LEGISLATIVE GENERAL COUNSEL
₵ Approved for Filing: C.J. Dupont ₵
₵ 01-17-17 11:59 AM ₵

H.B. 142

ADMINISTRATION OF ANESTHESIA AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael S. Kennedy

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends professional licensing acts in the Division of Occupational and Professional Licensing Act to require increased monitoring, in certain circumstances, of patients who are sedated.

Highlighted Provisions:

This bill:

- ▸ requires the Division of Occupational and Professional Licensing to:
  - create a database of adverse events from the administration of sedation or general anesthesia in outpatient settings; and
  - publish a report regarding the number of adverse events by types of provider and facility;
- ▸ defines terms;
- ▸ prohibits certain health care providers from administering sedation or general anesthesia and performing therapeutic or diagnostic procedures on a patient without another qualified health care provider present to monitor the patient's anesthesia care;
- ▸ prohibits a nurse, who is not a certified registered nurse anesthetist, from administering deep sedation or general anesthesia to a patient unless:
  - the nurse has a medical order for the deep sedation or general anesthesia; and
  - the patient is intubated and in an intensive care unit of a general acute hospital;

H.B. 142

and

- requires a professional who administers sedation to have access to a crash cart during a sedation procedure.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-5a-102, as last amended by Laws of Utah 2015, Chapter 230

58-31b-501, as last amended by Laws of Utah 2006, Chapter 291

58-67-501, as last amended by Laws of Utah 2015, Chapter 110

58-68-501, as last amended by Laws of Utah 2015, Chapter 110

58-69-501, as last amended by Laws of Utah 2015, Chapter 343

ENACTS:

58-1-112, Utah Code Annotated 1953

58-5a-308, Utah Code Annotated 1953

58-31b-804, Utah Code Annotated 1953

58-67-807, Utah Code Annotated 1953

58-68-807, Utah Code Annotated 1953

58-69-807, Utah Code Annotated 1953

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

Section 1. Section **58-1-112** is enacted to read:

58-1-112. Reports of anesthesia adverse events.

(1) (a) Beginning January 1, 2018, the division shall create a database of deaths and adverse events from the administration of sedation or general anesthesia in outpatient settings in the state.

(b) The database required by Subsection (1)(a) shall include reports submitted by licensees under Sections 58-5a-307, 58-31b-804, 58-67-807, 58-68-807, and 58-69-807.

(2) The division may adopt administrative rules under Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, regarding:

(a) the format of the reports; and

(b) what constitutes a reportable adverse event, which shall include at least a sedation when there is:

(i) an escalation of care required for the patient; or

(ii) a rescue of a patient from a deeper level of sedation than was intended.

(3) (a) Information the division receives under this section that identifies a particular individual is subject to Title 63G, Chapter 2, Government Records Access and Management Act, and the federal Health Insurance Portability and Accountability Act of 1996.

(b) Beginning July 1, 2018, and on or before July 1 of each year thereafter, the division shall publicly report:

(i) the number of deaths and adverse events under Subsection (1);

(ii) the type of providers, by license category and specialty, who submitted reports under Subsection (1); and

(iii) the type of facility in which the death or adverse event took place.

Section 2. Section **58-5a-102** is amended to read:

58-5a-102. Definitions.

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

(1) "Board" means the Podiatric Physician Board created in Section 58-5a-201.

(2) "Indirect supervision" means the same as that term is defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Medical assistant" means an unlicensed individual working under the indirect supervision of a licensed podiatric physician and engaging in specific tasks assigned by the licensed podiatric physician in accordance with the standards and ethics of the podiatry profession.

(4) "Practice of podiatry" means the diagnosis and treatment of conditions affecting the human foot and ankle and their manifestations of systemic conditions by all appropriate and lawful means, subject to Section 58-5a-103.

(5) "Unlawful conduct" includes:

(a) the conduct that constitutes unlawful conduct under Section 58-1-501; and

(b) for an individual who is not licensed under this chapter:

(i) using the title or name podiatric physician, podiatrist, podiatric surgeon, foot doctor, foot specialist, or D.P.M.; or

(ii) implying or representing that the individual is qualified to practice podiatry.

(6) "Unprofessional conduct" includes, for an individual licensed under this chapter:

(a) the conduct that constitutes unprofessional conduct under Section 58-1-501;

(b) communicating to a third party, without the consent of the patient, information the individual acquires in treating the patient, except as necessary for professional consultation regarding treatment of the patient;

(c) allowing the individual's name or license to be used by an individual who is not licensed to practice podiatry under this chapter;

(d) except as described in Section 58-5a-306, employing, directly or indirectly, any unlicensed individual to practice podiatry;

(e) using alcohol or drugs, to the extent the individual's use of alcohol or drugs impairs the individual's ability to practice podiatry;

(f) unlawfully prescribing, selling, or giving away any prescription drug, including controlled substances, as defined in Section 58-37-2;

(g) gross incompetency in the practice of podiatry;

(h) willfully and intentionally making a false statement or entry in hospital records, medical records, or reports;

(i) willfully making a false statement in reports or claim forms to governmental agencies or insurance companies with the intent to secure payment not rightfully due;

(j) willfully using false or fraudulent advertising; [~~and~~]

(k) conduct the division defines as unprofessional conduct by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[~~.~~]; and

(l) administering sedation or general anesthesia in violation of Section 58-5a-308.

Section 3. Section **58-5a-308** is enacted to read:

58-5a-308. Anesthesia practice standards.

(1) For purposes of this section:

(a) (i) "Deep sedation" means a pharmacological induced depression of consciousness during which:

(A) the patient cannot easily be aroused, but will respond purposefully, other than a

reflex withdrawal response, to repeated or painful stimulation;

(B) the patient's ability to independently maintain ventilatory function may be impaired or spontaneous ventilation may be inadequate, and the patient may require assistance to maintain an airway; and

(C) the patient's cardiovascular function is maintained.

(ii) "Deep sedation" includes administering a drug classified as a general anesthetic under Subsection 58-31b-804(1)(a).

(b) "General anesthesia" means a pharmacological induced loss of consciousness during which:

(i) the patient cannot be aroused, even with painful stimulation;

(ii) the patient's ability to independently maintain ventilatory function may be impaired;

(iii) spontaneous ventilation may be inadequate;

(iv) the patient may require positive pressure ventilation assistance to maintain an airway because of depressed spontaneous ventilation or pharmacological induced depression of neuromuscular function; and

(v) the patient's cardiovascular function may be impaired.

(c) "Minimal sedation" means a pharmacological induced state of consciousness during which:

(i) the patient responds normally to verbal commands;

(ii) the patient's cognitive function and physical coordination may be impaired; and

(iii) airway reflexes, ventilatory function, and cardiovascular function are not impaired.

(d) "Moderate sedation" means a pharmacological induced depression of consciousness during which a patient responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation, and during which no interventions are required to maintain an airway.

(2) (a) A podiatric physician licensed under this chapter may not administer deep sedation or general anesthesia to a patient and perform a diagnostic or therapeutic procedure on the patient while the patient is under deep sedation or general anesthesia, unless the podiatric physician has one of the following present during the procedure for the sole purpose of monitoring and managing the sedation care of the patient:

(i) another podiatric physician;

(ii) a physician licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) a dentist licensed under Chapter 69, Dentist and Dental Hygienist Practice Act:

(A) who holds a current permit issued by the division authorizing the dentist to administer the type of anesthesia administered to the patient; and

(B) if the procedure for which the sedation is administered is within the scope of practice for the dentist; or

(iv) a certified registered nurse anesthetist licensed as a certified registered nurse anesthetist under Chapter 31b, Nurse Practice Act.

(b) A podiatric physician, licensed under this chapter, may not administer moderate sedation or minimal sedation to a patient intravenously and perform a diagnostic or therapeutic procedure on the patient while the patient is under moderate or minimal sedation, unless the podiatric physician has one of the practitioners listed in Subsection (2)(a), or a nurse licensed under Chapter 31b, Nurse Practice Act, present during the procedure for the sole purpose of monitoring and managing the sedation care of the patient.

(3) A licensed podiatric physician under this chapter may not administer intravenous sedation to a patient without having access during the procedure to an advanced cardiac life support crash cart with equipment that is regularly maintained according to guidelines established by the American Hospital Association.

(4) Beginning January 1, 2018, a podiatric physician shall report to the division any deaths or adverse events from the administration of sedation or general anesthesia in an outpatient setting. The report shall be submitted to the division in accordance with Section 58-1-112.

Section 4. Section **58-31b-501** is amended to read:

58-31b-501. Unlawful conduct.

"Unlawful conduct" includes:

(1) using the following titles, names or initials, if the user is not properly licensed or certified under this chapter:

(a) nurse;

(b) licensed practical nurse, practical nurse, or L.P.N.;

(c) medication aide certified, or M.A.C.;

(d) registered nurse or R.N.;

(e) registered nurse practitioner, N.P., or R.N.P.;

(f) registered nurse specialist, N.S., or R.N.S.;

(g) registered psychiatric mental health nurse specialist;

(h) advanced practice registered nurse;

(i) nurse anesthetist, certified nurse anesthetist, certified registered nurse anesthetist, or C.R.N.A.; or

(j) other generally recognized names or titles used in the profession of nursing;

(2) (a) using any other name, title, or initials that would cause a reasonable person to believe the user is licensed or certified under this chapter if the user is not properly licensed or certified under this chapter; and

(b) for purposes of Subsection (2)(a), it is unlawful conduct for a medication aide certified to use the term "nurse"; [~~and~~]

(3) conducting a nursing education program in the state for the purpose of qualifying individuals to meet requirements for licensure under this chapter without the program having been approved under Section 58-31b-601[~~.~~]; and

(4) administering sedation or general anesthesia in violation of Section 58-31b-804.

Section 5. Section **58-31b-804** is enacted to read:

58-31b-804. Anesthesia practice standards.

(1) For purposes of this section:

(a) (i) "Deep sedation" means a pharmacological induced depression of consciousness during which:

(A) the patient cannot easily be aroused, but will respond purposefully, other than a reflex withdrawal response, to repeated or painful stimulation;

(B) the patient's ability to independently maintain ventilatory function may be impaired or spontaneous ventilation may be inadequate, and the patient may require assistance to maintain an airway; and

(C) the patient's cardiovascular function is maintained.

(ii) "Deep sedation" includes administering to a patient a drug classified by the division, by administrative rule, as a general anesthetic, such as propofol, ketamine, etomidate,

pentathol, brevital, and fospropofol.

(b) "General anesthesia" means a pharmacological induced loss of consciousness during which:

(i) the patient cannot be aroused, even with painful stimulation;

(ii) the patient's ability to independently maintain ventilatory function may be impaired;

(iii) spontaneous ventilation may be inadequate;

(iv) the patient may require positive pressure ventilation assistance to maintain an airway because of depressed spontaneous ventilation or pharmacological induced depression of neuromuscular function; and

(v) the patient's cardiovascular function may be impaired.

(c) "Minimal sedation" means a pharmacological induced state of consciousness during which:

(i) the patient responds normally to verbal commands;

(ii) the patient's cognitive function and physical coordination may be impaired; and

(iii) airway reflexes, ventilatory function and cardiovascular function are not impaired.

(d) "Moderate sedation" means a pharmacological induced depression of consciousness during which a patient responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation, and during which no interventions are required to maintain an airway.

(2) (a) A nurse licensed under this chapter may not administer deep sedation or general anesthesia unless:

(i) the nurse is a certified registered nurse anesthetist administering anesthesia within the scope of practice of a certified registered nurse anesthetist; or

(ii) the nurse is administering the deep sedation or general anesthesia under medical orders, to a patient who is intubated and in the intensive care unit of a general acute hospital.

(b) A nurse licensed under this chapter may administer moderate sedation or minimal sedation:

(i) if the administration of the sedation is otherwise within the scope of practice for the nurse; and

(ii) if the sedation is administered intravenously, if the nurse is present during the

procedure for the sole purpose of monitoring the sedation care of the patient.

(3) A licensed nurse under this chapter may not administer intravenous sedation to a patient without having access during the procedure to an advanced cardiac life support crash cart with equipment that is regularly maintained according to guidelines established by the American Hospital Association.

(4) The division shall, with the advice of the board, designate the drugs that should be classified as general anesthesia drugs under Subsection (1)(a)(ii).

Section 6. Section **58-67-501** is amended to read:

58-67-501. Unlawful conduct.

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

(a) buying, selling, or fraudulently obtaining, any medical diploma, license, certificate, or registration;

(b) aiding or abetting the buying, selling, or fraudulently obtaining of any medical diploma, license, certificate, or registration;

(c) substantially interfering with a licensee's lawful and competent practice of medicine in accordance with this chapter by:

(i) any person or entity that manages, owns, operates, or conducts a business having a direct or indirect financial interest in the licensee's professional practice; or

(ii) anyone other than another physician licensed under this title, who is engaged in direct clinical care or consultation with the licensee in accordance with the standards and ethics of the profession of medicine; [~~or~~]

(d) entering into a contract that limits a licensee's ability to advise the licensee's patients fully about treatment options or other issues that affect the health care of the licensee's patients[~~.~~]; or

(e) administering anesthesia in the practice of medicine in violation of Section 58-67-807.

(2) "Unlawful conduct" does not include:

(a) establishing, administering, or enforcing the provisions of a policy of accident and health insurance by an insurer doing business in this state in accordance with Title 31A, Insurance Code;

(b) adopting, implementing, or enforcing utilization management standards related to

payment for a licensee's services, provided that:

(i) utilization management standards adopted, implemented, and enforced by the payer have been approved by a physician or by a committee that contains one or more physicians; and

(ii) the utilization management standards does not preclude a licensee from exercising independent professional judgment on behalf of the licensee's patients in a manner that is independent of payment considerations;

(c) developing and implementing clinical practice standards that are intended to reduce morbidity and mortality or developing and implementing other medical or surgical practice standards related to the standardization of effective health care practices, provided that:

(i) the practice standards and recommendations have been approved by a physician or by a committee that contains one or more physicians; and

(ii) the practice standards do not preclude a licensee from exercising independent professional judgment on behalf of the licensee's patients in a manner that is independent of payment considerations;

(d) requesting or recommending that a patient obtain a second opinion from a licensee;

(e) conducting peer review, quality evaluation, quality improvement, risk management, or similar activities designed to identify and address practice deficiencies with health care providers, health care facilities, or the delivery of health care;

(f) providing employment supervision or adopting employment requirements that do not interfere with the licensee's ability to exercise independent professional judgment on behalf of the licensee's patients, provided that employment requirements that may not be considered to interfere with an employed licensee's exercise of independent professional judgment include:

(i) an employment requirement that restricts the licensee's access to patients with whom the licensee's employer does not have a contractual relationship, either directly or through contracts with one or more third-party payers; or

(ii) providing compensation incentives that are not related to the treatment of any particular patient;

(g) providing benefit coverage information, giving advice, or expressing opinions to a patient or to a family member of a patient to assist the patient or family member in making a decision about health care that has been recommended by a licensee;

(h) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

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

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

(i) any otherwise lawful conduct that does not substantially interfere with the licensee's ability to exercise independent professional judgment on behalf of the licensee's patients and that does not constitute the practice of medicine as defined in this chapter.

Section 7. Section **58-67-807** is enacted to read:

58-67-807. Anesthesia practice standards.

(1) For purposes of this section:

(a) (i) "Deep sedation" means a pharmacological induced depression of consciousness during which:

(A) the patient cannot easily be aroused, but will respond purposefully, other than a reflex withdrawal response, to repeated or painful stimulation;

(B) the patient's ability to independently maintain ventilatory function may be impaired or spontaneous ventilation may be inadequate, and the patient may require assistance to maintain an airway; and

(C) the patient's cardiovascular function is maintained.

(ii) "Deep sedation" includes administering a drug classified as a general anesthetic under Subsection 58-31b-804(1)(a).

(b) "General anesthesia" means a pharmacological induced loss of consciousness during which:

(i) the patient cannot be aroused, even with painful stimulation;

(ii) the patient's ability to independently maintain ventilatory function may be impaired;

(iii) spontaneous ventilation may be inadequate;

(iv) the patient may require positive pressure ventilation assistance to maintain an airway because of depressed spontaneous ventilation or pharmacological induced depression of neuromuscular function; and

(v) the patient's cardiovascular function may be impaired.

(c) "Minimal sedation" means a pharmacological induced state of consciousness during

which:

(i) the patient responds normally to verbal commands;

(ii) the patient's cognitive function and physical coordination may be impaired; and

(iii) airway reflexes, ventilatory function, and cardiovascular function are not impaired.

(d) "Moderate sedation" means a pharmacological induced depression of consciousness during which a patient responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation, and during which no interventions are required to maintain an airway.

(2) (a) A physician licensed under this chapter may not administer deep sedation or general anesthesia to a patient and perform a diagnostic or therapeutic procedure on the patient while the patient is under deep sedation or general anesthesia, unless the physician has one of the following present during the procedure for the sole purpose of monitoring and managing the sedation care of the patient:

(i) another physician licensed under this chapter, or Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) a dentist licensed under Chapter 69, Dentist and Dental Hygienist Practice Act:

(A) who holds a current permit issued by the division authorizing the dentist to administer the type of anesthesia administered to the patient; and

(B) if the procedure for which the sedation is administered is within the scope of practice for the dentist; or

(iii) a certified registered nurse anesthetist licensed as a certified registered nurse anesthetist under Chapter 31b, Nurse Practice Act.

(b) A physician licensed under this chapter may not administer moderate sedation or minimal sedation to a patient intravenously and perform a diagnostic or therapeutic procedure on the patient while the patient is under moderate or minimal sedation, unless the physician has one of the practitioners listed in Subsection (2)(a), or a nurse licensed under Chapter 31b, Nurse Practice Act, present during the procedure for the sole purpose of monitoring and managing the sedation care of the patient.

(3) A licensed physician under this chapter may not administer intravenous sedation to a patient without having access during the procedure to an advanced cardiac life support crash cart with equipment that is regularly maintained according to guidelines established by the

American Hospital Association.

(4) Beginning January 1, 2018, a physician shall report to the division any deaths or adverse events from the administration of sedation or general anesthesia in an outpatient setting. The report shall be submitted to the division in accordance with Section 58-1-112.

Section 8. Section **58-68-501** is amended to read:

58-68-501. Unlawful conduct.

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

(a) buying, selling, or fraudulently obtaining any osteopathic medical diploma, license, certificate, or registration; and

(b) aiding or abetting the buying, selling, or fraudulently obtaining of any osteopathic medical diploma, license, certificate, or registration;

(c) substantially interfering with a licensee's lawful and competent practice of medicine in accordance with this chapter by:

(i) any person or entity that manages, owns, operates, or conducts a business having a direct or indirect financial interest in the licensee's professional practice; or

(ii) anyone other than another physician licensed under this title, who is engaged in direct clinical care or consultation with the licensee in accordance with the standards and ethics of the profession of medicine; [~~or~~]

(d) entering into a contract that limits a licensee's ability to advise the licensee's patients fully about treatment options or other issues that affect the health care of the licensee's patients[~~.~~]; or

(e) administering anesthesia in the practice of medicine in violation of Section 58-68-807.

(2) "Unlawful conduct" does not include:

(a) establishing, administering, or enforcing the provisions of a policy of accident and health insurance by an insurer doing business in this state in accordance with Title 31A, Insurance Code;

(b) adopting, implementing, or enforcing utilization management standards related to payment for a licensee's services, provided that:

(i) utilization management standards adopted, implemented, and enforced by the payer have been approved by a physician or by a committee that contains one or more physicians; and

(ii) the utilization management standards does not preclude a licensee from exercising independent professional judgment on behalf of the licensee's patients in a manner that is independent of payment considerations;

(c) developing and implementing clinical practice standards that are intended to reduce morbidity and mortality or developing and implementing other medical or surgical practice standards related to the standardization of effective health care practices, provided that:

(i) the practice standards and recommendations have been approved by a physician or by a committee that contains one or more physicians; and

(ii) the practice standards do not preclude a licensee from exercising independent professional judgment on behalf of the licensee's patients in a manner that is independent of payment considerations;

(d) requesting or recommending that a patient obtain a second opinion from a licensee;

(e) conducting peer review, quality evaluation, quality improvement, risk management, or similar activities designed to identify and address practice deficiencies with health care providers, health care facilities, or the delivery of health care;

(f) providing employment supervision or adopting employment requirements that do not interfere with the licensee's ability to exercise independent professional judgment on behalf of the licensee's patients, provided that employment requirements that may not be considered to interfere with an employed licensee's exercise of independent professional judgment include:

(i) an employment requirement that restricts the licensee's access to patients with whom the licensee's employer does not have a contractual relationship, either directly or through contracts with one or more third-party payers; or

(ii) providing compensation incentives that are not related to the treatment of any particular patient;

(g) providing benefit coverage information, giving advice, or expressing opinions to a patient or to a family member of a patient to assist the patient or family member in making a decision about health care that has been recommended by a licensee;

(h) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

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

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

or

(i) any otherwise lawful conduct that does not substantially interfere with the licensee's ability to exercise independent professional judgment on behalf of the licensee's patients and that does not constitute the practice of medicine as defined in this chapter.

Section 9. Section **58-68-807** is enacted to read:

58-68-807. Anesthesia practice standards.

(1) For purposes of this section:

(a) (i) "Deep sedation" means a pharmacological induced depression of consciousness during which:

(A) the patient cannot easily be aroused, but will respond purposefully, other than a reflex withdrawal response, to repeated or painful stimulation;

(B) the patient's ability to independently maintain ventilatory function may be impaired or spontaneous ventilation may be inadequate, and the patient may require assistance to maintain an airway; and

(C) the patient's cardiovascular function is maintained.

(ii) "Deep sedation" includes administering a drug classified as a general anesthetic under Subsection 58-31b-804(1)(a).

(b) "General anesthesia" means a pharmacological induced loss of consciousness during which:

(i) the patient cannot be aroused, even with painful stimulation;

(ii) the patient's ability to independently maintain ventilatory function may be impaired;

(iii) spontaneous ventilation may be inadequate;

(iv) the patient may require positive pressure ventilation assistance to maintain an airway because of depressed spontaneous ventilation or pharmacological induced depression of neuromuscular function; and

(v) the patient's cardiovascular function may be impaired.

(c) "Minimal sedation" means a pharmacological induced state of consciousness during which:

(i) the patient responds normally to verbal commands;

(ii) the patient's cognitive function and physical coordination may be impaired; and

(iii) airway reflexes, ventilatory function, and cardiovascular function are not impaired.

(d) "Moderate sedation" means a pharmacological induced depression of consciousness during which a patient responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation, and during which no interventions are required to maintain an airway.

(2) (a) A physician licensed under this chapter may not administer deep sedation or general anesthesia to a patient and perform a diagnostic or therapeutic procedure on the patient while the patient is under deep sedation or general anesthesia, unless the physician has one of the following present during the procedure for the sole purpose of monitoring and managing the sedation care of the patient:

(i) another physician licensed under this chapter or Chapter 67, Utah Medical Practice Act;

(ii) a dentist licensed under Chapter 69, Dentist and Dental Hygienist Practice Act:

(A) who holds a current permit issued by the division authorizing the dentist to administer the type of anesthesia administered to the patient; and

(B) if the procedure for which the sedation is administered is within the scope of practice for the dentist; and

(iii) a certified registered nurse anesthetist licensed as a certified registered nurse anesthetist under Chapter 31b, Nurse Practice Act.

(b) A physician licensed under this chapter may not administer moderate sedation or minimal sedation to a patient intravenously and perform a diagnostic or therapeutic procedure on the patient while the patient is under moderate or minimal sedation, unless the physician has one of the practitioners listed in Subsection (2)(a), or a nurse licensed under Chapter 31b, Nurse Practice Act, present during the procedure for the sole purpose of monitoring and managing the sedation care of the patient.

(3) A licensed physician under this chapter may not administer intravenous sedation to a patient without having access during the procedure to an advanced cardiac life support crash cart with equipment that is regularly maintained according to guidelines established by the American Hospital Association.

(4) Beginning January 1, 2018, an osteopathic physician shall report to the division any deaths or adverse events from the administration of sedation or general anesthesia in an

outpatient setting. The report shall be submitted to the division in accordance with Section 58-1-112.

Section 10. Section **58-69-501** is amended to read:

58-69-501. Unlawful conduct.

"Unlawful conduct" includes, in addition to the definition in Section 58-1-501:

(1) administering anesthesia or analgesia in the practice of dentistry or dental hygiene if:

(a) the individual does not hold a current permit issued by the division authorizing that individual to administer the type of anesthesia or analgesia used; or

(b) the individual administers anesthesia in violation of Section 58-69-807;

(2) practice of dental hygiene by a licensed dental hygienist when not under the supervision of a dentist, or under a written agreement with a dentist who is licensed under this chapter and who is a Utah resident, in accordance with the provisions of this chapter; or

(3) directing or interfering with a licensed dentist's judgment and competent practice of dentistry.

Section 11. Section **58-69-807** is enacted to read:

58-69-807. Anesthesia practice standards.

(1) For purposes of this section:

(a) (i) "Deep sedation" means a pharmacological induced depression of consciousness during which:

(A) the patient cannot easily be aroused, but will respond purposefully, other than a reflex withdrawal response, to repeated or painful stimulation;

(B) the patient's ability to independently maintain ventilatory function may be impaired or spontaneous ventilation may be inadequate, and the patient may require assistance to maintain an airway; and

(C) the patient's cardiovascular function is maintained.

(ii) "Deep sedation" includes administering a drug classified as a general anesthetic under Subsection 58-31b-804(1)(a).

(b) "General anesthesia" means a pharmacological induced loss of consciousness during which:

(i) the patient cannot be aroused, even with painful stimulation;

(ii) the patient's ability to independently maintain ventilatory function may be impaired;

(iii) spontaneous ventilation may be inadequate;

(iv) the patient may require positive pressure ventilation assistance to maintain an airway because of depressed spontaneous ventilation or pharmacological induced depression of neuromuscular function; and

(v) the patient's cardiovascular function may be impaired.

(c) "Minimal sedation" means a pharmacological induced state of consciousness during which:

(i) the patient responds normally to verbal commands;

(ii) the patient's cognitive function and physical coordination may be impaired; and

(iii) airway reflexes, ventilatory function, and cardiovascular function are not impaired.

(d) "Moderate sedation" means a pharmacological induced depression of consciousness during which a patient responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation, and during which no interventions are required to maintain an airway.

(2) (a) A dentist licensed under this chapter may not administer deep sedation or general anesthesia to a patient and perform a diagnostic or therapeutic procedure on the patient while the patient is under deep sedation or general anesthesia, unless the dentist has one of the following present during the procedure for the sole purpose of monitoring and managing the sedation care of the patient:

(i) a physician licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) another dentist licensed under this chapter who holds a current permit issued by the division authorizing the dentist to administer the type of anesthesia administered to the patient; or

(iii) a certified registered nurse anesthetist licensed as a certified registered nurse anesthetist under Chapter 31b, Nurse Practice Act.

(b) A dentist licensed under this chapter may not administer moderate sedation or minimal sedation to a patient intravenously and perform a diagnostic or therapeutic procedure on the patient while the patient is under moderate or minimal sedation, unless the dentist has

one of the practitioners listed in Subsection (2)(a), or a nurse licensed under Chapter 31b, Nurse Practice Act, present during the procedure for the sole purpose of monitoring and managing the sedation care of the patient.

(3) A licensed dentist under this chapter may not administer intravenous sedation to a patient without having access during the procedure to an advanced cardiac life support crash cart with equipment that is regularly maintained according to guidelines established by the American Hospital Association.

(4) Beginning January 1, 2018, a dentist shall report to the division any deaths or adverse events from the administration of sedation or general anesthesia in an outpatient setting. The report shall be submitted to the division in accordance with Section 58-1-112.

Legislative Review Note
Office of Legislative Research and General Counsel