R156. Commerce, Professional Licensing.
R156-67. Utah Medical Practice Act Rule.
R156-67-101. Title - Authority - [~~Organization~~]Relationship to Rule R156-1.

(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 R156-1-10[~~7~~]1.

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) "CFPC" means the College of Family Physicians of Canada.

([4]5) "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~~]6) "FLEX" means the Federation of State Medical Boards Licensing Examination.

([~~6~~]7) "FMGEMS" means the Foreign Medical Graduate Examination in Medical Science.

([~~7~~]8) "FSMB" means the Federation of State Medical Boards.

([~~8~~]9) "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~~]10) "LMCC" means the Licentiate of the Medical Council of Canada.

(1[~~0~~]1) "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.

(1[~~1~~]2) "NBME" means the National Board of Medical Examiners.

(13) "RCPSC" means the Royal College of Physicians and Surgeons of Canada.

(1[~~2~~]4) "Unprofessional conduct" under Subsection 58-1-203(1)(e) is further defined in Section R156-67-502.

(1[~~3~~]5) "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, CFPC, or RCPSC[~~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.

R156-67-303. 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 R156-1-308[~~1~~]c.

R156-67-304. Qualified Continuing Professional Education.

(1) Under Subsection 58-67-304(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 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.

R156-67-502. 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~~]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 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~~]306; 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~~]penalty schedule shall apply to a licensed individual under Title 58, Chapter 1, Division of Professional Licensing Act, and Title 58, Chapter 67, Utah Medical Practice Act:

TABLE 1
[~~Fine and Citation Schedule~~]

Violation[IOLATION]	First[IRST] Offense[FFENSE] Penalty	Subsequent[UBSEQUENT] Offense[FFENSE] 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)	$[–]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~~]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 58-67-503.

(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.

R156-67-510. Anesthesia and Sedation Requirements.

Under Subsections 58-1-510(3) and (4) and 58-67-102([~~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.

R156-67-603. 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 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.~~]

R156-67-604. 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).

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