

SB0028S01 compared with SB0028

~~{deleted text}~~ shows text that was in SB0028 but was deleted in SB0028S01.

inserted text shows text that was not in SB0028 but was inserted into SB0028S01.

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Senator Curtis S. Bramble proposes the following substitute bill:

PHYSICIAN ASSISTANT MENTAL HEALTH PRACTICE

AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: James A. Dunnigan

LONG TITLE

~~{Committee Note:~~

~~—————The Business and Labor Interim Committee recommended this bill.~~

~~—————Legislative Vote: 14 voting for 1 voting against 5 absent~~

~~{General Description:~~

This bill allows a physician assistant to specialize in psychiatric mental health and defines the requirements and scope of practice for this specialization.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends the Mental Health Professional Practice Act to allow a physician assistant

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who specializes in psychiatric mental health to engage in the practice of mental health therapy;

- ▶ describes the qualifications for a physician assistant to specialize in psychiatric mental health;
- ▶ defines the additional scope of practice for a physician assistant specializing in psychiatric mental health; and
- ▶ makes technical and corresponding changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-60-102, as last amended by Laws of Utah 2013, Chapters 16 and 123

58-60-103, as last amended by Laws of Utah 2015, Chapter 258

58-60-107, as last amended by Laws of Utah 2013, Chapter 16

58-70a-102, as last amended by Laws of Utah 2017, Chapter 309

58-70a-501, as last amended by Laws of Utah 2017, Chapter 309

62A-15-602, as last amended by Laws of Utah 2019, Chapters 189 and 256

ENACTS:

58-70a-501.1, Utah Code Annotated 1953

58-70a-501.2, Utah Code Annotated 1953

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

Section 1. Section **58-60-102** is amended to read:

58-60-102. Definitions.

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

(1) "Client" or "patient" means an individual who consults or is examined or interviewed by an individual licensed under this chapter who is acting in the individual's professional capacity.

(2) "Confidential communication" means information obtained by an individual

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licensed under this chapter, including information obtained by the individual's examination of the client or patient, which is:

(a) (i) transmitted between the client or patient and an individual licensed under this chapter in the course of that relationship; or

(ii) transmitted among the client or patient, an individual licensed under this chapter, and individuals who are participating in the diagnosis or treatment under the direction of an individual licensed under this chapter, including members of the client's or patient's family; and

(b) made in confidence, for the diagnosis or treatment of the client or patient by the individual licensed under this chapter, and by a means not intended to be disclosed to third persons other than those individuals:

(i) present to further the interest of the client or patient in the consultation, examination, or interview;

(ii) reasonably necessary for the transmission of the communications; or

(iii) participating in the diagnosis and treatment of the client or patient under the direction of the mental health therapist.

(3) "Hypnosis" means, when referring to individuals exempted from licensure under this chapter, a process by which an individual induces or assists another individual into a hypnotic state without the use of drugs or other substances and for the purpose of increasing motivation or to assist the individual to alter lifestyles or habits.

(4) "Individual" means a natural person.

(5) "Mental health therapist" means an individual who is practicing within the scope of practice defined in the individual's respective licensing act and is licensed under this title as:

(a) a physician and surgeon, or osteopathic physician engaged in the practice of mental health therapy;

(b) an advanced practice registered nurse, specializing in psychiatric mental health nursing;

(c) an advanced practice registered nurse intern, specializing in psychiatric mental health nursing;

(d) a psychologist qualified to engage in the practice of mental health therapy;

(e) a certified psychology resident qualifying to engage in the practice of mental health therapy;

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(f) a physician assistant specializing in psychiatric mental health under Section 58-70a-501.1;

~~{ (g) a physician assistant engaged in the practice of mental health therapy in collaboration with:~~

~~— (i) a physician described in Subsection (5)(a); or~~

~~— (ii) a physician assistant described in Subsection (5)(f);~~

‡ [(f)] ~~(fh)g~~ a clinical social worker;

[(g)] ~~(fih)~~ a certified social worker;

[(h)] ~~(fji)~~ a marriage and family therapist;

[(i)] ~~(fkj)~~ an associate marriage and family therapist;

[(j)] ~~(fk)~~ a clinical mental health counselor; or

[(k)] ~~(fm)l~~ an associate clinical mental health counselor.

(6) "Mental illness" means a mental or emotional condition defined in an approved diagnostic and statistical manual for mental disorders generally recognized in the professions of mental health therapy listed under Subsection (5).

(7) "Practice of mental health therapy" means treatment or prevention of mental illness, whether in person or remotely, including:

(a) conducting a professional evaluation of an individual's condition of mental health, mental illness, or emotional disorder consistent with standards generally recognized in the professions of mental health therapy listed under Subsection (5);

(b) establishing a diagnosis in accordance with established written standards generally recognized in the professions of mental health therapy listed under Subsection (5);

(c) prescribing a plan for the prevention or treatment of a condition of mental illness or emotional disorder; and

(d) engaging in the conduct of professional intervention, including psychotherapy by the application of established methods and procedures generally recognized in the professions of mental health therapy listed under Subsection (5).

(8) "Remotely" means communicating via Internet, telephone, or other electronic means that facilitate real-time audio or visual interaction between individuals when they are not physically present in the same room at the same time.

(9) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-60-109.

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(10) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-60-110, and may be further defined by division rule.

Section 2. Section **58-60-103** is amended to read:

58-60-103. Licensure required.

(1) (a) An individual shall be licensed under:

(i) this chapter;

(ii) Chapter 67, Utah Medical Practice Act;

(iii) Chapter 68, Utah Osteopathic Medical Practice Act;

(iv) Chapter 31b, Nurse Practice Act;

(v) Chapter 61, Psychologist Licensing Act;

(vi) Chapter 70a, Utah Physician Assistant Act; or

(vii) exempted from licensure under this chapter [~~in order to~~].

(b) Only an individual described in Subsection (1)(a) may:

~~(a)~~ (i) engage in, or represent that the individual will engage in, the practice of mental health therapy, clinical social work, certified social work, marriage and family therapy, or clinical mental health counseling; or

~~(b)~~ (ii) practice as, or represent that the individual is, a mental health therapist, clinical social worker, certified social worker, marriage and family therapist, clinical mental health counselor, psychiatrist, psychologist, registered psychiatric mental health nurse specialist, certified psychology resident, associate marriage and family therapist, or associate clinical mental health counselor.

(2) An individual shall be licensed under this chapter or exempted from licensure under this chapter in order to:

(a) engage in, or represent that the individual is engaged in, practice as a social service worker; or

(b) represent that the individual is, or use the title of, a social service worker.

(3) An individual shall be licensed under this chapter or exempted from licensure under this chapter in order to:

(a) engage in, or represent that the individual is engaged in, practice as a substance use disorder counselor; or

(b) represent that the individual is, or use the title of, a substance use disorder

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counselor.

(4) Notwithstanding the provisions of Subsection 58-1-307(1)(c), an individual shall be certified under this chapter, or otherwise exempted from licensure under this chapter, in order to engage in an internship or residency program of supervised clinical training necessary to meet the requirements for licensure as:

(a) a marriage and family therapist under Part 3, Marriage and Family Therapist Licensing Act; or

(b) a clinical mental health counselor under Part 4, Clinical Mental Health Counselor Licensing Act.

Section 3. Section **58-60-107** is amended to read:

58-60-107. Exemptions from licensure.

(1) Except as modified in Section 58-60-103, the exemptions from licensure in Section 58-1-307 apply to this chapter.

(2) In addition to the exemptions from licensure in Section 58-1-307, the following may engage in acts included within the definition of practice as a mental health therapist, subject to the stated circumstances and limitations, without being licensed under this chapter:

(a) the following when practicing within the scope of the license held:

(i) a physician and surgeon or osteopathic physician and surgeon licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) an advanced practice registered nurse, specializing in psychiatric mental health nursing, licensed under Chapter 31b, Nurse Practice Act; ~~and~~

(iii) a psychologist licensed under Chapter 61, Psychologist Licensing Act; and

(iv) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act, and specializing in psychiatric mental health under Section 58-70a-501.1;

(b) a recognized member of the clergy while functioning in a ministerial capacity as long as the member of the clergy does not represent that the member of the clergy is, or use the title of, a license classification in Subsection 58-60-102(5);

(c) an individual who is offering expert testimony in a proceeding before a court, administrative hearing, deposition upon the order of a court or other body having power to order the deposition, or a proceeding before a master, referee, or alternative dispute resolution provider;

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(d) an individual engaged in performing hypnosis who is not licensed under this title in a profession which includes hypnosis in its scope of practice, and who:

(i) (A) induces a hypnotic state in a client for the purpose of increasing motivation or altering lifestyles or habits, such as eating or smoking, through hypnosis;

(B) consults with a client to determine current motivation and behavior patterns;

(C) prepares the client to enter hypnotic states by explaining how hypnosis works and what the client will experience;

(D) tests clients to determine degrees of suggestibility;

(E) applies hypnotic techniques based on interpretation of consultation results and analysis of client's motivation and behavior patterns; and

(F) trains clients in self-hypnosis conditioning;

(ii) may not:

(A) engage in the practice of mental health therapy;

(B) use the title of a license classification in Subsection 58-60-102(5); or

(C) use hypnosis with or treat a medical, psychological, or dental condition defined in generally recognized diagnostic and statistical manuals of medical, psychological, or dental disorders;

(e) an individual's exemption from licensure under Subsection 58-1-307(1)(b) terminates when the student's training is no longer supervised by qualified faculty or staff and the activities are no longer a defined part of the degree program;

(f) an individual holding an earned doctoral degree or master's degree in social work, marriage and family therapy, or clinical mental health counseling, who is employed by an accredited institution of higher education and who conducts research and teaches in that individual's professional field, but only if the individual does not engage in providing or supervising professional services regulated under this chapter to individuals or groups regardless of whether there is compensation for the services;

(g) an individual in an on-the-job training program approved by the division while under the supervision of qualified persons;

(h) an individual providing general education in the subjects of alcohol, drug use, or substance use disorders, including prevention;

(i) an individual providing advice or counsel to another individual in a setting of their

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association as friends or relatives and in a nonprofessional and noncommercial relationship, if there is no compensation paid for the advice or counsel; and

(j) an individual who is licensed, in good standing, to practice mental health therapy or substance use disorder counseling in a state or territory of the United States outside of Utah may provide short term transitional mental health therapy remotely or short term transitional substance use disorder counseling remotely to a client in Utah only if:

(i) the individual is present in the state or territory where the individual is licensed to practice mental health therapy or substance use disorder counseling;

(ii) the client relocates to Utah;

(iii) the client is a client of the individual immediately before the client relocates to Utah;

(iv) the individual provides the short term transitional mental health therapy or short term transitional substance use disorder counseling remotely to the client only during the 45 day period beginning on the day on which the client relocates to Utah;

(v) within 10 days after the day on which the client relocates to Utah, the individual provides written notice to the division of the individual's intent to provide short term transitional mental health therapy or short term transitional substance use disorder counseling remotely to the client; and

(vi) the individual does not engage in unlawful conduct or unprofessional conduct.

Section 4. Section **58-70a-102** is amended to read:

58-70a-102. Definitions.

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

(1) "Board" means the Physician Assistant Licensing Board created in Section 58-70a-201.

(2) (a) "Delegation of services agreement" means written criteria jointly developed by a physician assistant's supervising physician and substitute supervising physicians and the physician assistant, that permits a physician assistant, working under the direction or review of the supervising physician, to assist in the management of common illnesses and injuries.

(b) The agreement defines the working relationship and delegation of duties between the supervising physician and the physician assistant as specified by division rule and shall include:

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- (i) the prescribing of controlled substances;
 - (ii) the degree and means of supervision;
 - (iii) the frequency and mechanism of quality review, including the mechanism for review of patient data and documentation of the review, as determined by the supervising physician and the physician assistant;
 - (iv) procedures addressing situations outside the scope of practice of the physician assistant; and
 - (v) procedures for providing backup for the physician assistant in emergency situations.
- (3) "Direct supervision" means the supervising physician is:
- (a) physically present at the point of patient treatment on site where the physician assistant he is supervising is practicing; and
 - (b) immediately available for consultation with the physician assistant.
- (4) "Practice as a physician assistant" means:
- (a) the professional activities and conduct of a physician assistant, also known as a PA, in diagnosing, treating, advising, or prescribing for any human disease, ailment, injury, infirmity, deformity, pain, or other condition, dependent upon and under the supervision of a supervising physician or substitute supervising physician in accordance with a delegation of services agreement; and
 - (b) the physician assistant acts as the agent of the supervising physician or substitute supervising physician when acting in accordance with a delegation of services agreement.
- (5) "Practice of mental health therapy" means the same as that term is defined in Section 58-60-102.
- ~~(5)~~ (6) "Substitute supervising physician" means an individual who meets the requirements of a supervising physician under this chapter and acts as the supervising physician in the absence of the supervising physician.
- ~~(6)~~ (7) "Supervising physician" means an individual who:
- (a) is currently licensed to practice under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
 - (b) acts as the primary supervisor of a physician assistant and takes responsibility for the professional practice and conduct of a physician assistant in accordance with this chapter; and

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(c) is not an employee of the physician assistant whom the individual supervises.

~~[(7)]~~ (8) "Supervision" means the supervising physician is available for consultation with the physician assistant, either personally or by other means permitting direct verbal communication between the physician and the physician assistant.

~~[(8)]~~ (9) "Unlawful conduct" ~~[is]~~ means "unlawful conduct" as defined in Sections 58-1-501 and 58-70a-502.

~~[(9)]~~ (10) "Unprofessional conduct" ~~[is]~~ means "unprofessional conduct":

(a) as defined in Sections 58-1-501 and 58-70a-503; and ~~[as may be further defined by rule.]~~

(b) as further defined by the division by rule.

Section 5. Section **58-70a-501** is amended to read:

58-70a-501. Scope of practice.

(1) A physician assistant may provide any medical services that are not specifically prohibited under this chapter or rules adopted under this chapter, and that are:

(a) within the physician assistant's skills and scope of competence;

(b) within the usual scope of practice of the physician assistant's supervising physician;

and

(c) except as provided in Section 58-70a-501.2, provided under the supervision of a supervising physician and in accordance with a delegation of services agreement.

(2) A physician assistant, in accordance with a delegation of services agreement, may prescribe or administer an appropriate controlled substance if:

(a) the physician assistant holds a Utah controlled substance license and a DEA registration; and

(b) the prescription or administration of the controlled substance is within the prescriptive practice of the supervising physician and also within the delegated prescribing stated in the delegation of services agreement.

(3) A physician assistant shall, while practicing as a physician assistant, wear an identification badge showing the physician assistant's license classification as a physician assistant.

(4) A physician assistant may not:

(a) except as provided in Section 58-70a-501.2, independently charge or bill a patient,

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or others on behalf of the patient, for services rendered;

(b) identify himself or herself to any person in connection with activities allowed under this chapter other than as a physician assistant; or

(c) use the title "doctor" or "physician," or by any knowing act or omission lead or permit anyone to believe the physician assistant is a physician.

Section 6. Section **58-70a-501.1** is enacted to read:

58-70a-501.1. Qualifications for a physician assistant specializing in psychiatric mental health -- Rulemaking -- Scope of practice.

(1) A physician assistant specializing in psychiatric mental health under this section shall:

(a) hold a valid license as a physician assistant under this chapter;

(b) obtain and maintain a Certification of Added Qualification in psychiatry issued by the National Commission on Certification of Physician Assistants;

(c) complete:

(i) an accredited doctorate level academic program for physician assistants approved by the division in collaboration with the board;

(ii) a post-graduate certificate program for physician assistants to practice within psychiatric and mental health care that is approved by the division in collaboration with the board; or

(~~iii~~iii) a post-graduate residency in psychiatry and additional clinical practice or coursework in accordance with requirements approved by the division in collaboration with the board; and

(d) complete the clinical practice requirement ~~{established by the division}~~ described in ~~{collaboration with the board}~~ Subsection (4).

(2) The division, in collaboration with the board, may approve a program under ~~{Subsection}~~ Subsections (1)(c)(~~ii~~i) and (ii), if the program:

(a) is ~~{a regionally}~~an accredited doctoral level or post-graduate academic program;

(b) includes at least 1,600 ~~{didactic}~~ hours of instruction that results in:

(i) a doctorate of medical science degree or equivalent; or

(ii) a graduate level certification in psychiatric mental health; and

(c) provides graduate level instruction in:

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- (i) neuroscience;
- (ii) health care law and ethics;
- (iii) health care delivery;
- (iv) evidence-based medicine;
- (v) evidence-based research;
- (vi) ~~academic writing and publication~~psychotherapy;
- (vii) psychiatric assessment;
- (viii) crisis intervention;
- (ix) a comprehensive review of mental disorders as characterized by the current Diagnostic and Statistical Manual of Mental Disorders, including diagnostic criteria and prevalence; and
- (x) medical and therapeutic management of each condition across the lifespan in diverse populations and in a variety of clinical settings.

(3) The division, in collaboration with the board, may:

(a) approve and accept the completion of a post-graduate residency in psychiatry under Subsection (1)(c)(iii) if the residency includes clinical and academic training that is substantially equivalent to the training described in Subsections (2)(b) and (c); and

(b) require the completion of additional coursework or clinical hours for an individual who meets the training requirement under Subsection (1)(c) through a post-graduate residency in psychiatry.

(4) (a) A physician assistant specializing in psychiatric mental health under this section shall complete 4,000 hours of clinical practice in mental health.

(b) The clinical practice hours described in Subsection (4)(a) shall be completed after the individual passes the Physician Assistant National Certifying Exam administered by the National Commission on Certification of Physician Assistants.

(c) Up to 1,000 hours of clinical practice under Subsection (4)(a) may be credited by the division for completion of an approved education program in psychiatric mental health.

(d) The clinical practice hours described in Subsection (4)(a) shall include:

(i) at least 2,000 hours of clinical practice that are completed under the supervision of:

(A) a psychiatrist; or

(B) a physician assistant specializing in psychiatric mental health; and

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(ii) at least 1,000 hours of clinical practice in psychotherapy under the supervision of a mental health therapist as defined in Section 58-60-102.

(~~3~~5) The division, in collaboration with the board, may establish continuing education requirements for a physician assistant specializing in psychiatric mental health under this section.

Section 7. Section **58-70a-501.2** is enacted to read:

58-70a-501.2. Scope of practice for a physician assistant specializing in psychiatric mental health.

(1) A physician assistant specializing in psychiatric mental health under Section 58-70a-501.1 may engage in the practice of mental health therapy consistent with the physician assistant's education, experience, and competency.

(2) A physician assistant specializing in psychiatric mental health may collaborate with a physician, but is not limited to the usual scope of practice of the collaborating physician unless specified under the clinical privileges granted to the physician assistant by a hospital or health care facility.

(3) Except as provided in Subsection (7), the division may not require a physician assistant specializing in psychiatric mental health to maintain a delegation of services agreement or any other agreement with a specific physician or other group in order to engage in the physician assistant's full scope of practice under this section.

(4) A physician assistant specializing in psychiatric mental health is responsible for meeting the local standards of care in the provision of services, including mental health therapy and psychopharmacology.

(5) A physician assistant specializing in psychiatric mental health may directly bill and collect fees for service or reassign the collection of fees for service to another entity.

(6) In addition to the scope of practice described in Section 58-70a-501, a physician assistant specializing in psychiatric mental health may:

(a) perform comprehensive physical and psychiatric examinations in an inpatient or ambulatory setting;

(b) provide validated psychiatric or mental health therapeutic services in accordance with the needs of the client or patient and the competency of the physician assistant;

(c) initiate, modify, and maintain treatment plans in accordance with the needs of the

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patient and available resources;

(d) collaborate with or refer a patient to:

(i) more specialized care as indicated by the condition of the patient; and

(ii) services indicated for the safe and effective treatment of the patient;

(e) serve as the sole owner of a mental health facility as defined in Section

62A-15-602;

(f) be credentialed or privileged as a licensed independent mental health care provider by third party or direct payers and health care providers;

(g) if the physician assistant meets the applicable requirements under state law, qualify as a designated examiner under Section 62A-15-629 for the purpose of certifying:

(i) an application for emergency involuntary commitment; or

(ii) an application for mental health involuntary commitment;

(h) independently authorize and procure any diagnostic or therapeutic procedures, devices, or pharmaceutical products indicated for conditions treated by the physician assistant under the physician assistant's mental health scope of practice;

(i) provide telemedicine, teletherapeutic, and telepsychiatric services through the use of electronic communication or information technology within the clinical scope of services provided by the physician assistant;

(j) notwithstanding Subsection 58-70a-501(2), prescribe or administer a controlled substance if the physician assistant holds a Utah controlled substance license and registration with the United States Drug Enforcement Administration;

(k) prescribe medication assisted treatment for opioid use disorder if the physician assistant has obtained a valid waiver from the United State Drug Enforcement Administration;

and

(l) practice as an independently licensed mental health care provider.

(7) (a) Except as provided in Subsection (7)(b), a physician assistant specializing in psychiatric mental health may administer a behavioral health screening instruments.

(b) A physician assistant specializing in psychiatric mental health may not perform a psychological or neuropsychological assessment or evaluation, including:

(i) an intellectual assessment;

(ii) a forensic assessment or evaluation; and

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(iii) administration of a psychological or neuropsychological test or instrument that requires qualification level B or qualification level C under the Standards for Educational and Psychological Testing approved as policy by the American Psychological Association.

(~~f7~~8) As a condition of probation or reinstatement of a license, the division may require that, for a specified duration, a physician assistant specializing in psychiatric mental health collaborate with or practice under the supervision of:

(a) a physician; or

(b) a physician assistant specializing in psychiatric mental health.

(~~f8~~9) A physician assistant who is in the process of completing the clinical training requirement in Subsection 58-70a-501.1(1)(d), may engage in the practice of mental health therapy if the physician assistant:

(a) meets the requirements described in Subsections 58-70a-501.1(1)(a) through (c);

and

(b) engages in the practice of mental health therapy in collaboration with:

(i) a physician assistant specializing in psychiatric mental health; or

(ii) a physician who is board certified in psychiatry.

(10) (a) A physician assistant who does not specialize in psychiatric mental health may provide mental health therapy as defined in Section 58-60-102 if the physician assistant enters into a collaborative practice agreement with:

(i) a psychiatrist; or

(ii) a physician assistant specializing in psychiatric mental health.

(b) A physician assistant who provides mental health therapy under Subsection (9):

(i) may provide psychoeducation and limited supportive counseling:

(A) as part of a health care team; and

(B) in accordance with the physician assistant's collaborative practice agreement;

(ii) may not practice independently or provide formal psychotherapy;

(iii) shall maintain a formal collaborative agreement at the practice that describes the scope of services that may be provided by the physician assistant; and

(iv) shall make the collaborative agreement available to the division or the board upon request by the division or the board.

(c) A physician assistant who practices in a non-psychiatric setting may provide mental

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health therapy as defined in Section 58-60-102, including psychoeducation and limited supportive counseling, if:

(i) the services are consistent with:

(A) customary and accepted practices for the physician assistant's practice setting;

(B) the physician assistant's education, training, and experience; and

(C) applicable standards of care; and

(ii) the physician assistant does not provide formal psychotherapy.

Section 8. Section **62A-15-602** is amended to read:

62A-15-602. Definitions.

As used in this part, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health, Part 8, Interstate Compact on Mental Health, Part 9, Utah Forensic Mental Health Facility, Part 10, Declaration for Mental Health Treatment, and Part 12, Essential Treatment and Intervention Act:

(1) "Adult" means an individual 18 years [~~of age~~] old or older.

(2) "Approved treatment facility or program" means a treatment provider that meets the standards described in Subsection 62A-15-103(2)(a)(v).

(3) "Assisted outpatient treatment" means involuntary outpatient mental health treatment ordered under Section 62A-15-630.5.

(4) "Commitment to the custody of a local mental health authority" means that an adult is committed to the custody of the local mental health authority that governs the mental health catchment area where the adult resides or is found.

(5) "Community mental health center" means an entity that provides treatment and services to a resident of a designated geographical area, that operates by or under contract with a local mental health authority, and that complies with state standards for community mental health centers.

(6) "Designated examiner" means:

(a) a licensed physician, preferably a psychiatrist, who is designated by the division as specially qualified by training or experience in the diagnosis of mental or related illness; [~~or~~]

(b) a physician assistant specializing in psychiatric mental health under Section 58-60a-501.1; or

~~(b)]~~ (c) a licensed mental health professional designated by the division as specially

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qualified by training and who has at least five years' continual experience in the treatment of mental illness.

(7) "Designee" means a physician who has responsibility for medical functions including admission and discharge, an employee of a local mental health authority, or an employee of a person that has contracted with a local mental health authority to provide mental health services under Section 17-43-304.

(8) "Essential treatment" and "essential treatment and intervention" mean court-ordered treatment at a local substance abuse authority or an approved treatment facility or program for the treatment of an adult's substance use disorder.

(9) "Harmful sexual conduct" means the following conduct upon an individual without the individual's consent, including the nonconsensual circumstances described in Subsections 76-5-406(2)(a) through (l):

- (a) sexual intercourse;
- (b) penetration, however slight, of the genital or anal opening of the individual;
- (c) any sexual act involving the genitals or anus of the actor or the individual and the mouth or anus of either individual, regardless of the gender of either participant; or
- (d) any sexual act causing substantial emotional injury or bodily pain.

(10) "Institution" means a hospital or a health facility licensed under Section 26-21-8.

(11) "Local substance abuse authority" means the same as that term is defined in Section 62A-15-102 and described in Section 17-43-201.

(12) "Mental health facility" means the Utah State Hospital or other facility that provides mental health services under contract with the division, a local mental health authority, a person that contracts with a local mental health authority, or a person that provides acute inpatient psychiatric services to a patient.

(13) "Mental health officer" means an individual who is designated by a local mental health authority as qualified by training and experience in the recognition and identification of mental illness, to:

- (a) apply for and provide certification for a temporary commitment; or
- (b) assist in the arrangement of transportation to a designated mental health facility.

(14) "Mental illness" means:

- (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,

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behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(15) "Patient" means an individual who is:

(a) under commitment to the custody or to the treatment services of a local mental health authority; or

(b) undergoing essential treatment and intervention.

(16) "Physician" means ~~[an individual who is:]~~ the same as that term is defined in Section 58-67-102.

~~[(a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or]~~

~~[(b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.]~~

(17) "Serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(18) "Substantial danger" means that due to mental illness, an individual is at serious risk of:

(a) suicide;

(b) serious bodily self-injury;

(c) serious bodily injury because the individual is incapable of providing the basic necessities of life, including food, clothing, or shelter;

(d) causing or attempting to cause serious bodily injury to another individual; or

(e) engaging in harmful sexual conduct.

(19) "Treatment" means psychotherapy, medication, including the administration of psychotropic medication, or other medical treatments that are generally accepted medical or psychosocial interventions for the purpose of restoring the patient to an optimal level of functioning in the least restrictive environment.