

Representative Rex P. Shipp proposes the following substitute bill:

**PROHIBITING SEX TRANSITIONING PROCEDURES ON
MINORS**

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rex P. Shipp

Senate Sponsor: Wayne A. Harper

7	Cosponsors:	Joseph Elison	A. Cory Maloy
8	Nelson T. Abbott	Colin W. Jack	Michael J. Petersen
9	Cheryl K. Acton	Tim Jimenez	Thomas W. Peterson
10	Carl R. Albrecht	Dan N. Johnson	Keven J. Stratton
11	Bridger Bolinder	Quinn Kotter	Mark A. Strong
12	Walt Brooks	Trevor Lee	Jordan D. Teuscher
13	Jefferson S. Burton	Steven J. Lund	Christine F. Watkins
14	Kay J. Christofferson	Phil Lyman	

LONG TITLE

General Description:

This bill prohibits a health care provider from performing a medical procedure on a minor for the purpose of attempted sex transitioning or attempted sex change.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ makes it unprofessional conduct for a health care provider to perform a medical procedure on a minor for the purpose of attempted sex transitioning or attempted



25 sex change under most circumstances; and

26 ▶ makes technical changes.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **58-31b-502**, as last amended by Laws of Utah 2022, Chapter 290

34 **58-67-102**, as last amended by Laws of Utah 2022, Chapter 233

35 **58-67-502**, as last amended by Laws of Utah 2021, Chapter 337

36 **58-68-102**, as last amended by Laws of Utah 2022, Chapter 233

37 **58-68-502**, as last amended by Laws of Utah 2021, Chapter 337

38 **58-70a-503**, as last amended by Laws of Utah 2022, Chapter 290

39 ENACTS:

40 **58-1-511**, Utah Code Annotated 1953



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

43 Section 1. Section **58-1-511** is enacted to read:

44 **58-1-511. Prohibition on hormonal transgender procedures on minors.**

45 (1) As used in this section:

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

47 (i) to an individual whose biological sex at birth is female, a dose of testosterone or
48 other androgens at levels above those normally found in an individual whose biological sex at
49 birth is female; or

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

53 (b) "Health care provider" means:

54 (i) a physician licensed under:

55 (A) Chapter 67, Utah Medical Practice Act; or

- 56 (B) Chapter 68, Utah Osteopathic Medical Practice Act;
57 (ii) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act; or
58 (iii) an advanced practice registered nurse licensed under Subsection 58-31b-301(e).
59 (c) "Hormonal transgender procedure" means:
60 (i) administration of cross-sex hormones; or
61 (ii) performing a puberty inhibition procedure.
62 (d) "Minor" means an individual who:
63 (i) is less than 18 years old; and
64 (ii) is not emancipated under Title 80, Chapter 7, Emancipation.
65 (e) (i) "Puberty inhibition procedure" means administering or supplying, alone or in
66 combination with aromatase inhibitors:
67 (A) gonadotropin-releasing hormone agonists;
68 (B) progestins; or
69 (C) androgen receptor inhibitors.
70 (ii) "Puberty inhibition procedure" does not include administering or supplying a
71 treatment described in Subsection (1)(e)(i) to an individual if the treatment is medically
72 necessary as a treatment for:
73 (A) precocious puberty;
74 (B) idiopathic short stature;
75 (C) endometriosis; or
76 (D) a sex hormone-stimulated cancer.
77 (2) Except as provided in Subsection (3), a health care provider may not perform a
78 hormonal transgender procedure on a minor.
79 (3) (a) A health care provider may continue to administer cross-sex hormones to a
80 minor if the minor:
81 (i) began receiving cross-sex hormones prior to May 3, 2021;
82 (ii) has continuously received cross-sex hormones for at least two years; and
83 (iii) affirmatively elects, in writing, to continue to receive cross-sex hormones.
84 (b) For a minor who does not meet the criteria described in Subsection (3)(a), a health
85 care provider who provides cross-sex hormones to the minor shall:
86 (i) unless the minor elects to discontinue receiving cross-sex hormones by an earlier

87 date, develop and implement a treatment plan to progressively decrease the dosage of cross-sex
88 hormones so that cross-sex hormone treatment is ended by November 3, 2023; and
89 (ii) consult with a mental health professional in order to monitor the minor's
90 psychological and emotional state until November 3, 2023.

91 Section 2. Section **58-31b-502** is amended to read:

92 **58-31b-502. Unprofessional conduct.**

93 (1) "Unprofessional conduct" includes:

94 (a) failure to safeguard a patient's right to privacy as to the patient's person, condition,
95 diagnosis, personal effects, or any other matter about which the licensee is privileged to know
96 because of the licensee's or person with a certification's position or practice as a nurse or
97 practice as a medication aide certified;

98 (b) failure to provide nursing service or service as a medication aide certified in a
99 manner that demonstrates respect for the patient's human dignity and unique personal character
100 and needs without regard to the patient's race, religion, ethnic background, socioeconomic
101 status, age, sex, or the nature of the patient's health problem;

102 (c) engaging in sexual relations with a patient during any:

103 (i) period when a generally recognized professional relationship exists between the
104 person licensed or certified under this chapter and the patient; or

105 (ii) extended period when a patient has reasonable cause to believe a professional
106 relationship exists between the person licensed or certified under the provisions of this chapter
107 and the patient;

108 (d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using
109 information about a patient or exploiting the licensee's or the person with a certification's
110 professional relationship between the licensee or holder of a certification under this chapter and
111 the patient; or

112 (ii) exploiting the patient by use of the licensee's or person with a certification's
113 knowledge of the patient obtained while acting as a nurse or a medication aide certified;

114 (e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

115 (f) unauthorized taking or personal use of nursing supplies from an employer;

116 (g) unauthorized taking or personal use of a patient's personal property;

117 (h) unlawful or inappropriate delegation of nursing care;

118 (i) failure to exercise appropriate supervision of persons providing patient care services
119 under supervision of the licensed nurse;

120 (j) employing or aiding and abetting the employment of an unqualified or unlicensed
121 person to practice as a nurse;

122 (k) failure to file or record any medical report as required by law, impeding or
123 obstructing the filing or recording of such a report, or inducing another to fail to file or record
124 such a report;

125 (l) breach of a statutory, common law, regulatory, or ethical requirement of
126 confidentiality with respect to a person who is a patient, unless ordered by a court;

127 (m) failure to pay a penalty imposed by the division;

128 (n) prescribing a Schedule II controlled substance without complying with the
129 requirements in Section 58-31b-803, if applicable;

130 (o) violating Section 58-31b-801;

131 (p) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part
132 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if
133 applicable;

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

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

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

138 (r) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act[~~;~~];

139 or

140 (s) performing, or causing to be performed, a hormonal transgender procedure in
141 violation of Section 58-1-511.

142 (2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter
143 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, or acting as
144 a limited medical provider, as those terms are defined in Section 26-61a-102, recommending
145 the use of medical cannabis.

146 (3) Notwithstanding Subsection (2), the division, in consultation with the board and in
147 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
148 unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

149 Section 3. Section 58-67-102 is amended to read:

150 **58-67-102. Definitions.**

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

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

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

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

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

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

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

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

170 [~~5~~] (7) "Board" means the Physicians Licensing Board created in Section 58-67-201.

171 [~~6~~] (8) "Collaborating physician" means an individual licensed under Section
172 58-67-302 who enters into a collaborative practice arrangement with an associate physician.

173 [~~7~~] (9) "Collaborative practice arrangement" means the arrangement described in
174 Section 58-67-807.

175 (10) "Cosmetic breast surgical procedure" means a breast reduction surgery or a breast
176 augmentation surgery that is performed for a purpose other than:

177 (a) medical necessity; or

178 (b) to address a musculoskeletal problem.

179 [~~8~~] (11) (a) "Cosmetic medical device" means tissue altering energy based devices

180 that have the potential for altering living tissue and that are used to perform ablative or
181 nonablative procedures, such as American National Standards Institute (ANSI) designated
182 Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic
183 devices, and excludes ANSI designated Class IIIa and lower powered devices.

184 (b) Notwithstanding Subsection [~~(8)(a)~~]; (11)(a), if an ANSI designated Class IIIa and
185 lower powered device is being used to perform an ablative procedure, the device is included in
186 the definition of cosmetic medical device under Subsection [~~(8)(a)~~]; (11)(a).

187 [~~(9)~~] (12) "Cosmetic medical procedure":

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

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

191 [~~(10)~~] (13) "Diagnose" means:

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

196 (b) to attempt to conduct an examination or determination described under Subsection
197 [~~(10)(a)~~]; (13)(a);

198 (c) to hold oneself out as making or to represent that one is making an examination or
199 determination as described in Subsection [~~(10)(a)~~]; (13)(a); or

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

203 [~~(11)~~] (14) "LCME" means the Liaison Committee on Medical Education of the
204 American Medical Association.

205 [~~(12)~~] (15) "Medical assistant" means an unlicensed individual who may perform tasks
206 as described in Subsection [58-67-305\(6\)](#).

207 [~~(13)~~] (16) "Medically underserved area" means a geographic area in which there is a
208 shortage of primary care health services for residents, as determined by the Department of
209 Health.

210 [~~(14)~~] (17) "Medically underserved population" means a specified group of people

211 living in a defined geographic area with a shortage of primary care health services, as
212 determined by the Department of Health.

213 ~~[(15)]~~ (18) (a) (i) "Nonablative procedure" means a procedure that is expected or
214 intended to alter living tissue, but is not intended or expected to excise, vaporize, disintegrate,
215 or remove living tissue.

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

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

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

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

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

224 ~~[(16)]~~ (19) "Physician" means both physicians and surgeons licensed under Section
225 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
226 Section 58-68-301, Utah Osteopathic Medical Practice Act.

227 ~~[(17)]~~ (20) (a) "Practice of medicine" means:

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

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

235 (iii) to maintain an office or place of business for the purpose of doing any of the acts
236 described in Subsection ~~[(17)(a)]~~ (20)(a) whether or not for compensation; or

237 (iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
238 treatment of human diseases or conditions in any printed material, stationery, letterhead,
239 envelopes, signs, or advertisements, the designation "doctor," "doctor of medicine,"
240 "physician," "surgeon," "physician and surgeon," "Dr.," "M.D.," or any combination of these
241 designations in any manner which might cause a reasonable person to believe the individual

242 using the designation is a licensed physician and surgeon, and if the party using the designation
 243 is not a licensed physician and surgeon, the designation must additionally contain the
 244 description of the branch of the healing arts for which the person has a license, provided that an
 245 individual who has received an earned degree of doctor of medicine degree but is not a licensed
 246 physician and surgeon in Utah may use the designation "M.D." if it is followed by "Not
 247 Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

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

249 (i) except for an ablative medical procedure as provided in Subsection ~~[(17)(b)(ii)]~~
 250 ~~(20)(b)(ii)~~, the conduct described in Subsection ~~[(17)(a)(i)]~~ ~~(20)(a)(i)~~ that is performed in
 251 accordance with a license issued under another chapter of this title;

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

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

256 ~~[(18)]~~ (21) "Prescription device" means an instrument, apparatus, implement, machine,
 257 contrivance, implant, in vitro reagent, or other similar or related article, and any component
 258 part or accessory, which is required under federal or state law to be prescribed by a practitioner
 259 and dispensed by or through a person or entity licensed under this chapter or exempt from
 260 licensure under this chapter.

261 ~~[(19)]~~ (22) "Prescription drug" means a drug that is required by federal or state law or
 262 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

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

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

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

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

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

- 273 (b) "Sex characteristic-altering surgical procedure" does not include:
274 (i) surgery or other procedures or treatments performed on an individual who:
275 (A) is born with external biological sex characteristics that are irresolvably ambiguous;
276 (B) is born with 46, XX chromosomes with virilization;
277 (C) is born with 46, XY chromosomes with undervirilization;
278 (D) has both ovarian and testicular tissue; or
279 (E) has been diagnosed by a physician, based on genetic or biochemical testing, with a
280 sex development disorder characterized by abnormal sex chromosome structure, sex steroid
281 hormone production, or sex steroid hormone action for a male or female; or
282 (ii) removing a body part:
283 (A) because the body part is cancerous or diseased; or
284 (B) for a reason that is medically necessary, other than to effectuate or facilitate an
285 individual's attempted sex change.
- 286 ~~[(20)]~~ (24) "SPEX" means the Special Purpose Examination of the Federation of State
287 Medical Boards.
- 288 ~~[(21)]~~ (25) "Unlawful conduct" means the same as that term is defined in Sections
289 58-1-501 and 58-67-501.
- 290 ~~[(22)]~~ (26) "Unprofessional conduct" means the same as that term is defined in
291 Sections 58-1-501 and 58-67-502, and as may be further defined by division rule.
- 292 Section 4. Section 58-67-502 is amended to read:
- 293 **58-67-502. Unprofessional conduct.**
- 294 (1) "Unprofessional conduct" includes, in addition to the definition in Section
295 58-1-501:
- 296 (a) using or employing the services of any individual to assist a licensee in any manner
297 not in accordance with the generally recognized practices, standards, or ethics of the
298 profession, state law, or division rule;
- 299 (b) making a material misrepresentation regarding the qualifications for licensure under
300 Section 58-67-302.7 or Section 58-67-302.8;
- 301 (c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
302 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;
- 303 (d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act;

304 [or]

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

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

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

309 or

310 (f) performing, or causing to be performed, upon a minor as defined in Section

311 58-1-603:

312 (i) a hormonal transgender procedure in violation of Section 58-1-511;

313 (ii) a sex characteristic-altering surgical procedure; or

314 (iii) a cosmetic breast surgical procedure.

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

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

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

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

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

320 or

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

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

325 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
326 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

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

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

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

333 **58-68-102. Definitions.**

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

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

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

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

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

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

346 (5) "Associate physician" means an individual licensed under Section [58-68-302.5](#).

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

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

353 [~~6~~] (8) "Board" means the Osteopathic Physician and Surgeon's Licensing Board
354 created in Section [58-68-201](#).

355 [~~7~~] (9) "Collaborating physician" means an individual licensed under Section
356 [58-68-302](#) who enters into a collaborative practice arrangement with an associate physician.

357 [~~8~~] (10) "Collaborative practice arrangement" means the arrangement described in
358 Section [58-68-807](#).

359 (11) "Cosmetic breast surgical procedure" means a breast reduction surgery or a breast
360 augmentation surgery for reasons other than:

361 (a) medical necessity; or

362 (b) to address a musculoskeletal problem.

363 [~~9~~] (12) (a) "Cosmetic medical device" means tissue altering energy based devices
364 that have the potential for altering living tissue and that are used to perform ablative or
365 nonablative procedures, such as American National Standards Institute (ANSI) designated

366 Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic
367 devices and excludes ANSI designated Class IIIa and lower powered devices.

368 (b) Notwithstanding Subsection [~~(9)(a)~~] (12)(a), if an ANSI designated Class IIIa and
369 lower powered device is being used to perform an ablative procedure, the device is included in
370 the definition of cosmetic medical device under Subsection [~~(9)(a)~~] (12)(a).

371 [~~(10)~~] (13) "Cosmetic medical procedure":

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

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

375 [~~(11)~~] (14) "Diagnose" means:

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

380 (b) to attempt to conduct an examination or determination described under Subsection
381 [~~(11)(a)~~] (14)(a);

382 (c) to hold oneself out as making or to represent that one is making an examination or
383 determination as described in Subsection [~~(11)(a)~~] (14)(a); or

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

387 [~~(12)~~] (15) "Medical assistant" means an unlicensed individual who may perform tasks
388 as described in Subsection [58-68-305\(6\)](#).

389 [~~(13)~~] (16) "Medically underserved area" means a geographic area in which there is a
390 shortage of primary care health services for residents, as determined by the Department of
391 Health.

392 [~~(14)~~] (17) "Medically underserved population" means a specified group of people
393 living in a defined geographic area with a shortage of primary care health services, as
394 determined by the Department of Health.

395 [~~(15)~~] (18) (a) (i) "Nonablative procedure" means a procedure that is expected or
396 intended to alter living tissue, but is not expected or intended to excise, vaporize, disintegrate,

397 or remove living tissue.

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

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

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

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

403 (iii) the use of photo therapy lasers for neuromusculoskeletal treatments that are
404 preformed by an individual licensed under this title who is acting within the individual's scope
405 of practice.

406 [~~(16)~~] (19) "Physician" means both physicians and surgeons licensed under Section
407 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
408 Section 58-68-301, Utah Osteopathic Medical Practice Act.

409 [~~(17)~~] (20) (a) "Practice of osteopathic medicine" means:

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

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

418 (iii) to maintain an office or place of business for the purpose of doing any of the acts
419 described in Subsection [~~(17)(a)~~] (20)(a) whether or not for compensation; or

420 (iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
421 treatment of human diseases or conditions, in any printed material, stationery, letterhead,
422 envelopes, signs, or advertisements, the designation "doctor," "doctor of osteopathic medicine,"
423 "osteopathic physician," "osteopathic surgeon," "osteopathic physician and surgeon," "Dr.,"
424 "D.O.," or any combination of these designations in any manner which might cause a
425 reasonable person to believe the individual using the designation is a licensed osteopathic
426 physician, and if the party using the designation is not a licensed osteopathic physician, the
427 designation must additionally contain the description of the branch of the healing arts for which

428 the person has a license, provided that an individual who has received an earned degree of
429 doctor of osteopathic medicine but is not a licensed osteopathic physician and surgeon in Utah
430 may use the designation "D.O." if it is followed by "Not Licensed" or "Not Licensed in Utah"
431 in the same size and style of lettering.

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

433 (i) except for an ablative medical procedure as provided in Subsection [~~(17)(b)(ii)~~]
434 (20)(b)(ii), the conduct described in Subsection [~~(17)(a)(i)~~] (20)(a)(i) that is performed in
435 accordance with a license issued under another chapter of this title;

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

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

440 [~~(18)~~] (21) "Prescription device" means an instrument, apparatus, implement, machine,
441 contrivance, implant, in vitro reagent, or other similar or related article, and any component
442 part or accessory, which is required under federal or state law to be prescribed by a practitioner
443 and dispensed by or through a person or entity licensed under this chapter or exempt from
444 licensure under this chapter.

445 [~~(19)~~] (22) "Prescription drug" means a drug that is required by federal or state law or
446 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

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

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

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

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

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

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

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

459 (A) is born with external biological sex characteristics that are irresolvably ambiguous;
 460 (B) is born with 46, XX chromosomes with virilization;
 461 (C) is born with 46, XY chromosomes with undervirilization;
 462 (D) has both ovarian and testicular tissue; or
 463 (E) has been diagnosed by a physician, based on genetic or biochemical testing, with a
 464 sex development disorder characterized by abnormal sex chromosome structure, sex steroid
 465 hormone production, or sex steroid hormone action for a male or female; or

466 (ii) removing a body part:

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

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

470 [~~20~~] (24) "SPEX" means the Special Purpose Examination of the Federation of State
 471 Medical Boards.

472 [~~21~~] (25) "Unlawful conduct" means the same as that term is defined in Sections
 473 58-1-501 and 58-68-501.

474 [~~22~~] (26) "Unprofessional conduct" means the same as that term is defined in
 475 Sections 58-1-501 and 58-68-502 and as may be further defined by division rule.

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

477 **58-68-502. Unprofessional conduct.**

478 (1) "Unprofessional conduct" includes, in addition to the definition in Section
 479 58-1-501:

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

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

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

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

488 [or]

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

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

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

493 or

494 (f) performing, or causing to be performed, upon a minor as defined in 58-1-511;

495 (i) a hormonal transgender procedure in violation of Section 58-1-511;

496 (ii) a sex characteristic-altering surgical procedure; or

497 (iii) a cosmetic breast surgical procedure.

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

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

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

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

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

503 or

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

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

508 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
509 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

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

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

515 Section 7. Section 58-70a-503 is amended to read:

516 **58-70a-503. Unprofessional conduct.**

517 (1) "Unprofessional conduct" includes:

518 (a) violation of a patient confidence to any person who does not have a legal right and a
519 professional need to know the information concerning the patient;

520 (b) knowingly prescribing, selling, giving away, or directly or indirectly administering,

521 or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for
522 a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts
523 prescribed or provided;

524 (c) prescribing prescription drugs for oneself or administering prescription drugs to
525 oneself, except those that have been legally prescribed for the physician assistant by a licensed
526 practitioner and that are used in accordance with the prescription order for the condition
527 diagnosed;

528 (d) in a practice that has physician assistant ownership interests, failure to allow a
529 physician the independent final decision making authority on treatment decisions for the
530 physician's patient;

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

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

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

536 (ii) conduct described in Subsections (1)(a) through (e) or Subsection [58-1-501\(1\)](#);

537 [and]

538 (g) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act[-];

539 or

540 (h) performing, or causing to be performed, a hormonal transgender procedure in
541 violation of Section [58-1-511](#).

542 (2) (a) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter
543 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider or acting as a
544 limited medical provider, as those terms are defined in Section [26-61a-102](#), recommending the
545 use of medical cannabis.

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