

**NOTICE OF SUBSTANTIVE CHANGE**

**TYPE OF FILING:** Amendment

**Rule or Section Number:**

**R156-67**

**Filing ID: 56871**

**Agency Information**

<b>1. Title catchline:</b>	Commerce, Professional Licensing	
<b>Building:</b>	Heber M. Wells Building	
<b>Street address:</b>	160 East 300 South	
<b>City, state:</b>	Salt Lake City UT 84111	
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<b>City, state and zip:</b>	Salt Lake City UT 84114-6741	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Larry Marx	801-530-6628	lmarx@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R156-67. Utah Medical Practice Act Rule
<b>3. Purpose of the new rule or reason for the change:</b>
The Division of Professional Licensing (Division) in collaboration with the Physicians Licensing Board is filing these proposed amendments to clarify and update the rule in accordance with statutory changes made by H.B. 58 and H.B. 365 passed in the 2024 General Session.
<b>4. Summary of the new rule or change:</b>
Section R56-67-102 definitions are updated to define "medication or substance, including a neurotoxin or a filler, for cosmetic purposes" in accordance with the amendment made by H.B. 365 to the definition of "cosmetic medical procedure." The prohibition in Section R156-67-305 against allowing a medical assistant under indirect supervision to inject neurotoxins and fillers is amended to conform to these new definitions.  Section R156-67-302a is amended to clarify documentation requirements for Section 58-67-302, including in accordance with Section 58-1-302 as amended by H.B. 58 to allow documentation of progressive postgraduate training in an accredited fellowship.  Formatting changes are also made throughout the rule to conform the rule to the current edition of the Rulewriting Manual for Utah and to update citations.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
As described in boxes 5C and 5E, the proposed amendments to Section R156-67-302a are expected to benefit certain individuals who are applying for licensure as a physician and surgeon, and are expected to indirectly benefit persons who employ licensed physicians and surgeons, which may include certain state government entities acting as businesses. As described in boxes 5C and 5E the full impacts cannot be estimated because the data necessary to determine how many such licensees might be hired is unavailable, and because the benefits that a state government entity may experience from any resulting employment will vary widely depending on the requirements of the state government entity and the individual characteristics of each licensee. The remaining proposed amendments are not expected to impact the state budget as they simply update and clarify the rule in accordance with statutory changes.

**B) Local governments:**

As described in boxes 5C and 5E, the proposed amendments to Section R156-67-302a are expected to benefit certain individuals who are applying for licensure as a physician and surgeon, and are expected to indirectly benefit persons who employ licensed physicians and surgeons, which may include certain local government entities acting as businesses. However, as described in boxes 5C and 5E the full impacts cannot be estimated because the data necessary to determine how many such licensees might be hired is unavailable, and because the benefits that a local government may experience from any resulting employment will vary widely depending on the requirements of the local government and the individual characteristics of each licensee. The remaining proposed amendments are not expected to impact the state budget as they simply update and clarify the rule in accordance with statutory changes.

**C) Small businesses** ("small business" means a business employing 1-49 persons):

As described in box 5E the proposed amendments to Section R156-67-302a are expected to expand the opportunity for certain qualified individuals to meet licensure requirements and ultimately become licensed as physicians and surgeons. In turn, the Division expects this will increase the availability of personnel for small businesses who employ licensed physicians and surgeons. The Division also expects this to increase the number of small businesses that are owned or operated by licensed physicians and surgeons

However, the full impacts cannot be estimated because the data is not available to determine precisely how many such licensees might be hired by small business, or how many such licensees might decide to own or operate their own small business.

Additionally, the benefits that a small business may experience from an increased ability to hire physicians and surgeons will vary widely depending on the requirements of the small business and the individual characteristics of each licensee. The remaining proposed amendments are not expected to impact the state budget as they simply update and clarify the rule in accordance with statutory changes.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

As described in box 5E the proposed amendments to Section R156-67-302a are expected to expand the opportunity for certain qualified individuals to meet licensure requirements and ultimately become licensed as physicians and surgeons. In turn, the Division expects this will increase the availability of personnel for non-small businesses who employ licensed physicians and surgeons.

The Division also expects this may also increase slightly the number of non-small businesses that are owned or operated by licensed physicians and surgeons. However, the full impacts cannot be estimated because the data is not available to determine precisely how many such licensees might be hired by non-small businesses, or how many such licensees might decide to own or operate their own non-small business. Additionally, the benefits that a non-small business may experience from an increased ability to hire physicians and surgeons will vary widely depending on the requirements of the small business and the individual characteristics of each licensee.

The remaining proposed amendments are not expected to impact the state budget as they simply update and clarify the rule in accordance with statutory changes.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The amendments to Section R156-67-302a are expected to benefit qualified individuals who can complete progressive postgraduate training in an accredited fellowship and meet all requirements for licensure as a physician and surgeon. The Division estimates that approximately 15 individuals per year may be able to apply for licensure using this licensure pathway, which will result in significant fiscal benefits for these individuals if they qualify to become licensed and then subsequently become employed as a physician and surgeon, or are able to own their own business as a physician and surgeon.

However, the full fiscal impact of these expected benefits cannot be estimated as it will depend on the unique education, capabilities, and circumstances of each individual.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

As described in box 5E for other persons, no compliance costs are expected for affected persons.

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head comments on fiscal impact and approval of regulatory impact analysis:**

The Executive Director of the Department of Commerce, Margaret W. Busse, has reviewed and approved this regulatory impact analysis.

**Citation Information**

**6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Subsection 58-1-106(1)(a)	Section 58-67-101	Subsection 58-1-202(1)(a)
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**Public Notice Information**

**8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 12/16/2024

**B) A public hearing (optional) will be held:**

<b>Date (mm/dd/yyyy):</b>	<b>Time (hh:mm AM/PM):</b>	<b>Place (physical address or URL):</b>
12/03/2024	9:30 a.m.	160 E. 300 S, 4th floor, Salt Lake City, UT, and also via Google Meet:  Google Meet joining info:  Video call link: <a href="https://meet.google.com/tbe-rxkk-shi">https://meet.google.com/tbe-rxkk-shi</a>  Join by phone (US) +1 435-562-1559 PIN: 497 751 028#

**9. This rule change MAY become effective on:** 12/23/2024

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Mark B. Steinagel, Division Director	<b>Date:</b>	10/04/2024
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**R156. Commerce, Professional Licensing.**

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

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

- (1) This rule ~~shall be~~ 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.**

~~The following definitions supplement the 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 ~~f~~ Federal Food, Drug and Cosmetic Act, ~~Public Law 717-21 U.S. Code Sec. 331~~ 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.
- (1~~+~~2) "Unprofessional conduct" under Subsection 58-1-203(1)(e) is further defined in Section R156-67-502.
- (1~~2~~3) "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)~~(+ and 58-1-404(2))~~, (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.

**R156-67-305. 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 ~~Food and Drug Administration of the U.S. Department of Health~~ 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) ~~neurotoxins, soft tissue fillers, or other facial esthetic substances~~ medication or substance, including a neurotoxin or filler, for cosmetic purposes; or

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

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

Under Subsection ~~[26-55-105(2)(e)]~~ 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).

#### **R156-67-807. 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 58-67-80~~[4]~~ 7(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: ~~January 12, 2023~~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)**

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