

SEX CHARACTERISTIC SURGICAL PROCEDURES

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael S. Kennedy

House Sponsor: _____

LONG TITLE

Committee Note:

The Health and Human Services Interim Committee recommended this bill.

Legislative Vote: 12 voting for 5 voting against 1 absent

General Description:

This bill enacts provisions regarding sex characteristic surgical procedures.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits performing sex characteristic surgical procedures on a minor for the purpose of effectuating a sex change; 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 2022, Chapter 233

58-67-502, as last amended by Laws of Utah 2021, Chapter 337

58-68-102, as last amended by Laws of Utah 2022, Chapter 233



28 [58-68-502](#), as last amended by Laws of Utah 2021, Chapter 337



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

31 Section 1. Section [58-67-102](#) is amended to read:

32 **[58-67-102. Definitions.](#)**

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

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

37 (b) "Ablative procedure" does not include hair removal.

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

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

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

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

49 (6) "Biological sex at birth" means an individual's sex, as being male or female,
50 according to distinct reproductive roles as manifested by:

51 (a) sex and reproductive organ anatomy;

52 (b) chromosomal makeup; and

53 (c) endogenous hormone profiles.

54 [~~5~~] (7) "Board" means the Physicians Licensing Board created in Section [58-67-201](#).

55 [~~6~~] (8) "Collaborating physician" means an individual licensed under Section
56 [58-67-302](#) who enters into a collaborative practice arrangement with an associate physician.

57 [~~7~~] (9) "Collaborative practice arrangement" means the arrangement described in
58 Section [58-67-807](#).

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

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

67 ~~[(9)]~~ (11) "Cosmetic medical procedure":

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

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

71 ~~[(10)]~~ (12) "Diagnose" means:

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

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

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

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

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

85 ~~[(12)]~~ (14) "Medical assistant" means an unlicensed individual who may perform tasks
86 as described in Subsection [58-67-305\(6\)](#).

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

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

93 ~~[(15)]~~ (17) (a) (i) "Nonablative procedure" means a procedure that is expected or
94 intended to alter living tissue, but is not intended or expected to excise, vaporize, disintegrate,
95 or remove living tissue.

96 (ii) Notwithstanding Subsection ~~[(15)(a)(i);~~ (17)(a)(i) nonablative procedure includes
97 hair removal.

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

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

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

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

104 ~~[(16)]~~ (18) "Physician" means both physicians and surgeons licensed under Section
105 [58-67-301](#), Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
106 Section [58-68-301](#), Utah Osteopathic Medical Practice Act.

107 ~~[(17)]~~ (19) (a) "Practice of medicine" means:

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

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

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

117 (iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
118 treatment of human diseases or conditions in any printed material, stationery, letterhead,
119 envelopes, signs, or advertisements, the designation "doctor," "doctor of medicine,"
120 "physician," "surgeon," "physician and surgeon," "Dr.," "M.D.," or any combination of these

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

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

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

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

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

136 [~~(18)~~] (20) "Prescription device" means an instrument, apparatus, implement, machine,
 137 contrivance, implant, in vitro reagent, or other similar or related article, and any component
 138 part or accessory, which is required under federal or state law to be prescribed by a practitioner
 139 and dispensed by or through a person or entity licensed under this chapter or exempt from
 140 licensure under this chapter.

141 [~~(19)~~] (21) "Prescription drug" means a drug that is required by federal or state law or
 142 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

143 (22) (a) "Primary sex characteristic surgical procedure" means any of the following if
 144 done for the purpose of effectuating or facilitating an individual's attempted sex change:

145 (i) for an individual whose biological sex at birth is male, castration, orchiectomy,
 146 penectomy, vaginoplasty, or vulvoplasty;

147 (ii) for an individual whose biological sex at birth is female, hysterectomy,
 148 oophorectomy, metoidioplasty, or phalloplasty; or

149 (iii) any surgical procedure that is related to or necessary for a procedure described in
 150 Subsection (22)(a)(i) or (ii), that would result in the sterilization of an individual who is not
 151 sterile.

- 152 (b) "Primary sex characteristic surgical procedure" does not include:
- 153 (i) surgery or other procedures or treatments performed on an individual who:
- 154 (A) is born with external biological sex characteristics that are irresolvably ambiguous;
- 155 (B) is born with 46, XX chromosomes with virilization;
- 156 (C) is born with 46, XY chromosomes with undervirilization;
- 157 (D) has both ovarian and testicular tissue; or
- 158 (E) has been diagnosed by a physician, based on genetic or biochemical testing, with a
- 159 sex development disorder characterized by abnormal sex chromosome structure, sex steroid
- 160 hormone production, or sex steroid hormone action for a male or female; or
- 161 (ii) removing a body part:
- 162 (A) because the body part is cancerous or diseased; or
- 163 (B) for a reason that is medically necessary, other than to effectuate or facilitate an
- 164 individual's attempted sex change.
- 165 (23) (a) "Secondary sex characteristic surgical procedure" means any of the following
- 166 if done for the purpose of effectuating or facilitating an individual's attempted sex change:
- 167 (i) for an individual whose biological sex at birth is male, breast augmentation surgery,
- 168 chest feminization surgery, or facial feminization surgery; or
- 169 (ii) for an individual whose biological sex at birth is female, mastectomy, breast
- 170 reduction surgery, chest masculinization surgery, or facial masculinization surgery.
- 171 (b) "Secondary sex characteristic surgical 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 the body part 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;
202 [or]

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

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

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

207 or

208 (f) performing, or causing to be performed, upon an individual who is less than 18
209 years old:

210 (i) a primary sex characteristic surgical procedure; or

211 (ii) a secondary sex characteristic surgical procedure.

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

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

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

217 or

- 218 (b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:
 - 219 (i) when registered as a qualified medical provider or acting as a limited medical
 - 220 provider, as those terms are defined in Section 26-61a-102, recommending the use of medical
 - 221 cannabis;
 - 222 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
 - 223 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or
 - 224 (iii) when registered as a state central patient portal medical provider, as that term is
 - 225 defined in Section 26-61a-102, providing state central patient portal medical provider services.

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

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

230 **58-68-102. Definitions.**

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

232 (1) (a) "Ablative procedure" means a procedure that is expected to excise, vaporize,
233 disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium:
234 YAG lasers.

235 (b) "Ablative procedure" does not include hair removal.

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

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

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

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

244 (6) "Attempted sex change" means an attempt or effort to change an individual's body

245 to present that individual as being of a sex or gender that is different from the individual's
246 biological sex at birth.

247 (7) "Biological sex at birth" means an individual's sex, as being male or female,
248 according to distinct reproductive roles as manifested by:

249 (a) sex and reproductive organ anatomy;

250 (b) chromosomal makeup; and

251 (c) endogenous hormone profiles.

252 ~~[(6)]~~ (8) "Board" means the Osteopathic Physician and Surgeon's Licensing Board
253 created in Section 58-68-201.

254 ~~[(7)]~~ (9) "Collaborating physician" means an individual licensed under Section
255 58-68-302 who enters into a collaborative practice arrangement with an associate physician.

256 ~~[(8)]~~ (10) "Collaborative practice arrangement" means the arrangement described in
257 Section 58-68-807.

258 ~~[(9)]~~ (11) (a) "Cosmetic medical device" means tissue altering energy based devices
259 that have the potential for altering living tissue and that are used to perform ablative or
260 nonablative procedures, such as American National Standards Institute (ANSI) designated
261 Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic
262 devices and excludes ANSI designated Class IIIa and lower powered devices.

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

266 ~~[(10)]~~ (12) "Cosmetic medical procedure":

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

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

270 ~~[(11)]~~ (13) "Diagnose" means:

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

275 (b) to attempt to conduct an examination or determination described under Subsection

276 ~~[(11)(a)]~~ (13)(a);

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

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

282 ~~[(12)]~~ (14) "Medical assistant" means an unlicensed individual who may perform tasks
283 as described in Subsection [58-68-305\(6\)](#).

284 ~~[(13)]~~ (15) "Medically underserved area" means a geographic area in which there is a
285 shortage of primary care health services for residents, as determined by the Department of
286 Health and Human Services.

287 ~~[(14)]~~ (16) "Medically underserved population" means a specified group of people
288 living in a defined geographic area with a shortage of primary care health services, as
289 determined by the Department of Health and Human Services.

290 ~~[(15)]~~ (17) (a) (i) "Nonablative procedure" means a procedure that is expected or
291 intended to alter living tissue, but is not expected or intended to excise, vaporize, disintegrate,
292 or remove living tissue.

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

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

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

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

298 (iii) the use of photo therapy lasers for neuromusculoskeletal treatments that are
299 ~~[performed]~~ performed by an individual licensed under this title who is acting within the
300 individual's scope of practice.

301 ~~[(16)]~~ (18) "Physician" means both physicians and surgeons licensed under Section
302 [58-67-301](#), Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
303 Section [58-68-301](#), Utah Osteopathic Medical Practice Act.

304 ~~[(17)]~~ (19) (a) "Practice of osteopathic medicine" means:

305 (i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human
306 disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real

307 or imaginary, or to attempt to do so, by any means or instrumentality, which in whole or in part
308 is based upon emphasis of the importance of the musculoskeletal system and manipulative
309 therapy in the maintenance and restoration of health, by an individual in Utah or outside of the
310 state upon or for any human within the state;

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

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

315 (iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
316 treatment of human diseases or conditions, in any printed material, stationery, letterhead,
317 envelopes, signs, or advertisements, the designation "doctor," "doctor of osteopathic medicine,"
318 "osteopathic physician," "osteopathic surgeon," "osteopathic physician and surgeon," "Dr.,"
319 "D.O.," or any combination of these designations in any manner which might cause a
320 reasonable person to believe the individual using the designation is a licensed osteopathic
321 physician, and if the party using the designation is not a licensed osteopathic physician, the
322 designation must additionally contain the description of the branch of the healing arts for which
323 the person has a license, provided that an individual who has received an earned degree of
324 doctor of osteopathic medicine but is not a licensed osteopathic physician and surgeon in Utah
325 may use the designation "D.O." if it is followed by "Not Licensed" or "Not Licensed in Utah"
326 in the same size and style of lettering.

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

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

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

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

335 ~~[(18)]~~ (20) "Prescription device" means an instrument, apparatus, implement, machine,
336 contrivance, implant, in vitro reagent, or other similar or related article, and any component
337 part or accessory, which is required under federal or state law to be prescribed by a practitioner

338 and dispensed by or through a person or entity licensed under this chapter or exempt from
339 licensure under this chapter.

340 ~~[(19)]~~ (21) "Prescription drug" means a drug that is required by federal or state law or
341 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

342 (22) (a) "Primary sex characteristic surgical procedure" means any of the following if
343 done for the purpose of effectuating or facilitating an individual's attempted sex change:

344 (i) for an individual whose biological sex at birth is male, castration, orchiectomy,
345 penectomy, vaginoplasty, or vulvoplasty;

346 (ii) for an individual whose biological sex at birth is female, hysterectomy,
347 oophorectomy, metoidioplasty, or phalloplasty; or

348 (iii) any surgical procedure that is related to or necessary for a procedure described in
349 Subsection (22)(a)(i) or (ii), that would result in the sterilization of an individual who is not
350 sterile.

351 (b) "Primary sex characteristic surgical procedure" does not include:

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

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

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

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

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

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

360 (ii) removing a body part:

361 (A) because the body part is cancerous or diseased; or

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

364 (23) (a) "Secondary sex characteristic surgical procedure" means any of the following
365 if done for the purpose of effectuating or facilitating an individual's attempted sex change:

366 (i) for an individual whose biological sex at birth is male, breast augmentation surgery,
367 chest feminization surgery, or facial feminization surgery; or

368 (ii) for an individual whose biological sex at birth is female, mastectomy, breast

369 reduction surgery, chest masculinization surgery, or facial masculinization surgery.

370 (b) "Secondary sex characteristic surgical procedure" does not include:

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

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

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

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

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

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

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

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

379 (ii) removing a body part:

380 (A) because the body part is cancerous or diseased; or

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

382 individual's attempted sex change.

383 ~~[(20)]~~ (24) "SPEX" means the Special Purpose Examination of the Federation of State

384 Medical Boards.

385 ~~[(21)]~~ (25) "Unlawful conduct" means the same as that term is defined in Sections

386 58-1-501 and 58-68-501.

387 ~~[(22)]~~ (26) "Unprofessional conduct" means the same as that term is defined in

388 Sections 58-1-501 and 58-68-502 and as may be further defined by division rule.

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

390 **58-68-502. Unprofessional conduct.**

391 (1) "Unprofessional conduct" includes, in addition to the definition in Section

392 58-1-501:

393 (a) using or employing the services of any individual to assist a licensee in any manner

394 not in accordance with the generally recognized practices, standards, or ethics of the

395 profession, state law, or division rule;

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

397 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

398 (c) making a material misrepresentation regarding the qualifications for licensure under

399 Section 58-68-302.5;

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

401 [or]

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

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

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

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

406 or

407 (f) performing, or causing to be performed, upon an individual who is less than 18

408 years old:

409 (i) a primary sex characteristic surgical procedure; or

410 (ii) a secondary sex characteristic surgical procedure.

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

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

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

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

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

416 or

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

418 (i) when registered as a qualified medical provider or acting as a limited medical
419 provider, as those terms are defined in Section 26-61a-102, recommending the use of medical
420 cannabis;

421 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
422 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

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

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