

Representative Raymond P. Ward proposes the following substitute bill:

1 **TRANSGENDER MEDICAL TREATMENTS AND PROCEDURES**

2 **AMENDMENTS**

3 2023 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Michael S. Kennedy**

6 House Sponsor: Katy Hall

8 **LONG TITLE**

9 **General Description:**

10 This bill enacts provisions regarding transgender medical treatments and procedures.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ requires the Department of Health and Human Services to conduct a systematic
15 review of the medical evidence regarding hormonal transgender treatments and
16 provide recommendations to the Legislature;
- 17 ▶ requires the Division of Professional Licensing to create a certification for
18 providing hormonal transgender treatments;
- 19 ▶ requires a health care provider to meet certain requirements before providing a
20 hormonal transgender treatment;
- 21 ▶ prohibits a health care provider from providing a hormonal transgender treatment to
22 new patients who were not diagnosed with gender dysphoria before a certain date;
- 23 ▶ prohibits performing sex characteristic surgical procedures on a minor for the
24 purpose of effectuating a sex change;
- 25 ▶ creates repeal dates for the systematic medical evidence review and the prohibition



26 on providing hormonal transgender treatment to new patients;

27 ▶ specifies that a patient may bring a medical malpractice action for a hormonal
28 transgender treatment;

29 ▶ extends the medical malpractice statute of limitations for a hormonal transgender
30 treatment that is provided to minors; and

31 ▶ makes technical changes.

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 None

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **58-67-102**, as last amended by Laws of Utah 2022, Chapter 233

39 **58-67-502**, as last amended by Laws of Utah 2021, Chapter 337

40 **58-68-102**, as last amended by Laws of Utah 2022, Chapter 233

41 **58-68-502**, as last amended by Laws of Utah 2021, Chapter 337

42 **63I-2-226**, as last amended by Laws of Utah 2022, Chapters 255, 365

43 **63I-2-258**, as last amended by Laws of Utah 2020, Chapter 354

44 ENACTS:

45 **26B-1-214**, Utah Code Annotated 1953

46 **58-1-603**, Utah Code Annotated 1953

47 **58-1-603.1**, Utah Code Annotated 1953

48 **78B-3-427**, Utah Code Annotated 1953



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

51 Section 1. Section **26B-1-214** is enacted to read:

52 **26B-1-214. Systematic medical evidence review of hormonal transgender**
53 **treatments.**

54 (1) As used in this section, "hormonal transgender treatment" means the same as that
55 term is defined in Section [58-1-603](#).

56 (2) The department, in consultation with the Division of Professional Licensing created

57 in Section 58-1-103, the Physicians Licensing Board created in Section 58-67-201, the
58 Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201, the
59 University of Utah, and a non-profit hospital system with multiple hospitals in Utah and
60 experience in specialty pediatric care, shall conduct a systematic medical evidence review
61 regarding the provision of hormonal transgender treatments to minors.

62 (3) The purpose of the systematic medical evidence review is to provide the Legislature
63 with recommendations to consider when deciding whether to lift the moratorium described in
64 Section 58-1-603.1.

65 (4) The systematic medical evidence review shall:

66 (a) analyze hormonal transgender treatments that are prescribed to a minor with gender
67 dysphoria, including:

68 (i) analyzing any effects and side effects of the treatment; and

69 (ii) whether each treatment has been approved by the federal Food and Drug
70 Administration to treat gender dysphoria;

71 (b) review the scientific literature regarding hormonal transgender treatments in
72 minors, including short-term and long-term impacts, literature from other countries, and rates
73 of desistence and time to desistence where applicable;

74 (c) review the quality of evidence cited in any scientific literature including to analyze
75 and report on the quality of the data based on techniques such as peer review, selection bias,
76 self-selection bias, randomization, sample size, and other applicable best research practices;

77 (d) include high quality clinical research assessing the short-term and long-term
78 benefits and harms of hormonal transgender treatments prescribed to minors with gender
79 dysphoria and the short-term and long-term benefits and harms of interrupting the natural
80 puberty and development processes of the child;

81 (e) specify the conditions under which the department recommends that a treatment not
82 be permitted;

83 (f) recommend what information a minor and the minor's parent should understand
84 before consenting to a hormonal transgender treatment;

85 (g) recommend the best practices a health care provider should follow to provide the
86 information described in Subsection (4)(e);

87 (h) describe the assumptions and value determinations used to reach a

88 recommendation; and

89 (i) include any other information the department, in consultation with the entities
90 described in Subsection (2), determines would assist the Legislature in enacting legislation
91 related to the provision of hormonal transgender treatment to minors.

92 (5) Upon the completion of the systematic medical evidence review, the department
93 shall provide the systematic medical evidence review to the Health and Human Services
94 Interim Committee.

95 Section 2. Section **58-1-603** is enacted to read:

96 **58-1-603. Hormonal transgender treatment on minors -- Requirements.**

97 (1) As used in this section:

98 (a) "Approved organization" means an organization with expertise regarding
99 transgender health care for minors that is approved by the division.

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

103 (c) "Disorder of sexual development" means a sexual development disorder where an
104 individual:

105 (i) is born with external biological sex characteristics that are irresolvably ambiguous;

106 (ii) is born with 46, XX chromosomes with virilization;

107 (iii) is born with 46, XY chromosomes with undervirilization;

108 (iv) has both ovarian and testicular tissue; or

109 (v) has been diagnosed by a physician, based on genetic or biochemical testing, with
110 abnormal:

111 (A) sex chromosome structure;

112 (B) sex steroid hormone production; or

113 (C) sex steroid hormone action for a male or female.

114 (d) "Health care provider" means:

115 (i) a physician;

116 (ii) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act; or

117 (iii) an advanced practice registered nurse licensed under Subsection [58-31b-301\(2\)\(e\)](#).

118 (e) (i) "Hormonal transgender treatment" means administering, prescribing, or

119 supplying:

120 (A) to an individual whose biological sex at birth is female, a dose of testosterone or
121 other androgens at levels above those normally found in an individual whose biological sex at
122 birth is female;

123 (B) to an individual whose biological sex at birth is male, a dose of estrogen or a
124 synthetic compound with estrogenic activity or effect at levels above those normally found in
125 an individual whose biological sex at birth is male; or

126 (C) a puberty inhibition drug.

127 (ii) "Hormonal transgender treatment" does not include administering, prescribing, or
128 supplying a substance described in Subsection (1)(e)(i) to an individual if the treatment is
129 medically necessary as a treatment for:

130 (A) precocious puberty;

131 (B) endometriosis;

132 (C) a menstrual, ovarian, or uterine disorder;

133 (D) a sex-hormone stimulated cancer; or

134 (E) a disorder of sexual development.

135 (f) "Mental health professional" means any of the following:

136 (i) a physician who is board certified for a psychiatry specialization recognized by the
137 American Board of Medical Specialists or the American Osteopathic Association's Bureau of
138 Osteopathic Specialists;

139 (ii) a psychologist licensed under Chapter 61, Psychologist Licensing Act;

140 (iii) a clinical social worker licensed under Chapter 60, Part 2, Social Worker
141 Licensing Act;

142 (iv) a marriage and family therapist licensed under Chapter 60, Part 3, Marriage and
143 Family Therapist Licensing Act; or

144 (v) a clinical mental health counselor licensed under Chapter 60, Part 4, Clinical
145 Mental Health Counselor Licensing Act.

146 (g) "Minor" means an individual who is less than 18 years old.

147 (h) "Physician" means an individual licensed under:

148 (i) Chapter 67, Utah Medical Practice Act; or

149 (ii) Chapter 68, Utah Osteopathic Medical Practice Act.

150 (i) "Puberty inhibition drug" means any of the following alone or in combination with
151 aromatase inhibitors:

152 (i) gonadotropin-releasing hormone agonists; or

153 (ii) androgen receptor inhibitors.

154 (j) "Transgender treatment certification" means a certification described in Subsection
155 (2).

156 (2) (a) The division shall create a transgender treatment certification on or before July
157 1, 2023.

158 (b) The division may issue the transgender treatment certification to an individual if the
159 individual:

160 (i) is a health care provider or a mental health professional; and

161 (ii) has completed at least 40 hours of education related to transgender health care for
162 minors from an approved organization.

163 (c) The division may renew a transgender treatment certification:

164 (i) at the time an individual renews the individual's license; and

165 (ii) if the individual has completed at least 20 hours of continuing education related to
166 transgender health care for minors from an approved organization during the individual's
167 continuing education cycle.

168 (d) Beginning January 1, 2024, providing a hormonal transgender treatment to a minor
169 without a transgender treatment certification is unprofessional conduct.

170 (3) (a) A health care provider may provide a hormonal transgender treatment to a
171 minor only if the health care provider has been treating the minor for gender dysphoria for at
172 least six months.

173 (b) Beginning July 1, 2023, before providing a hormonal transgender treatment to a
174 minor described in Subsection (3)(a), a health care provider shall:

175 (i) determine if the minor has other physical or mental health conditions, identify and
176 document any condition, and consider whether treating those conditions before treating the
177 gender dysphoria would provide the minor the best long-term outcome;

178 (ii) consider whether an alternative medical treatment or behavioral intervention to
179 treat the minor's gender dysphoria would provide the minor the best long-term outcome;

180 (iii) document in the medical record that:

- 181 (A) the health care provider has complied with Subsections (3)(b)(i) and (ii); and
- 182 (B) providing the hormonal transgender treatment will likely result in the best
- 183 long-term outcome for the minor;
- 184 (iv) obtain written consent from:
- 185 (A) the minor; and
- 186 (B) the minor's parent or guardian unless the minor is emancipated;
- 187 (v) discuss with the minor:
- 188 (A) the risks of the hormonal transgender treatment;
- 189 (B) the minor's short-term and long-term expectations regarding the effect that the
- 190 hormonal transgender treatment will have on the minor; and
- 191 (C) the likelihood that the hormonal transgender treatment will meet the short-term and
- 192 long-term expectations described in Subsections (3)(b)(v)(B);
- 193 (vi) unless the minor is emancipated, discuss with the minor's parent or guardian:
- 194 (A) the risks of the hormonal transgender treatment;
- 195 (B) the minor's short-term and long-term expectations regarding the effect that the
- 196 hormonal transgender treatment will have on the minor;
- 197 (C) the parent or guardian's short-term and long-term expectations regarding the effect
- 198 that the hormonal transgender treatment will have on the minor; and
- 199 (D) the likelihood that the hormonal transgender treatment will meet the short-term and
- 200 long-term expectations described in Subsection (3)(b)(vi)(B) and (C);
- 201 (vii) document in the medical record that the health care provider has provided the
- 202 information described in Subsection (3)(b)(viii) and (ix);
- 203 (viii) provide the minor the following information if providing the minor a puberty
- 204 inhibition drug:
- 205 (A) puberty inhibition drugs are not approved by the FDA for the treatment of gender
- 206 dysphoria;
- 207 (B) possible adverse outcomes of puberty blockers are known to include diminished
- 208 bone density, pseudotumor cerebri and long term adult sexual dysfunction;
- 209 (C) research on the long-term risks to children of prolonged treatment with puberty
- 210 blockers for the treatment of gender dysphoria has not yet occurred; and
- 211 (D) the full effects of puberty blockers on brain development and cognition are

212 unknown;

213 (ix) provide the minor the following information if providing a cross-sex hormone as
214 described in Subsections (1)(e)(i)(A) or (B):

215 (A) the use of cross-sex hormones in males is associated with risks that include blood
216 clots, gallstones, coronary artery disease, heart attacks, tumors of the pituitary gland, strokes,
217 elevated levels of triglycerides in the blood, breast cancer, and irreversible infertility; and

218 (B) the use of cross-sex hormones in females is associated with risks of erythrocytosis,
219 severe liver dysfunction, coronary artery disease, hypertension, and increased risk of breast and
220 uterine cancers; and

221 (x) upon the completion of any relevant information privacy release, obtain a mental
222 health evaluation of the minor as described in Subsection (4).

223 (4) The mental health evaluation shall:

224 (a) be performed by a mental health professional who:

225 (i) beginning January 1, 2024, has a current transgender treatment certification; and

226 (ii) is not the health care provider that is recommending or providing the hormonal
227 transgender treatment;

228 (b) contain a determination regarding whether the minor suffers from gender dysphoria
229 in accordance with the fifth edition of the Diagnostic and Statistical Manual of Mental
230 Disorders;

231 (c) confirm that the minor and the mental health professional have had at least three
232 therapy sessions; and

233 (d) document all of the minor's mental health diagnoses and any significant life events
234 that may be contributing to the diagnoses.

235 (5) A violation of Subsection (3) is unprofessional conduct.

236 Section 3. Section **58-1-603.1** is enacted to read:

237 **58-1-603.1. Hormonal transgender treatment moratorium.**

238 (1) As used in this section:

239 (a) "Health care provider" means the same as that term is defined in Section [58-1-603](#).

240 (b) "Hormonal transgender treatment" means the same as that term is defined in
241 Section [58-1-603](#).

242 (2) A health care provider may not provide a hormonal transgender treatment to a

243 patient who:

244 (a) is a minor as defined in Section 58-1-603; and

245 (b) is not diagnosed with gender dysphoria before May 3, 2023.

246 (3) A violation of Subsection (2) is unprofessional conduct.

247 Section 4. Section **58-67-102** is amended to read:

248 **58-67-102. Definitions.**

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

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

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

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

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

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

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

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

267 (a) sex and reproductive organ anatomy;

268 (b) chromosomal makeup; and

269 (c) endogenous hormone profiles.

270 [~~5~~] (7) "Board" means the Physicians Licensing Board created in Section 58-67-201.

271 [~~6~~] (8) "Collaborating physician" means an individual licensed under Section
272 58-67-302 who enters into a collaborative practice arrangement with an associate physician.

273 [~~7~~] (9) "Collaborative practice arrangement" means the arrangement described in

274 Section [58-67-807](#).

275 ~~[(8)]~~ (10) (a) "Cosmetic medical device" means tissue altering energy based devices
276 that have the potential for altering living tissue and that are used to perform ablative or
277 nonablative procedures, such as American National Standards Institute (ANSI) designated
278 Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic
279 devices, and excludes ANSI designated Class IIIa and lower powered devices.

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

283 ~~[(9)]~~ (11) "Cosmetic medical procedure":

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

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

287 ~~[(10)]~~ (12) "Diagnose" means:

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

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

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

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

299 ~~[(11)]~~ (13) "LCME" means the Liaison Committee on Medical Education of the
300 American Medical Association.

301 ~~[(12)]~~ (14) "Medical assistant" means an unlicensed individual who may perform tasks
302 as described in Subsection [58-67-305\(6\)](#).

303 ~~[(13)]~~ (15) "Medically underserved area" means a geographic area in which there is a
304 shortage of primary care health services for residents, as determined by the Department of

305 Health and Human Services.

306 ~~[(14)]~~ (16) "Medically underserved population" means a specified group of people
307 living in a defined geographic area with a shortage of primary care health services, as
308 determined by the Department of Health and Human Services.

309 ~~[(15)]~~ (17) (a) (i) "Nonablative procedure" means a procedure that is expected or
310 intended to alter living tissue, but is not intended or expected to excise, vaporize, disintegrate,
311 or remove living tissue.

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

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

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

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

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

320 ~~[(16)]~~ (18) "Physician" means both physicians and surgeons licensed under Section
321 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
322 Section 58-68-301, Utah Osteopathic Medical Practice Act.

323 ~~[(17)]~~ (19) (a) "Practice of medicine" means:

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

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

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

333 (iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
334 treatment of human diseases or conditions in any printed material, stationery, letterhead,
335 envelopes, signs, or advertisements, the designation "doctor," "doctor of medicine,"

336 "physician," "surgeon," "physician and surgeon," "Dr.," "M.D.," or any combination of these
337 designations in any manner which might cause a reasonable person to believe the individual
338 using the designation is a licensed physician and surgeon, and if the party using the designation
339 is not a licensed physician and surgeon, the designation must additionally contain the
340 description of the branch of the healing arts for which the person has a license, provided that an
341 individual who has received an earned degree of doctor of medicine degree but is not a licensed
342 physician and surgeon in Utah may use the designation "M.D." if it is followed by "Not
343 Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

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

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

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

351 (iii) conduct under Subsection [58-67-501\(2\)](#).

352 [~~(18)~~] (20) "Prescription device" means an instrument, apparatus, implement, machine,
353 contrivance, implant, in vitro reagent, or other similar or related article, and any component
354 part or accessory, which is required under federal or state law to be prescribed by a practitioner
355 and dispensed by or through a person or entity licensed under this chapter or exempt from
356 licensure under this chapter.

357 [~~(19)~~] (21) "Prescription drug" means a drug that is required by federal or state law or
358 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

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

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

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

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

367 sterile.

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

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

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

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

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

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

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

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

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

377 (ii) removing a body part:

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

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

380 individual's attempted sex change.

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

382 if done for the purpose of effectuating or facilitating an individual's attempted sex change:

383 (i) for an individual whose biological sex at birth is male, breast augmentation surgery,

384 chest feminization surgery, or facial feminization surgery; or

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

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

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

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

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

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

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

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

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

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

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

396 (ii) removing a body part:

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

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

400 [~~(20)~~] (24) "SPEX" means the Special Purpose Examination of the Federation of State
401 Medical Boards.

402 [~~(21)~~] (25) "Unlawful conduct" means the same as that term is defined in Sections
403 58-1-501 and 58-67-501.

404 [~~(22)~~] (26) "Unprofessional conduct" means the same as that term is defined in
405 Sections 58-1-501 and 58-67-502, and as may be further defined by division rule.

406 Section 5. Section 58-67-502 is amended to read:

407 **58-67-502. Unprofessional conduct.**

408 (1) "Unprofessional conduct" includes, in addition to the definition in Section
409 58-1-501:

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

413 (b) making a material misrepresentation regarding the qualifications for licensure under
414 Section 58-67-302.7 or [Section] 58-67-302.8;

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

417 (d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act;
418 [or]

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

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

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

423 or

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

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

427 (ii) a secondary sex characteristic surgical procedure.

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

- 429 (a) in compliance with Section 58-85-103:
- 430 (i) obtaining an investigational drug or investigational device;
- 431 (ii) administering the investigational drug to an eligible patient; or
- 432 (iii) treating an eligible patient with the investigational drug or investigational device;

433 or

- 434 (b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:
- 435 (i) when registered as a qualified medical provider or acting as a limited medical
- 436 provider, as those terms are defined in Section 26-61a-102, recommending the use of medical
- 437 cannabis;
- 438 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
- 439 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or
- 440 (iii) when registered as a state central patient portal medical provider, as that term is
- 441 defined in Section 26-61a-102, providing state central patient portal medical provider services.
- 442 (3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and
- 443 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
- 444 unprofessional conduct for a physician described in Subsection (2)(b).

445 Section 6. Section 58-68-102 is amended to read:

446 **58-68-102. Definitions.**

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

- 448 (1) (a) "Ablative procedure" means a procedure that is expected to excise, vaporize,
- 449 disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium:
- 450 YAG lasers.
- 451 (b) "Ablative procedure" does not include hair removal.
- 452 (2) "ACGME" means the Accreditation Council for Graduate Medical Education of the
- 453 American Medical Association.
- 454 (3) "Administrative penalty" means a monetary fine imposed by the division for acts or
- 455 omissions determined to constitute unprofessional or unlawful conduct, as a result of an
- 456 adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative
- 457 Procedures Act.
- 458 (4) "AOA" means the American Osteopathic Association.
- 459 (5) "Associate physician" means an individual licensed under Section 58-68-302.5.

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

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

465 (a) sex and reproductive organ anatomy;

466 (b) chromosomal makeup; and

467 (c) endogenous hormone profiles.

468 ~~[(6)]~~ (8) "Board" means the Osteopathic Physician and Surgeon's Licensing Board
469 created in Section 58-68-201.

470 ~~[(7)]~~ (9) "Collaborating physician" means an individual licensed under Section
471 58-68-302 who enters into a collaborative practice arrangement with an associate physician.

472 ~~[(8)]~~ (10) "Collaborative practice arrangement" means the arrangement described in
473 Section 58-68-807.

474 ~~[(9)]~~ (11) (a) "Cosmetic medical device" means tissue altering energy based devices
475 that have the potential for altering living tissue and that are used to perform ablative or
476 nonablative procedures, such as American National Standards Institute (ANSI) designated
477 Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic
478 devices and excludes ANSI designated Class IIIa and lower powered devices.

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

482 ~~[(10)]~~ (12) "Cosmetic medical procedure":

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

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

486 ~~[(11)]~~ (13) "Diagnose" means:

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

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

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

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

498 ~~[(12)]~~ (14) "Medical assistant" means an unlicensed individual who may perform tasks
499 as described in Subsection [58-68-305\(6\)](#).

500 ~~[(13)]~~ (15) "Medically underserved area" means a geographic area in which there is a
501 shortage of primary care health services for residents, as determined by the Department of
502 Health and Human Services.

503 ~~[(14)]~~ (16) "Medically underserved population" means a specified group of people
504 living in a defined geographic area with a shortage of primary care health services, as
505 determined by the Department of Health and Human Services.

506 ~~[(15)]~~ (17) (a) (i) "Nonablative procedure" means a procedure that is expected or
507 intended to alter living tissue, but is not expected or intended to excise, vaporize, disintegrate,
508 or remove living tissue.

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

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

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

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

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

517 ~~[(16)]~~ (18) "Physician" means both physicians and surgeons licensed under Section
518 [58-67-301](#), Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
519 Section [58-68-301](#), Utah Osteopathic Medical Practice Act.

520 ~~[(17)]~~ (19) (a) "Practice of osteopathic medicine" means:

521 (i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human

522 disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real
523 or imaginary, or to attempt to do so, by any means or instrumentality, which in whole or in part
524 is based upon emphasis of the importance of the musculoskeletal system and manipulative
525 therapy in the maintenance and restoration of health, by an individual in Utah or outside of the
526 state upon or for any human within the state;

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

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

531 (iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
532 treatment of human diseases or conditions, in any printed material, stationery, letterhead,
533 envelopes, signs, or advertisements, the designation "doctor," "doctor of osteopathic medicine,"
534 "osteopathic physician," "osteopathic surgeon," "osteopathic physician and surgeon," "Dr.,"
535 "D.O.," or any combination of these designations in any manner which might cause a
536 reasonable person to believe the individual using the designation is a licensed osteopathic
537 physician, and if the party using the designation is not a licensed osteopathic physician, the
538 designation must additionally contain the description of the branch of the healing arts for which
539 the person has a license, provided that an individual who has received an earned degree of
540 doctor of osteopathic medicine but is not a licensed osteopathic physician and surgeon in Utah
541 may use the designation "D.O." if it is followed by "Not Licensed" or "Not Licensed in Utah"
542 in the same size and style of lettering.

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

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

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

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

551 ~~[(18)]~~ (20) "Prescription device" means an instrument, apparatus, implement, machine,
552 contrivance, implant, in vitro reagent, or other similar or related article, and any component

553 part or accessory, which is required under federal or state law to be prescribed by a practitioner
554 and dispensed by or through a person or entity licensed under this chapter or exempt from
555 licensure under this chapter.

556 ~~[(19)]~~ (21) "Prescription drug" means a drug that is required by federal or state law or
557 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

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

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

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

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

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

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

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

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

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

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

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

576 (ii) removing a body part:

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

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

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

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

584 (ii) for an individual whose biological sex at birth is female, mastectomy, breast
585 reduction surgery, chest masculinization surgery, or facial masculinization surgery.

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

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

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

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

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

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

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

595 (ii) removing a body part:

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

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

599 [~~20~~] (24) "SPEX" means the Special Purpose Examination of the Federation of State
600 Medical Boards.

601 [~~21~~] (25) "Unlawful conduct" means the same as that term is defined in Sections
602 58-1-501 and 58-68-501.

603 [~~22~~] (26) "Unprofessional conduct" means the same as that term is defined in
604 Sections 58-1-501 and 58-68-502 and as may be further defined by division rule.

605 Section 7. Section 58-68-502 is amended to read:

606 **58-68-502. Unprofessional conduct.**

607 (1) "Unprofessional conduct" includes, in addition to the definition in Section
608 58-1-501:

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

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

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

615 Section 58-68-302.5;

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

617 [or]

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

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

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

622 or

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

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

626 (ii) a secondary sex characteristic surgical procedure.

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

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

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

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

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

632 or

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

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

637 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
638 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

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

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

644 Section 8. Section 63I-2-226 is amended to read:

645 **63I-2-226. Repeal dates: Title 26 through 26B.**

646 (1) Subsection 26-2-12.6(3), relating to the report for birth certificate fees, is repealed
647 December 31, 2022.

648 (2) Subsection 26-7-8(3) is repealed January 1, 2027.

649 (3) Section 26-8a-107 is repealed July 1, 2024.

650 (4) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.

651 (5) Section 26-8a-211 is repealed July 1, 2023.

652 (6) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection
653 26-8a-602(1)(a) is amended to read:

654 "(a) provide the patient or the patient's representative with the following information
655 before contacting an air medical transport provider:

656 (i) which health insurers in the state the air medical transport provider contracts with;

657 (ii) if sufficient data is available, the average charge for air medical transport services
658 for a patient who is uninsured or out of network; and

659 (iii) whether the air medical transport provider balance bills a patient for any charge not
660 paid by the patient's health insurer; and".

661 (7) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.

662 (8) Subsection 26-18-411(8), related to reporting on the health coverage improvement
663 program, is repealed January 1, 2023.

664 (9) Subsection 26-18-420(5), related to reporting on coverage for in vitro fertilization
665 and genetic testing, is repealed July 1, 2030.

666 (10) In relation to the Air Ambulance Committee, July 1, 2024, Subsection
667 26-21-32(1)(a) is amended to read:

668 "(a) provide the patient or the patient's representative with the following information
669 before contacting an air medical transport provider:

670 (i) which health insurers in the state the air medical transport provider contracts with;

671 (ii) if sufficient data is available, the average charge for air medical transport services
672 for a patient who is uninsured or out of network; and

673 (iii) whether the air medical transport provider balance bills a patient for any charge not
674 paid by the patient's health insurer; and".

675 (11) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.

676 (12) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program,

677 is repealed July 1, 2027.

678 (13) Subsection [26-61-202\(4\)\(b\)](#) is repealed January 1, 2022.

679 (14) Subsection [26-61-202\(5\)](#) is repealed January 1, 2022.

680 (15) Subsection [26B-1-204\(2\)\(f\)](#), relating to the Air Ambulance Committee, is
681 repealed July 1, 2024.

682 (16) Section [26B-1-214](#) is repealed June 1, 2027.

683 Section 9. Section **63I-2-258** is amended to read:

684 **63I-2-258. Repeal dates: Title 58.**

685 Section [58-1-603.1](#) is repealed June 1, 2027.

686 Section 10. Section **78B-3-427** is enacted to read:

687 **78B-3-427. Transgender procedures upon a minor -- Right of action -- Informed**
688 **consent requirements -- Statute of limitations.**

689 (1) As used in this section:

690 (a) "Hormonal transgender treatment" means the same as that term is defined in
691 Section [58-1-603](#).

692 (b) "Minor" means the same as that term is defined in Section [58-1-603](#).

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

695 (a) providing a hormonal transgender treatment to a minor without complying with the
696 requirements described in Section [58-1-603](#); or

697 (b) negligence in providing a hormonal transgender treatment to a minor.

698 (3) Notwithstanding any other provision of law, a malpractice action against a health
699 care provider described in Subsection (2) may be brought before the patient is 25 years old if

700 the treatment at issue in the malpractice action began, occurred, or continued on or after May 3,
701 2023.

702 (4) Sections [78B-3-404](#) and [78B-3-406](#) do not apply to an action described in this
703 section.