

Representative Rex P. Shipp proposes the following substitute bill:

MEDICAL PRACTICE AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rex P. Shipp

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions regarding a transgender procedure on a minor.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ makes it unprofessional conduct to perform a sex characteristic-altering surgical procedure on a minor;
- ▶ enacts requirements for a physician who performs a hormonal transgender procedure;
- ▶ modifies provisions relating to a malpractice action against a health care provider for a transgender procedure upon a minor; and
- ▶ makes technical and corresponding changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



26 [58-67-102](#), as last amended by Laws of Utah 2017, Chapter 299

27 [58-67-502](#), as last amended by Laws of Utah 2021, Chapter 337

28 [58-68-102](#), as last amended by Laws of Utah 2017, Chapter 299

29 [58-68-502](#), as last amended by Laws of Utah 2021, Chapter 337

30 ENACTS:

31 [58-1-112](#), Utah Code Annotated 1953

32 [58-67-809](#), Utah Code Annotated 1953

33 [58-68-809](#), Utah Code Annotated 1953

34 [78B-3-427](#), Utah Code Annotated 1953



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

37 Section 1. Section [58-1-112](#) is enacted to read:

38 **[58-1-112](#). Collection of data regarding hormonal transgender procedures upon a**
39 **minor -- Data available to the public.**

40 (1) On or before October 31, 2022, the division shall:

41 (a) establish a system to receive, organize, and maintain the information required in
42 Sections [58-67-809](#) and [58-68-809](#); and

43 (b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
44 Rulemaking Act, regarding the procedures a physician must follow to report the information
45 required under Sections [58-67-809](#) and [58-68-809](#).

46 (2) The division shall:

47 (a) make the information reported under Subsection (1) accessible to the public; and

48 (b) organize the information by reporting physician, but may not disclose the name or
49 other personally identifiable information of the physician to the public.

50 Section 2. Section [58-67-102](#) is amended to read:

51 **[58-67-102](#). Definitions.**

52 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

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

56 (2) "ACGME" means the Accreditation Council for Graduate Medical Education of the

57 American Medical Association.

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

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

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

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

70 [~~5~~] (7) "Board" means the Physicians Licensing Board created in Section [58-67-201](#).

71 [~~6~~] (8) "Collaborating physician" means an individual licensed under Section
72 [58-67-302](#) who enters into a collaborative practice arrangement with an associate physician.

73 [~~7~~] (9) "Collaborative practice arrangement" means the arrangement described in
74 Section [58-67-807](#).

75 [~~8~~] (10) (a) "Cosmetic medical device" means tissue altering energy based devices
76 that have the potential for altering living tissue and that are used to perform ablative or
77 nonablative procedures, such as American National Standards Institute (ANSI) designated
78 Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic
79 devices, and excludes ANSI designated Class IIIa and lower powered devices.

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

83 [~~9~~] (11) "Cosmetic medical procedure":

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

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

87 [~~10~~] (12) "Diagnose" means:

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

92 (b) to attempt to conduct an examination or determination described under Subsection
93 ~~[(10)]~~ (12)(a);

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

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

99 ~~[(11)]~~ (13) "LCME" means the Liaison Committee on Medical Education of the
100 American Medical Association.

101 ~~[(12)]~~ (14) "Medical assistant" means an unlicensed individual working under the
102 indirect supervision of a licensed physician and surgeon and engaged in specific tasks assigned
103 by the licensed physician and surgeon in accordance with the standards and ethics of the
104 profession.

105 ~~[(13)]~~ (15) "Medically underserved area" means a geographic area in which there is a
106 shortage of primary care health services for residents, as determined by the Department of
107 Health.

108 ~~[(14)]~~ (16) "Medically underserved population" means a specified group of people
109 living in a defined geographic area with a shortage of primary care health services, as
110 determined by the Department of Health.

111 ~~[(15)]~~ (17) (a) (i) "Nonablative procedure" means a procedure that is expected or
112 intended to alter living tissue, but is not intended or expected to excise, vaporize, disintegrate,
113 or remove living tissue.

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

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

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

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

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

122 [~~(16)~~] (18) "Physician" means both physicians and surgeons licensed under Section
123 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
124 Section 58-68-301, Utah Osteopathic Medical Practice Act.

125 [~~(17)~~] (19) (a) "Practice of medicine" means:

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

131 (ii) performing a hormonal transgender procedure as defined in Section 58-67-809;

132 [~~(11)~~] (iii) when a person not licensed as a physician directs a licensee under this
133 chapter to withhold or alter the health care services that the licensee has ordered;

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

136 [~~(14)~~] (v) to use, in the conduct of any occupation or profession pertaining to the
137 diagnosis or treatment of human diseases or conditions in any printed material, stationery,
138 letterhead, envelopes, signs, or advertisements, the designation "doctor," "doctor of medicine,"
139 "physician," "surgeon," "physician and surgeon," "Dr.," "M.D.," or any combination of these
140 designations in any manner which might cause a reasonable person to believe the individual
141 using the designation is a licensed physician and surgeon, and if the party using the designation
142 is not a licensed physician and surgeon, the designation must additionally contain the
143 description of the branch of the healing arts for which the person has a license, provided that an
144 individual who has received an earned degree of doctor of medicine degree but is not a licensed
145 physician and surgeon in Utah may use the designation "M.D." if it is followed by "Not
146 Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

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

148 (i) except for an ablative medical procedure as provided in Subsection [~~(17)~~]
149 (19)(b)(ii), the conduct described in Subsection [~~(17)~~] (19)(a)(i) that is performed in

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

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

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

155 [(18)] (20) "Prescription device" means an instrument, apparatus, implement, machine,
156 contrivance, implant, in vitro reagent, or other similar or related article, and any component
157 part or accessory, which is required under federal or state law to be prescribed by a practitioner
158 and dispensed by or through a person or entity licensed under this chapter or exempt from
159 licensure under this chapter.

160 [(19)] (21) "Prescription drug" means a drug that is required by federal or state law or
161 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

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

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

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

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

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

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

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

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

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

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

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

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

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

185 [~~20~~] (23) "SPEX" means the Special Purpose Examination of the Federation of State
 186 Medical Boards.

187 [~~21~~] (24) "Unlawful conduct" means the same as that term is defined in Sections
 188 58-1-501 and 58-67-501.

189 [~~22~~] (25) "Unprofessional conduct" means the same as that term is defined in
 190 Sections 58-1-501 and 58-67-502, and as may be further defined by division rule.

191 Section 3. Section 58-67-502 is amended to read:

192 **58-67-502. Unprofessional conduct.**

193 (1) "Unprofessional conduct" includes, in addition to the definition in Section
 194 58-1-501:

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

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

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

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

203 [or]

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

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

207 (ii) conduct described in Subsections (1)(a) through (d) or Subsection 58-1-501(1)[~~7~~];

208 or

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

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

- 212 (a) in compliance with Section 58-85-103:
- 213 (i) obtaining an investigational drug or investigational device;
- 214 (ii) administering the investigational drug to an eligible patient; or
- 215 (iii) treating an eligible patient with the investigational drug or investigational device;

216 or

- 217 (b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:
- 218 (i) when registered as a qualified medical provider or acting as a limited medical
- 219 provider, as those terms are defined in Section 26-61a-102, recommending the use of medical
- 220 cannabis;
- 221 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
- 222 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or
- 223 (iii) when registered as a state central patient portal medical provider, as that term is
- 224 defined in Section 26-61a-102, providing state central patient portal medical provider services.
- 225 (3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and
- 226 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
- 227 unprofessional conduct for a physician described in Subsection (2)(b).

228 Section 4. Section 58-67-809 is enacted to read:

229 **58-67-809. Requirements for a hormonal transgender procedure upon a minor --**
 230 **Reporting -- Maintenance of records.**

231 (1) As used in this section:

232 (a) "Administration of cross-sex hormones" means administering or supplying:

- 233 (i) a dose of testosterone or other androgens to an individual whose biological sex at
- 234 birth is female at levels above those normally found in an individual whose biological sex at
- 235 birth is female; or

- 236 (ii) a dose of estrogen or a synthetic compound with estrogenic activity or effect to an
- 237 individual whose biological sex at birth is male at levels above those normally found in an
- 238 individual whose biological sex at birth is male.

239 (b) "Hormonal transgender procedure" means:

- 240 (i) administration of cross-sex hormones; or

- 241 (ii) performing a puberty inhibition procedure.

- 242 (c) "Psychologist or psychiatrist" means:

243 (i) a physician who is board eligible for a psychiatry specialization recognized by the
244 American Board of Medical Specialists or the American Osteopathic Association's Bureau of
245 Osteopathic Specialists; or

246 (ii) an individual who is licensed to the engage in practice of psychology as defined in
247 Section 58-61-102.

248 (d) (i) "Puberty inhibition procedure" means administering or supplying, alone or in
249 combination with aromatase inhibitors:

250 (A) gonadotropin-releasing hormone agonists;

251 (B) progestins; or

252 (C) androgen receptor inhibitors.

253 (ii) "Puberty inhibition procedure" does not include administering or supplying a
254 treatment described in Subsection (1)(d)(i) to an individual if the treatment is medically
255 necessary as a treatment for:

256 (A) precocious puberty;

257 (B) idiopathic short stature;

258 (C) endometriosis; or

259 (D) a sex hormone-stimulated cancer.

260 (2) Before performing a hormonal transgender procedure upon an individual younger
261 than 18 years old, a physician shall obtain:

262 (a) informed consent in writing from:

263 (i) the minor patient; and

264 (ii) the minor patient's parent or guardian, unless the patient is an emancipated minor
265 under Title 80, Chapter 7, Emancipation; and

266 (b) an independent evaluation of the patient from a licensed psychologist or
267 psychiatrist who is not associated with:

268 (i) the physician who is performing the hormonal transgender procedure; or

269 (ii) the physician's employer, health care group, or health care organization.

270 (3) The informed consent described in Subsection (2)(a) shall include a discussion with
271 the minor patient and the patient's parent or guardian regarding:

272 (a) every element of the hormonal transgender procedure and the possible
273 consequences or effects that may result from the procedure;

274 (b) the expectations or hopes of the patient and, if the patient is not an emancipated
275 minor, the patient's parent or guardian, regarding what the hormonal transgender procedure will
276 or may accomplish; and

277 (c) the likelihood that the hormonal transgender procedure may or may not accomplish
278 the hopes or expectations of the minor patient and, if the patient is not an emancipated minor,
279 the minor patient's parents or guardian.

280 (4) The physician shall document the substance of the discussion of each element
281 required under Subsection (3) in the patient's medical record.

282 (5) The independent evaluation described in Subsection (2)(b) shall include:

283 (a) a written diagnosis that the patient suffers from gender dysphoria in accordance
284 with the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders that:

285 (i) has persisted for more than 24 months since initial diagnosis; and

286 (ii) is confirmed after at least 12 separate therapy sessions; and

287 (b) a written report from the licensed psychologist or psychiatrist explaining the
288 licensed psychologist or psychiatrist's assessment regarding potential contributions of
289 emotional or other mental health concerns on the patient's feelings and beliefs about the
290 patient's biological sex at birth, which shall include:

291 (i) relationships with family members;

292 (ii) relationships with peers;

293 (iii) depression;

294 (iv) anxieties;

295 (v) past or present emotional, physical, or sexual abuse of either the minor or a family
296 member;

297 (vi) autism spectrum disorders; and

298 (vii) events surrounding the onset of the minor's gender dysphoria.

299 (6) A physician shall retain all records relating to any transgender hormonal procedure
300 upon an individual who is younger than 18 years old until the later of:

301 (a) the day on which the patient is 30 years old; and

302 (b) the day on which, for any lawsuit for damages arising from the transgender
303 procedure, a final judgement has been entered and all appeals of the final judgement have been
304 exhausted or the parties enter into a settlement for all issues in the action.

305 (7) Beginning November 1, 2022, and in accordance with rules made by the division
306 under Section 58-1-112, a physician shall report the following information to the division for
307 each transgender hormonal procedure performed by the physician upon an individual who is
308 younger than 18 years old:

- 309 (a) the hormone or drug prescribed;
310 (b) the hormonal transgender procedure for which the hormone or drug was prescribed;
311 (c) the date of the prescription;
312 (d) the age of the minor at the time the prescription was issued;
313 (e) the biological sex at birth of the minor; and
314 (f) whether the prescription for the hormone or drug was the first prescription for that
315 hormone or drug or a continuation of an existing prescription for the minor.

316 (8) The physician may not include the patient's name or other personal identifying
317 information in the report to the division under Subsection (7).

318 Section 5. Section **58-68-102** is amended to read:

319 **58-68-102. Definitions.**

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

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

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

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

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

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

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

335 [~~(6)~~] (7) "Board" means the Osteopathic Physician and Surgeon's Licensing Board

336 created in Section [58-68-201](#).

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

340 ~~[(7)]~~ (9) "Collaborating physician" means an individual licensed under Section
341 [58-68-302](#) who enters into a collaborative practice arrangement with an associate physician.

342 ~~[(8)]~~ (10) "Collaborative practice arrangement" means the arrangement described in
343 Section [58-68-807](#).

344 ~~[(9)]~~ (11) (a) "Cosmetic medical device" means tissue altering energy based devices
345 that have the potential for altering living tissue and that are used to perform ablative or
346 nonablative procedures, such as American National Standards Institute (ANSI) designated
347 Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic
348 devices and excludes ANSI designated Class IIIa and lower powered devices.

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

352 ~~[(10)]~~ (12) "Cosmetic medical procedure":

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

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

356 ~~[(11)]~~ (13) "Diagnose" means:

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

361 (b) to attempt to conduct an examination or determination described under Subsection
362 ~~[(11)]~~ (13)(a);

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

365 (d) to make an examination or determination as described in Subsection ~~[(11)]~~ (13)(a)
366 upon or from information supplied directly or indirectly by another person, whether or not in

367 the presence of the person making or attempting the diagnosis or examination.

368 ~~[(12)]~~ (14) "Medical assistant" means an unlicensed individual working under the
369 indirect supervision of a licensed osteopathic physician and surgeon and engaged in specific
370 tasks assigned by the licensed osteopathic physician and surgeon in accordance with the
371 standards and ethics of the profession.

372 ~~[(13)]~~ (15) "Medically underserved area" means a geographic area in which there is a
373 shortage of primary care health services for residents, as determined by the Department of
374 Health.

375 ~~[(14)]~~ (16) "Medically underserved population" means a specified group of people
376 living in a defined geographic area with a shortage of primary care health services, as
377 determined by the Department of Health.

378 ~~[(15)]~~ (17) (a) (i) "Nonablative procedure" means a procedure that is expected or
379 intended to alter living tissue, but is not expected or intended to excise, vaporize, disintegrate,
380 or remove living tissue.

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

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

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

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

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

389 ~~[(16)]~~ (18) "Physician" means both physicians and surgeons licensed under Section
390 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
391 Section 58-68-301, Utah Osteopathic Medical Practice Act.

392 ~~[(17)]~~ (19) (a) "Practice of osteopathic medicine" means:

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

398 state upon or for any human within the state;

399 (ii) performing a hormonal transgender procedure as defined in Section [58-68-809](#);

400 [~~(ii)~~] (iii) when a person not licensed as a physician directs a licensee under this
401 chapter to withhold or alter the health care services that the licensee has ordered;

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

404 [~~(iv)~~] (v) to use, in the conduct of any occupation or profession pertaining to the
405 diagnosis or treatment of human diseases or conditions, in any printed material, stationery,
406 letterhead, envelopes, signs, or advertisements, the designation "doctor," "doctor of osteopathic
407 medicine," "osteopathic physician," "osteopathic surgeon," "osteopathic physician and
408 surgeon," "Dr.," "D.O.," or any combination of these designations in any manner which might
409 cause a reasonable person to believe the individual using the designation is a licensed
410 osteopathic physician, and if the party using the designation is not a licensed osteopathic
411 physician, the designation must additionally contain the description of the branch of the healing
412 arts for which the person has a license, provided that an individual who has received an earned
413 degree of doctor of osteopathic medicine but is not a licensed osteopathic physician and
414 surgeon in Utah may use the designation "D.O." if it is followed by "Not Licensed" or "Not
415 Licensed in Utah" in the same size and style of lettering.

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

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

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

423 (iii) conduct under Subsection [58-68-501](#)(2).

424 [~~(18)~~] (20) "Prescription device" means an instrument, apparatus, implement, machine,
425 contrivance, implant, in vitro reagent, or other similar or related article, and any component
426 part or accessory, which is required under federal or state law to be prescribed by a practitioner
427 and dispensed by or through a person or entity licensed under this chapter or exempt from
428 licensure under this chapter.

429 [~~(19)~~] (21) "Prescription drug" means a drug that is required by federal or state law or
430 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

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

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

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

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

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

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

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

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

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

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

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

447 (E) has been diagnosed by a physician, based on genetic or biochemical testing, with a
448 sex development disorder characterized by abnormal sex chromosome structure, sex steroid

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

450 (ii) removing a body part:

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

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

454 [~~(20)~~] (23) "SPEX" means the Special Purpose Examination of the Federation of State
455 Medical Boards.

456 [~~(21)~~] (24) "Unlawful conduct" means the same as that term is defined in Sections
457 58-1-501 and 58-68-501.

458 [~~(22)~~] (25) "Unprofessional conduct" means the same as that term is defined in
459 Sections 58-1-501 and 58-68-502 and as may be further defined by division rule.

460 Section 6. Section 58-68-502 is amended to read:

461 **58-68-502. Unprofessional conduct.**

462 (1) "Unprofessional conduct" includes, in addition to the definition in Section
463 58-1-501:

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

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

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

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

472 [or]

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

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

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

477 or

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

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

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

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

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

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

485 or

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

487 (i) when registered as a qualified medical provider or acting as a limited medical

488 provider, as those terms are defined in Section 26-61a-102, recommending the use of medical
489 cannabis;

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

491 [26-61a-102](#), providing pharmacy medical provider services in a medical cannabis pharmacy; or
492 (iii) when registered as a state central patient portal medical provider, as that term is
493 defined in Section [26-61a-102](#), providing state central patient portal medical provider services.

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

497 Section 7. Section **58-68-809** is enacted to read:

498 **58-68-809. Requirements for a hormonal transgender procedure upon a minor --**

499 **Reporting -- Maintenance of records.**

500 (1) As used in this section:

501 (a) "Administration of cross-sex hormones" means administering or supplying:

502 (i) a dose of testosterone or other androgens to an individual whose biological sex at
503 birth is female at levels above those normally found in an individual whose biological sex at
504 birth is female; or

505 (ii) a dose of estrogen or a synthetic compound with estrogenic activity or effect to an
506 individual whose biological sex at birth is male at levels above those normally found in an
507 individual whose biological sex at birth is male.

508 (b) "Hormonal transgender procedure" means:

509 (i) administration of cross-sex hormones; or

510 (ii) performing a puberty inhibition procedure.

511 (c) "Psychologist or psychiatrist" means:

512 (i) a physician who is board eligible for a psychiatry specialization recognized by the
513 American Board of Medical Specialists or the American Osteopathic Association's Bureau of
514 Osteopathic Specialists; or

515 (ii) an individual who is licensed to engage in the practice of psychology as defined in
516 Section [58-61-102](#).

517 (d) (i) "Puberty inhibition procedure" means administering or supplying, alone or in
518 combination with aromatase inhibitors:

519 (A) gonadotropin-releasing hormone agonists;

520 (B) progestins; or

521 (C) androgen receptor inhibitors.

522 (ii) "Puberty inhibition procedure" does not include administering or supplying a
523 treatment described in Subsection (1)(d)(i) to an individual if the treatment is medically
524 necessary as a treatment for:

- 525 (A) precocious puberty;
- 526 (B) idiopathic short stature;
- 527 (C) endometriosis; or
- 528 (D) a sex hormone-stimulated cancer.

529 (2) Before performing a hormonal transgender procedure upon an individual younger
530 than 18 years old, a physician shall obtain:

531 (a) informed consent in writing from:

- 532 (i) the minor patient; and
- 533 (ii) the minor patient's parent or guardian, unless the patient is an emancipated minor
534 under Title 80, Chapter 7, Emancipation; and

535 (b) an independent evaluation of the patient from a licensed psychologist or
536 psychiatrist who is not associated with:

- 537 (i) the physician who is performing the hormonal transgender procedure; or
- 538 (ii) the physician's employer, health care group, or health care organization.

539 (3) The informed consent described in Subsection (2)(a) shall include a discussion with
540 the minor patient and the patient's parent or guardian regarding:

- 541 (a) every element of the hormonal transgender procedure and the possible
542 consequences or effects that may result from the procedure;
- 543 (b) the expectations or hopes of the patient and, if the patient is not an emancipated
544 minor, the patient's parent or guardian, regarding what the hormonal transgender procedure will
545 or may accomplish; and

546 (c) the likelihood that the hormonal transgender procedure may or may not accomplish
547 the hopes or expectations of the minor patient and, if the patient is not an emancipated minor,
548 the minor patient's parents or guardian.

549 (4) The physician shall document the substance of the discussion of each element
550 required under Subsection (3) in the patient's medical record.

551 (5) The independent evaluation described in Subsection (2)(b) shall include:

- 552 (a) a written diagnosis that the patient suffers from gender dysphoria in accordance

553 with the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders that:

554 (i) has persisted for more than 24 months since initial diagnosis; and

555 (ii) is confirmed after at least 12 separate therapy sessions; and

556 (b) a written report from the licensed psychologist or psychiatrist explaining the

557 licensed psychologist or psychiatrist's assessment regarding potential contributions of

558 emotional or other mental health concerns on the patient's feelings and beliefs about the

559 patient's biological sex at birth, which shall include:

560 (i) relationships with family members;

561 (ii) relationships with peers;

562 (iii) depression;

563 (iv) anxieties;

564 (v) past or present emotional, physical, or sexual abuse of either the minor or a family

565 member;

566 (vi) autism spectrum disorders; and

567 (vii) events surrounding the onset of the minor's gender dysphoria.

568 (6) A physician shall retain all records relating to any transgender hormonal procedure

569 upon an individual who is younger than 18 years old until the later of:

570 (a) the day on which the patient is 30 years old; and

571 (b) the day on which, for any lawsuit for damages arising from the transgender

572 procedure, a final judgement has been entered and all appeals of the final judgment have been

573 exhausted or the parties enter into a settlement for all issues in the action.

574 (7) Beginning November 1, 2022, and in accordance with rules made by the division

575 under Section [58-1-112](#), a physician shall report the following information to the division for

576 each transgender hormonal procedure performed by the physician upon an individual who is

577 younger than 18 years old:

578 (a) the hormone or drug prescribed;

579 (b) the hormonal transgender procedure for which the hormone or drug was prescribed;

580 (c) the date of the prescription;

581 (d) the age of the minor at the time the prescription was issued;

582 (e) the biological sex at birth of the minor; and

583 (f) whether the prescription for the hormone or drug was the first prescription for that

584 hormone or drug or a continuation of an existing prescription for the minor.

585 (8) The physician may not include the patient's name or other personal identifying
586 information in the report to the division under Subsection (7).

587 Section 8. Section **78B-3-427** is enacted to read:

588 **78B-3-427. Transgender procedures upon a minor -- Right of action - Informed**
589 **consent requirements: Statute of limitations.**

590 (1) As used in this section:

591 (a) "Sex characteristic-altering surgical procedure" means the same as that term is
592 defined in Section [58-67-102](#).

593 (b) "Transgender procedure upon a minor" means any of the following performed upon
594 an individual who is younger than 18 years old:

595 (i) a hormonal transgender procedure as defined in Section [58-67-809](#); or

596 (ii) a sex-characteristic-altering surgical procedure.

597 (2) This section applies to a transgender procedure upon a minor that begins or is
598 continued on or after May 4, 2022.

599 (3) Notwithstanding any other provision of law, a malpractice action against a health
600 care provider may be brought against a health care provider for damages arising from:

601 (a) performing a hormonal transgender procedure upon a minor without obtaining
602 informed consent in accordance with Subsection [58-67-809](#)(2) or [58-68-809](#)(2);

603 (b) negligence in performing a hormonal transgender procedure upon a minor; or

604 (c) performing a sex characteristic-altering surgical procedure upon an individual who
605 is younger than 18 years old.

606 (4) Notwithstanding any other provision of law, a malpractice action against a health
607 care provider under Subsection (3) may be brought before the plaintiff or patient is 30 years
608 old.

609 (5) Sections [78B-3-404](#) and [78B-3-406](#) do not apply to an action arising from
610 performing a transgender procedure upon a minor.