**R156. Commerce, Professional Licensing.**

**R156-67. Utah Medical Practice Act Rule.**

**R156-67-101. Title - Authority - Organization.**

(1) This rule is known as the "Utah Medical Practice Act Rule."

(2) This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 67, Utah Medical Practice Act.

(3) The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

**R156-67-102. Definitions.**

Terms used in this rule are defined in Title 58, Chapter 1, Division of Professional Licensing Act, and Title 58, Chapter 67, Utah Medical Practice Act. In addition:

(1) "ACCME" means the Accreditation Council for Continuing Medical Education.

(2) "Alternate medical practices" as used in Section R156-67-603, means treatment or therapy that is determined in an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, to be:

(a) not generally recognized as standard in the practice of medicine;

(b) not shown by current generally accepted medical evidence to present a greater risk to the health, safety, or welfare of the patient than does prevailing treatment considered to be the standard in the profession of medicine; and

(c) supported by a body of current generally accepted written documentation demonstrating the treatment or therapy has reasonable potential to be of benefit to the patient to whom the therapy or treatment is to be given.

(3) "AMA" means the American Medical Association.

(4) "Collaborative practice arrangement contract" means a written, signed contract between a collaborating physician licensed and in good standing under Section 58-67-302, and an associate physician holding a restricted license in accordance with Section 58-67-302.8, that:

(a) includes the terms and conditions required by Section 58-67-807 and Section R156-67-807; and

(b) is approved by the Division in accordance with Section 58-67-807 and Section R156-67-807.

(5) "FLEX" means the Federation of State Medical Boards Licensing Examination.

(6) "FMGEMS" means the Foreign Medical Graduate Examination in Medical Science.

(7) "FSMB" means the Federation of State Medical Boards.

(8) "Homeopathic medicine" means a system of medicine employing and limited to substances prepared and prescribed in accordance with the principles of homeopathic pharmacology as described in the Homeopathic Pharmacopoeia of the United States, its compendia, addenda, and supplements, as officially recognized by:

(a) the Federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.;

(b) Utah's food and drug laws; and

(c) Title 58, Chapter 37, Utah Controlled Substances Act.

(9) "LMCC" means the Licentiate of the Medical Council of Canada.

(10) "Medication or substance, including a neurotoxin or a filler, for cosmetic purposes" as used in the definition of cosmetic medical procedure in Subsection 58-67-102(11)(a)(ii) means a medication or substance that is approved by the U.S. Food and Drug Administration (FDA) for use in humans for cosmetic purposes and is used according to FDA guidelines.

(11) "NBME" means the National Board of Medical Examiners.

(12) "Unprofessional conduct" under Subsection 58-1-203(1)(e) is further defined in Section R156-67-502.

(13) "USMLE" means the United States Medical Licensing Examination.

**R156-67-302a. Qualifications for Licensure - Practitioner Data Banks -- Education - Training.**

Under Subsections 58-67-302(1)(a), (d), and (e) and Section 58-1-302, an applicant for licensure under Subsections 58-67-302(1) and (2) shall submit the following:

(1) a Federation Credentials Verification Service (FCVS) report, which includes the following:

(a) transcripts for medical education;

(b) documentation of progressive postgraduate training in an ACGME or LMCC accredited residency or an accredited fellowship;

(c) verification of identity; and

(d) for an applicant educated in a jurisdiction outside the United States or its territories, a current ECFMG certification;

(2)(a) American Medical Association Profile; or

(b) documentation of American Board of Medical Specialties (ABMS) Board Certification;

(3) Federation of State Medical Boards Disciplinary Inquiry report; and

(4) National Practitioner Data Bank Report of Action.

**R156-67-302b. Qualifications for Licensure - Examination Requirements.**

(1) Under Subsection 58-67-302(1)(f), the required licensing examination sequence is as follows:

(a) the FLEX components I and II, with a score of not less than 75 on each component part;

(b) the NBME examination parts I, II, and III, with a passing score on each part;

(c) the USMLE steps 1, 2, and 3, with a passing score on each step;

(d) the LMCC examination, Parts 1 and 2;

(e)(i) the NBME part I or the USMLE step 1;

(ii) the NBME part II or the USMLE step 2; and

(iii) the NBME part III or the USMLE step 3;

(f) the FLEX component 1 and the USMLE step 3; or

(g)(i) the NBME part I or the USMLE step 1;

(ii) the NBME part II or the USMLE step 2; and

(iii) the FLEX component 2.

(h) Under Subsection 58-67-302.5(1)(d), a foreign medical school graduate shall pass:

(i) the FMGEMS; or

(ii) the USMLE steps 1 and 2.

(i) An individual who fails any combination of the USMLE, FLEX and NBME three times shall submit to the Division a narrative regarding the failure and may be required to meet with the Board and Division.

(2) Under Subsections 58-67-302(1)(f) and (h), 58-67-302(2)(e) and (f), and Subsection 58-1-401(2)(d), the Division may require an applicant to pass the SPEX examination with a score of not less than 75, if within the past five years the applicant:

(a) has not practiced;

(b) has had disciplinary action; or

(c) has had a substance abuse disorder or physical or mental impairment that may affect the applicant's ability to practice with reasonable skill and safety.

**R156-67-303. Renewal Cycle - Procedures.**

(1) Under Subsection 58-1-308(1), the renewal date for the two-year renewal cycle for licensees under Title 58, Chapter 67, Utah Medical Practice Act is established in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with Sections R156-1-308a through R156-1-308l.

**R156-67-304. Qualified Continuing Professional Education.**

(1) Under Subsection 58-67-304(1), the qualified continuing professional education requirements shall consist of at least 40 hours during each two-year licensure cycle, as follows:

(a) a minimum of 34 hours shall be in category 1 offerings as established by the ACCME;

(b) up to six hours may come from the Division;

(c) up to 15% may come from providing volunteer health care services in accordance with Section 58-13-3, with one hour of continuing education credit for every four documented hours of volunteer services; and

(d) participation in a residency program approved by the AOA or the ACCME shall meet the continuing education requirement in a pro-rata amount equal to any part of the two-year licensure cycle.

(2) Continuing education under this section shall:

(a) be relevant to the licensee's professional practice;

(b) be prepared and presented by individuals who are qualified by education, training and experience to provide medical continuing education; and

(c) have a method of verification of attendance and completion which may include a CME Self Reporting Log.

(3) Credit for continuing education shall be recognized in 50-minute hour blocks of time for education completed in formally established classroom courses, seminars, lectures, conferences, or training sessions that meet the criteria in this section.

(4) A licensee shall maintain documentation sufficient to prove compliance with this section, for two years after the end of the licensure cycle for which the CME is due.

**R156-67-305. Exemptions from Licensure.**

Exemptions from licensure as a physician and surgeon under Subsection 58-1-307(1) and Section 58-67-305 are subject to the following:

(1) a physician who is exempted from licensure shall obtain a Utah Controlled Substance License before prescribing, dispensing, or administering a controlled substance outside of a hospital;

(2) a person engaged in a public screening program making measures of physiologic conditions such as serum cholesterol, blood sugar, or blood pressure is exempt from licensure and is not engaged in the practice of medicine if:

(a) the instruments or devices used in making measures are:

(i) approved by the FDA, to the extent an approval is required; and

(ii) used in accordance with those approvals;

(b) the facilities and testing protocol meet the standards and personnel training requirements of the Utah Department of Health and Human Services;

(c) unlicensed personnel:

(i) do not interpret results of measures or tests;

(ii) do not recommend treatment or the purchase of any product; and

(iii) conform to the referral and follow-up protocol approved by the Utah Department of Health and Human Services for each measure or test;

(d) licensed personnel act within their scope of practice; and

(e) the information provided to the individuals measured or tested to allow them to interpret their own results is only that approved by the Utah Department of Health and Human Services;

(3) an unlicensed public safety individual who does not have emergency medical technician (EMT) certification, but who is designated as a first responder by city, county, or state officials, may carry a Mark I automatic injector antidote kit and self-administer the antidote, or administer the antidote to the individual's designated first response buddy, if:

(a) the kit is procured through the Utah Department of Health and Human Services;

(b) the kit is issued to the individual by the individual's employing agency; and

(c) before being issued the kit, the responder has completed a course on the use of auto-injectors; and

(4) under Subsection 58-67-305(6)(b)(iv), a medical assistant under the indirect supervision of a physician, may not engage in the following medical practices or procedures:

(a) diagnosing;

(b) establishing a treatment plan; or

(c) injecting the following:

(i) medication or substance, including a neurotoxin or filler, for cosmetic purposes; or

(ii) cosmetic products with bioactive ingredients with claimed medical benefits.

**R156-67-502. Unprofessional Conduct.**

Under Subsection 58-1-203(1)(e), "unprofessional conduct" includes:

(1) prescribing for oneself any Schedule II or III controlled substance, but a licensee may use, possess, or self-administer a Schedule II or III controlled substance legally prescribed for the licensee by another licensed practitioner acting within scope of licensure if the licensee uses the controlled substance in accordance with the prescription order and for the use intended;

(2) knowingly prescribing, selling, giving, or administering, directly or indirectly, or offering to prescribe, sell, give, or administer, any scheduled controlled substance as defined in Title 58, Chapter 37, Utah Controlled Substances Act to a drug dependent person as defined in Subsection 58-37-2(1)(s), except if:

(a) permitted by law; and

(b) prescribed, dispensed, or administered according to a proper medical diagnosis and for a condition indicating the use is appropriate;

(3) knowingly engaging in billing practices that are abusive and have charges that are grossly excessive for services provided;

(4) directly or indirectly giving or receiving any fee, commission, rebate, or other compensation for professional services not actually and personally provided or supervised; however, nothing in this section shall preclude the legal relationships within lawful professional partnerships, corporations, or associations or the relationship between an approved supervising physician and physician assistants or advanced practice nurses supervised by them;

(5) knowingly failing to transfer a copy of pertinent and necessary medical records or a summary of those records to another physician when requested by the subject patient or by the patient's legal representative;

(6) failing to furnish to the board upon request information known by a licensee with respect to the quality and adequacy of medical care provided to a patient by a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(7) failing as an operating surgeon to:

(a) perform adequate pre-operative or primary post-operative care of the surgical condition for a patient in accordance with the standards and ethics of the profession; or

(b) arrange for competent primary post-operative care of the surgical condition by a licensed physician and surgeon who is equally qualified to provide that care;

(8) billing a global fee for a procedure without providing the requisite care;

(9) supervising the providing of breast screening by diagnostic mammography services or interpreting the results of breast screening by diagnostic mammography to or for the benefit of any patient without having current certification or current eligibility for certification by the American Board of Radiology, except that a licensed physician and surgeon may review the results of any breast screening by diagnostic mammography procedure upon a patient to consider those results in determining appropriate care and treatment of that patient if the results are interpreted by a physician and surgeon qualified under this subsection and a timely written report is prepared by the interpreting physician and surgeon in accordance with the standards and ethics of the profession;

(10) as a licensee under Title 58, Chapter 67, Utah Medical Practice Act, failing without just cause to:

(a) repay as agreed any loan or other repayment obligation legally incurred by the licensee to fund the licensee's education or training as a medical doctor; or

(b) comply with any written agreement in which the licensee's education or training as a medical doctor is funded in consideration for the licensee's agreement to practice in a certain locality or type of locality or to comply with other conditions of practice following licensure;

(11) violating Section 58-17b-620;

(12) violating Section 58-1-301.7 by failing to keep the Division informed of a current mailing address or email address;

(13) engaging in alternate medical practice, except as provided in Section R156-67-603;

(14) violating the American Medical Association (AMA) Code of Medical Ethics, 2017 edition, which is incorporated by reference;

(15) failing to timely submit an annual written report to the Division indicating that the physician has reviewed at least annually the dispensing practices of those authorized by the physician to dispense an opiate antagonist, under Section R156-67-604; and

(16) failing to discuss the risks of using an opiate with a patient or the patient's guardian before issuing an initial opiate prescription, under Section 58-37-19; or

(17) violating Section R156-67-510.

**R156-67-503. Administrative Penalties.**

(1) Under Sections 58-1-502, 58-67-503 and Subsection 58-67-102(3), unless otherwise ordered by the presiding officer, the following fine and citation schedule shall apply:

|  |  |  |
| --- | --- | --- |
| TABLE 1  Fine and Citation Schedule | | |
| VIOLATION | FIRST OFFENSE | SUBSEQUENT OFFENSE |
| 58-1-501(1) | $ 5,000 - $10,000 | $10,000 |
| 58-1-501(2)(a) | $ 100 - $ 500 | $ 500 - $3,000 |
| 58-1-501(2)(b) | $ 500 - $ 5,000 | $ 1,500 - $10,000 |
| 58-1-501(2)  (c),(d),(e) | $ 500 - $ 5,000 | $ 5,000 - $10,000 |
| 58-1-501(2)(f) | $ 500 - $ 5,000 | $ 1,500 - $10,000 |
| 58-1-501(2) (g),(h),(i), (j),(k),(l) | $ 1,000 - $ 5,000 | $ 5,000 - $10,000 |
| 58-1-501(2)(m) | $ 5,000 - $10,000 | $10,000 |
| 58-1-501.5(5) | $ 500 - $ 1,500 | $ 1,500 - $10,000 |
| 58-1-510(3) | $ 500 - $ 1,500 | $ 1,500 - $10,000 |
| 58-37-8 | $ 500 - $ 5,000 | $ 5,000 - $10,000 |
| 58-67-501(1) | $ 1,000 - $ 5,000 | $ 2,000 - $10,000 |
| 58-67-502(1) | $ 500 - $ 5,000 | $ 5,000 - $10,000 |
| R156-1-501 (1)through(9) | $ 1,000 - $ 5,000 | $ 5,000 - $10,000 |
| R156-37-502(1)(a) | $ 5,000 - $10,000 | $10,000 |
| R156-37-502(1)(b) | $ 1,000 - $ 5,000 | $ 5,000 - $10,000 |
| R156-37-502(2) | $ 500 - $ 5,000 | $ 1,500 - $10,000 |
| R156-37-502(3),(4),(5) | $ 1,000 - $ 5,000 | $ 5,000 - $10,000 |
| R156-37-502(6),(7) | $ 5,000 - $10,000 | $10,000 |
| R156-37-502(8),(9) | $ 1,000 - $ 5,000 | $ 5,000 - $10,000 |
| R156-67-502 (1)through(17) | $ 500 - $ 1,500 | $ 1,500 - $10,000 |
| Other unprofessional or unlawful conduct | $ 500 - $ 1,500 | $ 1,500 - $10,000 |
| Ongoing offenses | $2,000 per day but not less than second offense | |

(2) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor.

(3) If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.

(4) An investigative supervisor may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.

(5) The presiding officer for a contested citation shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount imposed by an investigator based upon the evidence reviewed.

**R156-67-510. Anesthesia and Sedation Requirements.**

Under Subsections 58-1-510(3) and (4) and 58-67-102(17), a physician who is providing general anesthesia, deep sedation, or moderate sedation shall possess the knowledge, skills, and education and training required by the following standards, and shall comply with the following standards:

(1) the following American Society of Anesthesiologists (ASA) standards, which are incorporated by reference:

(a) Basic Standards for Preanesthesia Care, 2020 edition;

(b) Standards for Basic Anesthetic Monitoring, 2020 edition; and

(c) Standards for Postanesthesia Care, 2019 edition; or

(2) the following American Association of Oral and Maxillofacial Surgeons (AAOMS) standards, which are incorporated by reference:

(a) Office Anesthesia Evaluation Manual, 2018 9th edition; and

(b) Parameters of Care, 2017 6th edition.

**R156-67-603. Alternate Medical Practice.**

(1) A licensed physician and surgeon may engage in alternate medical practices as defined in Subsection R156-67-102(2) and shall not be considered to be engaged in unprofessional conduct on the basis that it is not in accordance with generally accepted professional or ethical standards as unprofessional conduct defined in Subsection 58-1-501(2)(b), if the licensed physician and surgeon:

(a) possesses current generally accepted written documentation, which in the opinion of the board, demonstrates the treatment or therapy has reasonable potential to be of benefit to the patient to whom the therapy or treatment is to be given;

(b) possesses the education, training, and experience to competently and safely administer the alternate medical treatment or therapy;

(c) has advised the patient with respect to the alternate medical treatment or therapy, in writing, including:

(i) that the treatment or therapy is not in accordance with generally recognized standards of the profession;

(ii) that on the basis of current generally accepted medical evidence, the physician and surgeon finds that the treatment or therapy presents no greater threat to the health, safety, or welfare of the patient than prevailing generally recognized standard medical practice; and

(iii) that the prevailing generally recognized standard medical treatment or therapy for the patient's condition has been offered to be provided, or that the physician and surgeon will refer the patient to another physician and surgeon who can provide the standard medical treatment or therapy; and

(d) has obtained from the patient a voluntary informed consent consistent with generally recognized current medical and legal standards for informed consent in the practice of medicine, including:

(i) evidence of advice to the patient in accordance with Subsection (c); and

(ii) whether the patient elects to receive generally recognized standard treatment or therapy combined with alternate medical treatment or therapy, or elects to receive alternate medical treatment or therapy only.

(2) Alternate medical practice includes the practice of homeopathic medicine.

**R156-67-604. Annual Review of Dispensing Practices of Those Authorized to Dispense an Opiate Antagonist.**

Under Subsection 26B-4-510(2)(c), a physician who issues a standing prescription drug order authorizing the dispensing of an opiate antagonist shall review the dispensing practices of those authorized by the physician to dispense the opiate antagonist by reviewing the report of the licensee dispensing the opiate antagonist under Subsection R156-17b-625(1).

**R156-67-803. Medical Records.**

Under Subsection 58-67-803(1), medical records shall be maintained in accordance with:

(1) applicable laws, regulations, and rules; and

(2) the AMA Code of Medical Ethics as incorporated by reference in Subsection R156-67-502(14).

**R156-67-807. Collaborative Practice Arrangement Contract - Duties and Responsibilities of Collaborating Physician and Associate Physician.**

(1) Under Subsection 58-67-302.8(2) and Section 58-67-807, the process for Division approval of a collaborative practice arrangement, and the educational methods and programs required of an associate physician throughout the duration of a collaborative practice arrangement, are established in this section.

(2) Before beginning a collaborative practice arrangement, the prospective collaborating physician and associate physician shall sign a written collaborative practice arrangement contract, which the associate physician shall submit to the Division for approval.

(3) A collaborative practice arrangement contract shall include at least the following:

(a) the terms and conditions required by Subsection 58-67-807(1)(b), including a description of how the health care services provided by the associate physician will be consistent with the associate physician's skill, training, and competence;

(b) if the associate physician will prescribe Schedule III through V controlled substances, documentation of the associate physician's mid-level practitioner Federal Drug Administration (DEA) registration;

(c) under Subsection 58-67-807(1)(c), a provision requiring the associate physician to notify the Division in writing within ten days of any modifications to the collaborative practice arrangement contract, and providing that any modifications shall become effective only upon receipt of written notice from the Division approving the changes;

(d) under Subsection 58-67-807(4), a plan establishing educational methods and programs that the associate physician shall complete throughout the duration of the collaborative practice arrangement contract, which will facilitate the advancement of the associate physician's medical knowledge and abilities; and

(e) remedies in the event of breach of contract by either the collaborating physician or associate physician, including procedures for contract termination and written notification to the Division.

(4) Before an associate physician may provide health care services under a collaborative practice arrangement, the parties shall obtain the Division's written approval of the collaborative practice arrangement contract.

(5) In evaluating a collaborative practice arrangement contract, the Division shall determine if the contract sufficiently complies with Section 58-67-807 and this section to adequately protect the public health, safety, and welfare.

(6) A collaborating physician overseeing an associate physician shall:

(a) ensure that the collaborating physician and associate physician are:

(i) both appropriately licensed; and

(ii) practicing pursuant to a Division-approved collaborative practice arrangement contract;

(b) ensure that the collaborating physician does not enter into a collaborative practice arrangement with more than three full-time equivalent associate physicians as required by Subsection 58-67-807(3)(b);

(c) be available to the associate physician for advice, consultation, and direction consistent with the standards and ethics of the profession, including consideration of the associate physician's level of skill, training, and competence; and

(d) monitor the associate physician's performance for compliance with the laws, rules, standards, and ethics of the profession, and report violations to the Division.

(7) An associate physician shall:

(a) before beginning a collaborative practice arrangement and rendering any health care services, enter into a Division-approved collaborative practice arrangement contract with a collaborating physician in accordance with this section;

(b) maintain required licensure and any required DEA registration;

(c) be professionally responsible for the acts and practices of the associate physician; and

(d) comply with the laws, rules, standards, and ethics of the profession.

(8)(a) A collaborating physician shall submit to the Division a written explanation outlining the collaborating physician's concerns if the collaborating physician:

(i) terminates a collaborative practice arrangement contract for cause;

(ii) does not support continuance of a license for an associate physician to practice; or

(iii) has other concerns regarding the associate physician that the collaborating physician believes requires input from the Division and Board.

(b) Upon receipt of written concerns from a collaborating physician with respect to an associate physician, the Division shall:

(i) provide the associate physician an opportunity to respond in writing to the Division regarding the collaborating physician's concerns;

(ii) review with the Board the written statements from the collaborating physician and associate physician; and

(iii) in consultation with the Board, take any appropriate licensure action.

**KEY: physicians, licensing**

**Date of Last Change: December 24, 2024**

**Notice of Continuation: January 12, 2021**

**Authorizing, and Implemented or Interpreted Law: 58-67-101; 58-1-106(1)(a); 58-1-202(1)(a)**