

MEDICAL SURGERY AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marsha Judkins

Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill modifies provisions related to medical surgeries.

Highlighted Provisions:

This bill:

► modifies the definitions of "primary sex characteristic surgical procedure" and "secondary sex characteristic surgical procedure" to prohibit performing a "primary sex characteristic surgical procedure" or a "secondary sex characteristic surgical procedure" on an individual who is less than 18 years old.

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 2023, Chapter 2

58-68-102, as last amended by Laws of Utah 2023, Chapter 2

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

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

58-67-102. Definitions.



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

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

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

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

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

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

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

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

46 (a) sex and reproductive organ anatomy;

47 (b) chromosomal makeup; and

48 (c) endogenous hormone profiles.

49 (7) "Board" means the Physicians Licensing Board created in Section 58-67-201.

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

52 (9) "Collaborative practice arrangement" means the arrangement described in Section
53 58-67-807.

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

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

62 (11) "Cosmetic medical procedure":

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

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

66 (12) "Diagnose" means:

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

71 (b) to attempt to conduct an examination or determination described under Subsection
72 (12)(a);

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

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

78 (13) "LCME" means the Liaison Committee on Medical Education of the American
79 Medical Association.

80 (14) "Medical assistant" means an unlicensed individual who may perform tasks as
81 described in Subsection 58-67-305(6).

82 (15) "Medically underserved area" means a geographic area in which there is a
83 shortage of primary care health services for residents, as determined by the Department of
84 Health and Human Services.

85 (16) "Medically underserved population" means a specified group of people living in a
86 defined geographic area with a shortage of primary care health services, as determined by the
87 Department of Health and Human Services.

88 (17) (a) (i) "Nonablative procedure" means a procedure that is expected or intended to
89 alter living tissue, but is not intended or expected to excise, vaporize, disintegrate, or remove

90 living tissue.

91 (ii) Notwithstanding Subsection (17)(a)(i) nonablative procedure includes hair
92 removal.

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

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

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

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

99 (18) "Physician" means both physicians and surgeons licensed under Section
100 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
101 Section 58-68-301, Utah Osteopathic Medical Practice Act.

102 (19) (a) "Practice of medicine" means:

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

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

110 (iii) to maintain an office or place of business for the purpose of doing any of the acts
111 described in Subsection (19)(a)(i) or (ii) whether or not for compensation; or

112 (iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
113 treatment of human diseases or conditions in any printed material, stationery, letterhead,
114 envelopes, signs, or advertisements, the designation "doctor," "doctor of medicine,"
115 "physician," "surgeon," "physician and surgeon," "Dr.," "M.D.," or any combination of these
116 designations in any manner which might cause a reasonable person to believe the individual
117 using the designation is a licensed physician and surgeon, and if the party using the designation
118 is not a licensed physician and surgeon, the designation must additionally contain the
119 description of the branch of the healing arts for which the person has a license, provided that an
120 individual who has received an earned degree of doctor of medicine degree but is not a licensed

121 physician and surgeon in Utah may use the designation "M.D." if it is followed by "Not
122 Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

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

124 (i) except for an ablative medical procedure as provided in Subsection (19)(b)(ii) the
125 conduct described in Subsection (19)(a)(i) that is performed in accordance with a license issued
126 under another chapter of this title;

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

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

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

136 (21) "Prescription drug" means a drug that is required by federal or state law or rule to
137 be dispensed only by prescription or is restricted to administration only by practitioners.

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

140 (i) [~~for an individual whose biological sex at birth is male,~~] castration, orchiectomy,
141 penectomy, vaginoplasty, or vulvoplasty;

142 (ii) [~~for an individual whose biological sex at birth is female,~~] hysterectomy,
143 oophorectomy, metoidioplasty, or phalloplasty; or

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

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

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

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

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

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

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

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

156 (ii) removing a body part ~~←H~~ → [:

157 ~~(A)~~ ←H because the body part is cancerous or diseased; or

158 ~~H~~ → [B] (iii) **any medical procedure** ←H for a reason that is medically necessary, other
158a than to effectuate or facilitate an
159 individual's attempted sex change.

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

162 (i) [for an individual whose biological sex at birth is male,] breast augmentation
163 surgery, chest feminization surgery, or facial feminization surgery; or

164 (ii) [for an individual whose biological sex at birth is female,] mastectomy, breast
165 reduction surgery, chest masculinization surgery, or facial masculinization surgery.

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

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

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

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

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

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

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

175 (ii) removing a body part ~~H~~ → [:

176 ~~(A)~~ ←H because the body part is cancerous or diseased; or

177 ~~H~~ → [B] (iii) **any medical procedure** ←H for a reason that is medically necessary, other
177a than to effectuate or facilitate an
178 individual's attempted sex change.

179 (24) "SPEX" means the Special Purpose Examination of the Federation of State
180 Medical Boards.

181 (25) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
182 and 58-67-501.

183 (26) "Unprofessional conduct" means the same as that term is defined in Sections
184 58-1-501 and 58-67-502, and as may be further defined by division rule.

185 Section 2. Section 58-68-102 is amended to read:

186 **58-68-102. Definitions.**

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

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

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

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

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

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

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

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

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

205 (a) sex and reproductive organ anatomy;

206 (b) chromosomal makeup; and

207 (c) endogenous hormone profiles.

208 (8) "Board" means the Osteopathic Physician and Surgeon's Licensing Board created in
209 Section 58-68-201.

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

212 (10) "Collaborative practice arrangement" means the arrangement described in Section
213 58-68-807.

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

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

222 (12) "Cosmetic medical procedure":

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

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

226 (13) "Diagnose" means:

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

231 (b) to attempt to conduct an examination or determination described under Subsection
232 (13)(a);

233 (c) to hold oneself out as making or to represent that one is making an examination or
234 determination as described in Subsection (13)(a); or

235 (d) to make an examination or determination as described in Subsection (13)(a) upon
236 or from information supplied directly or indirectly by another person, whether or not in the
237 presence of the person making or attempting the diagnosis or examination.

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

240 (15) "Medically underserved area" means a geographic area in which there is a
241 shortage of primary care health services for residents, as determined by the Department of
242 Health and Human Services.

243 (16) "Medically underserved population" means a specified group of people living in a
244 defined geographic area with a shortage of primary care health services, as determined by the

245 Department of Health and Human Services.

246 (17) (a) (i) "Nonablative procedure" means a procedure that is expected or intended to
247 alter living tissue, but is not expected or intended to excise, vaporize, disintegrate, or remove
248 living tissue.

249 (ii) Notwithstanding Subsection (17)(a)(i), nonablative procedure includes hair
250 removal.

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

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

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

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

257 (18) "Physician" means both physicians and surgeons licensed under Section
258 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
259 Section 58-68-301, Utah Osteopathic Medical Practice Act.

260 (19) (a) "Practice of osteopathic medicine" means:

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

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

269 (iii) to maintain an office or place of business for the purpose of doing any of the acts
270 described in Subsection (19)(a)(i) or (ii) whether or not for compensation; or

271 (iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
272 treatment of human diseases or conditions, in any printed material, stationery, letterhead,
273 envelopes, signs, or advertisements, the designation "doctor," "doctor of osteopathic medicine,"
274 "osteopathic physician," "osteopathic surgeon," "osteopathic physician and surgeon," "Dr.,"
275 "D.O.," or any combination of these designations in any manner which might cause a

276 reasonable person to believe the individual using the designation is a licensed osteopathic
277 physician, and if the party using the designation is not a licensed osteopathic physician, the
278 designation must additionally contain the description of the branch of the healing arts for which
279 the person has a license, provided that an individual who has received an earned degree of
280 doctor of osteopathic medicine but is not a licensed osteopathic physician and surgeon in Utah
281 may use the designation "D.O." if it is followed by "Not Licensed" or "Not Licensed in Utah"
282 in the same size and style of lettering.

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

284 (i) except for an ablative medical procedure as provided in Subsection (19)(b)(ii), the
285 conduct described in Subsection (19)(a)(i) that is performed in accordance with a license issued
286 under another chapter of this title;

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

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

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

296 (21) "Prescription drug" means a drug that is required by federal or state law or rule to
297 be dispensed only by prescription or is restricted to administration only by practitioners.

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

300 (i) [~~for an individual whose biological sex at birth is male,~~] castration, orchiectomy,
301 penectomy, vaginoplasty, or vulvoplasty;

302 (ii) [~~for an individual whose biological sex at birth is female,~~] hysterectomy,
303 oophorectomy, metoidioplasty, or phalloplasty; or

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

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

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

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

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

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

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

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

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

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

316 (ii) removing a body part $\hat{H} \rightarrow [\text{:}$

317 ~~———(A)] $\leftarrow \hat{H}$ because the body part is cancerous or diseased; or~~

318 $\hat{H} \rightarrow [\text{(B)}] \text{ (iii) any medical procedure } \leftarrow \hat{H}$ for a reason that is medically necessary, other

318a than to effectuate or facilitate an

319 individual's attempted sex change.

320 (23) (a) "Secondary sex characteristic surgical procedure" means any of the following

321 [~~if done for the purpose of effectuating or facilitating an individual's attempted sex change~~]:

322 (i) [~~for an individual whose biological sex at birth is male,~~] breast augmentation

323 surgery, chest feminization surgery, or facial feminization surgery; or

324 (ii) [~~for an individual whose biological sex at birth is female,~~] mastectomy, breast

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

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

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

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

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

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

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

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

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

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

335 (ii) removing a body part $\hat{H} \rightarrow [\text{:}$

336 ~~———(A)] $\leftarrow \hat{H}$ because the body part is cancerous or diseased; or~~

337 $\hat{H} \rightarrow [\text{(B)}] \text{ (iii) any medical procedure } \leftarrow \hat{H}$ for a reason that is medically necessary, other

337a than to effectuate or facilitate an

338 individual's attempted sex change.

339 (24) "SPEX" means the Special Purpose Examination of the Federation of State
340 Medical Boards.

341 (25) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
342 and 58-68-501.

343 (26) "Unprofessional conduct" means the same as that term is defined in Sections
344 58-1-501 and 58-68-502 and as may be further defined by division rule.

345 Section 3. **Effective date.**

346 This bill takes effect on May 1, 2024.