R156. Commerce, Professional Licensing.
R156-68. Utah Osteopathic Medical Practice Act Rule.
R156-68-101. Title - Authority - [~~Organization~~]Relationship to Rule R156-1.

(1) This rule shall be known as the "Utah Osteopathic 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 68, Utah Osteopathic Medical Practice Act.

(3) The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-10[~~7~~]1.

R156-68-102. 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 68, Utah Osteopathic Medical Practice Act. In addition:

(1) "AAPS" means American Association of Physician Specialists.

(2) "ABMS" means American Board of Medical Specialties.

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

(4) "Alternate medical practices" as used in Section R156-68-603, 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.

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

(6) "AOA" means American Osteopathic Association.

(7) "Collaborative practice arrangement contract" means a written, signed contract between a collaborating physician licensed and in good standing under Section 58-68-302, and an associate physician holding a restricted license in accordance with Section 58-68-302.8, that:

(a) includes the terms and conditions required by Section 58-68-807 and Section R156-68-807; and

(b) is approved by the Division in accordance with Section 58-68-807 and Section R156-68-807.

(8) "COMLEX" means the Comprehensive Osteopathic Medical Licensing Examination.

(9) "FLEX" means the Federation of State Medical Boards Licensure Examination.

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

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

(12) "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, Public Law 717.21 U.S. Code Sec. 331 et seq.;

(b) the state of Utah's food and drug laws; and

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

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

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

(15) "NBOME" means the National Board of Osteopathic Medical Examiners.

(16) "NPDB" means the National Practitioner Data Bank.

(17) "Unprofessional conduct" under Subsection 58-1-203(1)(e) is further defined in Section R156-68-502.

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

R156-68-302a. Qualifications for Licensure - Application Requirements.

Subsection 58-68-30[~~1~~]2(1)(a)[~~(i)~~], (d), and (e) and Section 58-1-302, submissions by the applicant of information maintained by practitioner data banks shall include the following:

(1)(a) American Osteopathic Association Profile;

(b) American Medical Association Profile; or

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

(2) Federation of State Medical Boards Disciplinary Inquiry form;

(3) Federation Credentials Verification (FCVS) report; and

(4) National Practitioner Data Bank Report of Action.

R156-68-302b. Qualifications for Licensure - Examination Requirements.

(1) Under Subsection 58-68-302(1)([~~g~~]f), the required licensing examination sequence is as follows:

(a) the NBOME parts I, II, and III;

(b) the NBOME parts I and II, and the NBOME COMLEX Level III;
(c) the NBOME part I, and the NBOME COMLEX Level II and III;
(d) the NBOME COMLEX Level I, II, and III;
(e) the FLEX components I and II, with a score of not less than 75 on each component;
(f) the NBME examination parts I, II, and III, with a passing score on each part;
(g) the USMLE steps 1, 2, and 3, with a passing score on each step;
(h) the LMCC examination, Parts 1 and 2;
(i) (i) the NBME part I;
(ii) the USMLE step 1 and the NBME part II;
(iii) the USMLE step 2 and the NBME part III; or
(iv) the USMLE step 3;
(j) the FLEX component 1 and the USMLE step 3; or
(k) (i) the NBME part I; or
(ii) the USMLE step 1 and the NBME part II; or
(iii) the USMLE step 2 and the FLEX component 2.
(l) A candidate who fails any combination of the USMLE, FLEX, NBME and NBOME three times shall submit to the Division a narrative regarding the failure, and may be required to meet with the Division or the Board.

(2) Under Subsections 58-68-302(1)(f) and (h) and 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 use disorder or physical or mental impairment that may affect the applicant's ability to safely practice.

(3) Under Subsection 58-68-302([~~2~~]3)(c), the medical specialty certification shall be current certification in an AOA, ABMS, or AAPS member specialty board.

R156-68-303. 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 68, Utah Osteopathic Medical Practice Act, is established in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with Sections R156-1-308a through R156-1-308[~~1~~]c.

R156-68-304. Qualified Continuing Professional Education.

(1) Under Subsection 58-68-304(1)(a), 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 AOA or 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 may 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 renewal cycle for which the CME is due.

R156-68-502. Unprofessional Conduct.

"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~~]101(1)([~~s~~]r), 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 rendered;

(4) directly or indirectly giving or receiving any fee, commission, rebate, or other compensation for professional services not actually and personally rendered 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 rendered to a patient by an osteopathic physician licensed under Title 58, Chapter 68, Utah Osteopathic 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 or osteopathic physician 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 Osteopathic Board of Radiology or the American Board of Radiology, except that a licensed physician 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 qualified under this subsection and a timely written report is prepared by the interpreting physician in accordance with the standards and ethics of the profession;

(10) as a licensee under Title 58, Chapter 68, Utah Osteopathic 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 an osteopathic physician; or

(b) comply with any written agreement in which the licensee's education or training as an osteopathic physician 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) engaging in alternative medical practice, except as provided in Section R156-68-603;

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

(14) failing to timely submit an annual written report to the Division indicating that the osteopathic physician has reviewed at least annually the dispensing practices of those authorized by the osteopathic physician to dispense an opiate antagonist, under Section R156-68-604;

(15) 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~~]306;

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

(17) violating Section R156-68-510.

R156-68-503. Administrative Penalties.

(1) Under Section 58-68-503, unless otherwise ordered by the presiding officer, the following [~~fine and citation~~]penalty schedule shall apply to a licensed individual under Title 58, Chapter 1, Division of Professional Licensing Act, and Title 58, Chapter 68, Utah Osteopathic Medical Practice Act:

TABLE 1 [~~Fine and Citation Schedule~~]		
Violation[IOLATION]	First[IRST] Offense[FFENSE] Penalty	Subsequent[UBSEQUENT] Offense[FFEN

		SE] Penalty
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)	$[-]1,000 - $[-]5,000	$[-]5,000 - $10,000
[~~58-37-8~~]	[~~$ 500 - $ 5,000~~]	[~~$ 1,500 - $10,000~~]
58-68-501(1)	$[-]1,000 - $[-]5,000	$[-]2,000 - $10,000
58-68-502(1)	$[–]500 - $[-]5,000	$[-]5,000 - $10,000
R156-1-501 [-](1) through (6)	$[-]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
R156-68-502 (1) through (16)	$[–]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~~]subsequent 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.~~]

(2) (a) Under Subsection R156-1-502(1), a citation may not be issued for a third or subsequent offense except in extraordinary circumstances approved by the bureau manager or chief investigator.

(b) If a citation is issued for a third or subsequent offense, the penalty amount shall be double the second offense penalty amount up to the maximum penalty allowed under Section 58-68-503.

(3) Multiple offenses may be cited on the same penalty if the citation clearly indicates:

(a) each offense; and

(b) the penalty amount allocated to each offense.

(4) The Division bureau manager, investigative team leader, or chief investigator may authorize a deviation from the penalty amount in a citation based upon the aggravating or mitigating circumstances.

(5) The Division's presiding officer for a contested citation may increase or decrease the penalty amount imposed by an investigator based on:

(a) a review of the evidence; and

(b) the aggravating or mitigating circumstances.

R156-68-510. Anesthesia and Sedation Requirements.

Under Subsections 58-1-510(3) and (4) and 58-68-102([~~17~~]19)(a)(i), 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.

R156-68-603. Alternate Medical Practice.

(1) A licensed osteopathic physician may engage in alternate medical practices as defined in Subsection R156-68-102(4) 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 osteopathic physician meets the requirements of Subsections 58-1-501(2)(b) and 58-1-501(5).[~~:~~

~~(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.~~]

R156-68-604. Annual Review of Dispensing Practices of those Authorized to Dispense an Opiate Antagonist.

Under Subsection [~~26-55-105(2)(c)~~]26B-4-510(2)(c), an osteopathic 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 osteopathic physician to dispense the opiate antagonist by reviewing the report of the licensee dispensing the opiate antagonist under Subsection R156-17b-625(1).

R156-68-803. Medical Records.

Under Subsection 58-68-803[~~(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 R156-68-502(13).

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