilitating an individual's attempted sex change:

322 (i) castration, orchiectomy, penectomy, vaginoplasty, vulvoplasty, breast augmentation

323 surgery, or facial feminization surgery on an individual whose biological sex at birth is male;

324 (ii) mastectomy, hysterectomy, oophorectomy, metoidioplasty, phalloplasty, or chest or

325 facial masculinization procedures on an individual whose biological sex at birth is female;

326 (iii) any surgical procedure that is related to or necessary for a procedure described in

327 Subsection (22)(a)(i) or (ii), that would result in the sterilization of an individual who is

328 non-sterile;

329 (iv) removing any otherwise healthy or non-diseased body part or tissue.

330 (b) "Sex characteristic-altering surgical procedure" does not include:

331 (i) surgery or other procedures or treatments performed on an individual who:

332 (A) is born with external biological sex characteristics that are irresolvably ambiguous;

333 (B) is born with 46, XX chromosomes with virilization;

334 (C) is born with 46, XY chromosomes with undervirilization;

335 (D) has both ovarian and testicular tissue; or

336 (E) has been diagnosed by a physician, based on genetic or biochemical testing, with a
 337 sex development disorder characterized by abnormal sex chromosome structure, sex steroid
 338 hormone production, or sex steroid hormone action for a male or female; or

339 (ii) removing a body part:

340 (A) because it is cancerous or diseased; or

341 (B) for a reason that is medically necessary, other than to effectuate or facilitate an
 342 individual's attempted sex change.

343 [~~(20)~~] (23) "SPEX" means the Special Purpose Examination of the Federation of State
 344 Medical Boards.

345 [~~(21)~~] (24) "Unlawful conduct" means the same as that term is defined in Sections
 346 58-1-501 and 58-68-501.

347 [~~(22)~~] (25) "Unprofessional conduct" means the same as that term is defined in
 348 Sections 58-1-501 and 58-68-502 and as may be further defined by division rule.

349 Section 4. Section 58-68-502 is amended to read:

350 **58-68-502. Unprofessional conduct.**

351 (1) "Unprofessional conduct" includes, in addition to the definition in Section
 352 58-1-501:

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

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

358 (c) making a material misrepresentation regarding the qualifications for licensure under
 359 Section 58-68-302.5;

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

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

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

365 (ii) conduct described in Subsections (1)(a) through (d) or Subsection 58-1-501(1)[~~]~~;

366 or

367 (f) performing, or causing to be performed, a sex characteristic-altering surgical
368 procedure upon an individual who is younger than 18 years old.

369 (2) "Unprofessional conduct" does not include:

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

371 (i) obtaining an investigational drug or investigational device;

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

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

374 or

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

376 (i) when registered as a qualified medical provider, as that term is defined in Section
377 26-61a-102, recommending the use of medical cannabis;

378 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
379 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

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

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

385 Section 5. Section 78B-3-427 is enacted to read:

386 **78B-3-427. Statute of limitations for transgender procedures upon a minor --**

387 **Informed consent.**

388 (1) (a) "Attempted sex change" means the same as that term is defined in Section
389 58-67-102.

390 (b) "Biological sex at birth" means the same as that term is defined in Section
391 58-67-102.

392 (c) (i) "Puberty inhibition procedure" means administering or supplying to an
393 individual younger than 18 years old, alone or in combination with aromatase inhibitors:

394 (A) gonadotropin-releasing hormone agonists;

395 (B) progestins; or

396 (C) androgen receptor inhibitors.

397 (ii) "Puberty inhibition procedure" does not include administering or supplying a

398 treatment described in Subsection (1)(c)(i) to an individual younger than 18 years old if the
399 treatment is medically necessary as a treatment for:

400 (A) precocious puberty;

401 (B) idiopathic short stature;

402 (C) endometriosis; or

403 (D) a sex hormone-stimulated cancer.

404 (d) "Sex characteristic-altering procedure" means:

405 (i) a sex characteristic-altering surgical procedure as defined in Section [58-67-102](#); and

406 (ii) administering or supplying:

407 (A) doses of testosterone or other androgens to an individual whose biological sex at
408 birth is female at levels above those normally found in an individual whose biological sex at
409 birth is female; or

410 (B) doses of estrogens or synthetic compounds with estrogenic activity or effect to an
411 individual whose biological sex at birth is male at levels above those normally found in an
412 individual whose biological sex at birth is male.

413 (e) "Transgender procedure upon a minor" means performing any of the following
414 procedures that occur upon an individual while the individual is younger than 18 years old:

415 (i) a puberty inhibition procedure; or

416 (ii) a sex characteristic-altering procedure.

417 (2) (a) Notwithstanding any other provision of law, a malpractice action against a
418 health care provider for a cause of action from a transgender procedure upon a minor may be
419 brought before the plaintiff or patient is 29 years old.

420 (b) Section [78B-3-404](#) does not apply to a malpractice action against a health care
421 provider for a cause of action arising from a transgender procedure upon a minor.

422 (3) (a) Before performing a transgender procedure upon a minor, a health care provider
423 shall obtain affirmative informed consent in writing from:

424 (i) the patient; and

425 (ii) the patient's parent or guardian, unless the patient is:

426 (A) 16 years old or older; or

427 (B) an emancipated minor under Title 78A, Chapter 6, Part 8, Emancipation.

428 (b) Before performing a transgender procedure upon a minor, a health care provider

429 shall confirm a diagnosis of gender dysphoria in accordance with the Diagnostic and Statistical
430 Manual (DSM-5).

431 (c) If a health care provider fails to comply with the requirement in Subsection (3)(a) or
432 (b), the health care provider is presumed to have lacked informed consent with respect to the
433 transgender procedure upon a minor.

434 (d) Subsections [78B-3-406\(1\)](#) through (4) do not apply to a transgender procedure
435 upon a minor.

436 (4) This section applies to a cause of action arising on or after May 4, 2021.