

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 prohibits a physician or surgeon from performing a transgender procedure on an individual who is 16 years old or younger.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ makes it unprofessional conduct to perform a medically unnecessary puberty inhibition procedure or a sex characteristic-altering procedure on an individual who is 16 years old or younger; 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

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



26 58-68-102, as last amended by Laws of Utah 2017, Chapter 299

27 58-68-502, as last amended by Laws of Utah 2020, Chapter 25



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

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

31 **58-67-102. Definitions.**

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

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

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

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

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

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

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

50 [~~5~~] (7) "Board" means the Physicians Licensing Board created in Section 58-67-201.

51 [~~6~~] (8) "Collaborating physician" means an individual licensed under Section
52 58-67-302 who enters into a collaborative practice arrangement with an associate physician.

53 [~~7~~] (9) "Collaborative practice arrangement" means the arrangement described in
54 Section 58-67-807.

55 [~~8~~] (10) (a) "Cosmetic medical device" means tissue altering energy based devices
56 that have the potential for altering living tissue and that are used to perform ablative or

57 nonablative procedures, such as American National Standards Institute (ANSI) designated
58 Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic
59 devices, and excludes ANSI designated Class IIIa and lower powered devices.

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

63 [~~(9)~~] (11) "Cosmetic medical procedure":

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

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

67 [~~(10)~~] (12) "Diagnose" means:

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

72 (b) to attempt to conduct an examination or determination described under Subsection
73 [~~(10)~~] (12)(a);

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

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

79 [~~(11)~~] (13) "LCME" means the Liaison Committee on Medical Education of the
80 American Medical Association.

81 [~~(12)~~] (14) "Medical assistant" means an unlicensed individual working under the
82 indirect supervision of a licensed physician and surgeon and engaged in specific tasks assigned
83 by the licensed physician and surgeon in accordance with the standards and ethics of the
84 profession.

85 [~~(13)~~] (15) "Medically underserved area" means a geographic area in which there is a
86 shortage of primary care health services for residents, as determined by the Department of
87 Health.

88 ~~[(14)]~~ (16) "Medically underserved population" means a specified group of people
89 living in a defined geographic area with a shortage of primary care health services, as
90 determined by the Department of Health.

91 (17) (a) "Medically unnecessary puberty inhibition procedure" means administering or
92 supplying to an individual who is 16 years old or younger, alone or in combination with
93 aromatase inhibitors:

94 (i) gonadotropin-releasing hormone agonists;

95 (ii) progestins; or

96 (iii) androgen receptor inhibitors.

97 (b) "Medically unnecessary puberty inhibition procedure" does not include
98 administering or supplying a treatment described in Subsection (17)(a) to an individual who is
99 16 years old or younger if the treatment is medically necessary as a treatment for:

100 (i) precocious puberty;

101 (ii) idiopathic short stature;

102 (iii) endometriosis; or

103 (iv) a sex hormone-stimulated cancer.

104 ~~[(15)]~~ (18) (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 ~~[(15)]~~ (18)(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 ~~[(16)]~~ (19) "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 ~~[(17)]~~ (20) (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 [~~(17)~~] (20)(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 [~~(17)~~]
141 (20)(b)(ii), the conduct described in Subsection [~~(17)~~] (20)(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 [~~(18)~~] (21) "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 ~~[(19)]~~ (22) "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 (23) (a) "Sex characteristic-altering procedure" means, for the purpose of effectuating
155 or facilitating an individual's attempted sex change:

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

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

160 (iii) any surgical procedure that is related to or necessary for a procedure described in
161 Subsection (23)(a)(i) or (ii), that would result in the sterilization of an individual who is
162 non-sterile;

163 (iv) administering or supplying:

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

167 (B) doses of estrogens or synthetic compounds with estrogenic activity or effect to an
168 individual whose biological sex at birth is male at levels above those normally found in an
169 individual whose biological sex at birth is male; or

170 (v) removing any otherwise healthy or non-diseased body part or tissue.

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

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

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

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

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

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

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

180 (ii) removing a body part:

181 (A) because it is cancerous or diseased; or
182 (B) for a reason that is medically necessary, other than to effectuate or facilitate an
183 individual's attempted sex change.

184 [~~20~~] (24) "SPEX" means the Special Purpose Examination of the Federation of State
185 Medical Boards.

186 [~~21~~] (25) "Unlawful conduct" means the same as that term is defined in Sections
187 58-1-501 and 58-67-501.

188 [~~22~~] (26) "Unprofessional conduct" means the same as that term is defined in
189 Sections 58-1-501 and 58-67-502, and as may be further defined by division rule.

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

191 **58-67-502. Unprofessional conduct.**

192 (1) "Unprofessional conduct" includes, in addition to the definition in Section
193 58-1-501:

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

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

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

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

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

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

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

206 or

207 (f) performing, or causing to be performed, a sex characteristic-altering procedure or
208 medically unnecessary puberty inhibition procedure upon an individual who is 16 years old or
209 younger.

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

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

- 212 (i) obtaining an investigational drug or investigational device;
- 213 (ii) administering the investigational drug to an eligible patient; or
- 214 (iii) treating an eligible patient with the investigational drug or investigational device;

215 or

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

217 (i) when registered as a qualified medical provider, as that term is defined in Section
218 26-61a-102, recommending the use of medical cannabis;

219 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
220 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

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

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

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

227 **58-68-102. Definitions.**

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

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

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

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

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

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

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

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

246 ~~(6)~~ (8) "Board" means the Osteopathic Physician and Surgeon's Licensing Board
247 created in Section 58-68-201.

248 ~~(7)~~ (9) "Collaborating physician" means an individual licensed under Section
249 58-68-302 who enters into a collaborative practice arrangement with an associate physician.

250 ~~(8)~~ (10) "Collaborative practice arrangement" means the arrangement described in
251 Section 58-68-807.

252 ~~(9)~~ (11) (a) "Cosmetic medical device" means tissue altering energy based devices
253 that have the potential for altering living tissue and that are used to perform ablative or
254 nonablative procedures, such as American National Standards Institute (ANSI) designated
255 Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic
256 devices and excludes ANSI designated Class IIIa and lower powered devices.

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

260 ~~(10)~~ (12) "Cosmetic medical procedure":

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

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

264 ~~(11)~~ (13) "Diagnose" means:

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

269 (b) to attempt to conduct an examination or determination described under Subsection
270 ~~(11)~~ (13)(a);

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

273 (d) to make an examination or determination as described in Subsection ~~(11)~~ (13)(a)

274 upon or from information supplied directly or indirectly by another person, whether or not in
275 the presence of the person making or attempting the diagnosis or examination.

276 ~~[(12)]~~ (14) "Medical assistant" means an unlicensed individual working under the
277 indirect supervision of a licensed osteopathic physician and surgeon and engaged in specific
278 tasks assigned by the licensed osteopathic physician and surgeon in accordance with the
279 standards and ethics of the profession.

280 ~~[(13)]~~ (15) "Medically underserved area" means a geographic area in which there is a
281 shortage of primary care health services for residents, as determined by the Department of
282 Health.

283 ~~[(14)]~~ (16) "Medically underserved population" means a specified group of people
284 living in a defined geographic area with a shortage of primary care health services, as
285 determined by the Department of Health.

286 (17) (a) "Medically unnecessary puberty inhibition procedure" means administering or
287 supplying to an individual who is 16 years old or younger, alone or in combination with
288 aromatase inhibitors:

289 (i) gonadotropin-releasing hormone agonists;

290 (ii) progestins; or

291 (iii) androgen receptor inhibitors.

292 (b) "Medically unnecessary puberty inhibition procedure" does not include
293 administering or supplying a treatment described in Subsection (17)(a) to an individual who is
294 16 years old or younger if the treatment is medically necessary as a treatment for:

295 (i) precocious puberty;

296 (ii) idiopathic short stature;

297 (iii) endometriosis; or

298 (iv) a sex hormone-stimulated cancer.

299 ~~[(15)]~~ (18) (a) (i) "Nonablative procedure" means a procedure that is expected or
300 intended to alter living tissue, but is not expected or intended to excise, vaporize, disintegrate,
301 or remove living tissue.

302 (ii) Notwithstanding Subsection ~~[(15)]~~ (18)(a)(i), nonablative procedure includes hair
303 removal.

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

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

310 [~~(16)~~] (19) "Physician" means both physicians and surgeons licensed under Section

311 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under

312 Section 58-68-301, Utah Osteopathic Medical Practice Act.

313 [~~(17)~~] (20) (a) "Practice of osteopathic medicine" means:

314 (i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human

315 disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real

316 or imaginary, or to attempt to do so, by any means or instrumentality, which in whole or in part

317 is based upon emphasis of the importance of the musculoskeletal system and manipulative

318 therapy in the maintenance and restoration of health, by an individual in Utah or outside of the

319 state upon or for any human within the state;

320 (ii) when a person not licensed as a physician directs a licensee under this chapter to

321 withhold or alter the health care services that the licensee has ordered;

322 (iii) to maintain an office or place of business for the purpose of doing any of the acts

323 described in Subsection [~~(17)~~] (20)(a) whether or not for compensation; or

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

325 treatment of human diseases or conditions, in any printed material, stationery, letterhead,

326 envelopes, signs, or advertisements, the designation "doctor," "doctor of osteopathic medicine,"

327 "osteopathic physician," "osteopathic surgeon," "osteopathic physician and surgeon," "Dr.,"

328 "D.O.," or any combination of these designations in any manner which might cause a

329 reasonable person to believe the individual using the designation is a licensed osteopathic

330 physician, and if the party using the designation is not a licensed osteopathic physician, the

331 designation must additionally contain the description of the branch of the healing arts for which

332 the person has a license, provided that an individual who has received an earned degree of

333 doctor of osteopathic medicine but is not a licensed osteopathic physician and surgeon in Utah

334 may use the designation "D.O." if it is followed by "Not Licensed" or "Not Licensed in Utah"

335 in the same size and style of lettering.

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

337 (i) except for an ablative medical procedure as provided in Subsection ~~[(17)]~~

338 (20)(b)(ii), the conduct described in Subsection ~~[(17)]~~ (20)(a)(i) that is performed in

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

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

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

344 ~~[(18)]~~ (21) "Prescription device" means an instrument, apparatus, implement, machine,
345 contrivance, implant, in vitro reagent, or other similar or related article, and any component
346 part or accessory, which is required under federal or state law to be prescribed by a practitioner
347 and dispensed by or through a person or entity licensed under this chapter or exempt from
348 licensure under this chapter.

349 ~~[(19)]~~ (22) "Prescription drug" means a drug that is required by federal or state law or
350 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

351 (23) (a) "Sex characteristic-altering procedure" means, for the purpose of effectuating
352 or facilitating an individual's attempted sex change:

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

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

357 (iii) any surgical procedure that is related to or necessary for a procedure described in
358 Subsection (23)(a)(i) or (ii), that would result in the sterilization of an individual who is
359 non-sterile;

360 (iv) administering or supplying:

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

364 (B) doses of estrogens or synthetic compounds with estrogenic activity or effect to an
365 individual whose biological sex at birth is male at levels above those normally found in an
366 individual whose biological sex at birth is male; or

- 367 (v) removing any otherwise healthy or non-diseased body part or tissue.
- 368 (b) "Sex characteristic-altering procedure" does not include:
- 369 (i) surgery or other procedures or treatments performed on an individual who:
- 370 (A) is born with external biological sex characteristics that are irresolvably ambiguous;
- 371 (B) is born with 46, XX chromosomes with virilization;
- 372 (C) is born with 46, XY chromosomes with undervirilization;
- 373 (D) has both ovarian and testicular tissue; or
- 374 (E) has been diagnosed by a physician, based on genetic or biochemical testing, with a
- 375 sex development disorder characterized by abnormal sex chromosome structure, sex steroid
- 376 hormone production, or sex steroid hormone action for a male or female; or
- 377 (ii) removing a body part:
- 378 (A) because it is cancerous or diseased; or
- 379 (B) for a reason that is medically necessary, other than to effectuate or facilitate an
- 380 individual's attempted sex change.
- 381 [~~(20)~~] (24) "SPEX" means the Special Purpose Examination of the Federation of State
- 382 Medical Boards.
- 383 [~~(21)~~] (25) "Unlawful conduct" means the same as that term is defined in Sections
- 384 58-1-501 and 58-68-501.
- 385 [~~(22)~~] (26) "Unprofessional conduct" means the same as that term is defined in
- 386 Sections 58-1-501 and 58-68-502 and as may be further defined by division rule.
- 387 Section 4. Section 58-68-502 is amended to read:
- 388 **58-68-502. Unprofessional conduct.**
- 389 (1) "Unprofessional conduct" includes, in addition to the definition in Section
- 390 58-1-501:
- 391 (a) using or employing the services of any individual to assist a licensee in any manner
- 392 not in accordance with the generally recognized practices, standards, or ethics of the
- 393 profession, state law, or division rule;
- 394 (b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
- 395 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;
- 396 (c) making a material misrepresentation regarding the qualifications for licensure under
- 397 Section 58-68-302.5;

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

399 [or]

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

401 (i) a wrongful or negligent act or omission of an individual licensed under this chapter

402 or an individual under the direction or control of an individual licensed under this chapter; or

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

404 or

405 (f) performing, or causing to be performed, a sex characteristic-altering procedure or

406 medically unnecessary puberty inhibition procedure upon an individual who is 16 years old or

407 younger.

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

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

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

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

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

413 or

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

415 (i) when registered as a qualified medical provider, as that term is defined in Section

416 26-61a-102, recommending the use of medical cannabis;

417 (ii) when registered as a pharmacy medical provider, as that term is defined in Section

418 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

419 (iii) when registered as a state central patient portal medical provider, as that term is

420 defined in Section 26-61a-102, providing state central patient portal medical provider services.

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

422 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define

423 unprofessional conduct for a physician described in Subsection (2)(b).