

## Part 4 License Denial and Discipline

### **31A-23b-401 Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Rulemaking for renewal or reinstatement.**

- (1) A license as a navigator under this chapter remains in force until:
  - (a) revoked or suspended under Subsection (4);
  - (b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;
  - (c) the licensee dies or is adjudicated incompetent as defined under:
    - (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or
    - (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;
  - (d) lapsed under this section; or
  - (e) voluntarily surrendered.
- (2) The following may be reinstated within one year after the day on which the license is no longer in force:
  - (a) a lapsed license; or
  - (b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which the license is voluntarily surrendered.
- (3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:
  - (a) this title; or
  - (b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (4)
  - (a) If the commissioner makes a finding under Subsection (4)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:
    - (i) revoke a license;
    - (ii) suspend a license for a specified period of 12 months or less;
    - (iii) limit a license in whole or in part; or
    - (iv) deny a license application.
  - (b) The commissioner may take an action described in Subsection (4)(a) if the commissioner finds that the licensee:
    - (i) is unqualified for a license under Section 31A-23b-204, 31A-23b-205, or 31A-23b-206;
    - (ii) violated:
      - (A) an insurance statute;
      - (B) a rule that is valid under Subsection 31A-2-201(3); or
      - (C) an order that is valid under Subsection 31A-2-201(4);
    - (iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;
    - (iv) failed to pay a final judgment rendered against the person in this state within 60 days after the day on which the judgment became final;
    - (v) refused:
      - (A) to be examined; or
      - (B) to produce its accounts, records, and files for examination;

- (vi) had an officer who refused to:
    - (A) give information with respect to the navigator's affairs; or
    - (B) perform any other legal obligation as to an examination;
  - (vii) provided information in the license application that is:
    - (A) incorrect;
    - (B) misleading;
    - (C) incomplete; or
    - (D) materially untrue;
  - (viii) violated an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;
  - (ix) obtained or attempted to obtain a license through misrepresentation or fraud;
  - (x) improperly withheld, misappropriated, or converted money or properties received in the course of doing insurance business;
  - (xi) intentionally misrepresented the terms of an actual or proposed:
    - (A) insurance contract;
    - (B) application for insurance; or
    - (C) application for public program;
  - (xii) is convicted of a felony;
  - (xiii) admitted or is found to have committed an insurance unfair trade practice or fraud;
  - (xiv) in the conduct of business in this state or elsewhere:
    - (A) used fraudulent, coercive, or dishonest practices; or
    - (B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;
  - (xv) had an insurance license, navigator license, or its equivalent, denied, suspended, or revoked in another state, province, district, or territory;
  - (xvi) forged another's name to:
    - (A) an application for insurance;
    - (B) a document related to an insurance transaction;
    - (C) a document related to an application for a public program; or
    - (D) a document related to an application for premium subsidies;
  - (xvii) improperly used notes or another reference material to complete an examination for a license;
  - (xviii) knowingly accepted insurance business from an individual who is not licensed;
  - (xix) failed to comply with an administrative or court order imposing a child support obligation;
  - (xx) failed to:
    - (A) pay state income tax; or
    - (B) comply with an administrative or court order directing payment of state income tax;
  - (xxi) violated or permitted others to violate the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and therefore under 18 U.S.C. Sec. 1033 is prohibited from engaging in the business of insurance; or
  - (xxii) engaged in a method or practice in the conduct of business that endangered the legitimate interests of customers and the public.
- (c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the license.
- (d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:
- (i) the individual;
  - (ii) the agency, if the agency:

- (A) is reckless or negligent in its supervision of the individual; or
- (B) knowingly participates in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or
- (iii)
  - (A) the individual; and
  - (B) the agency if the agency meets the requirements of Subsection (4)(d)(ii).
- (5) A licensee under this chapter is subject to the penalties for acting as a licensee without a license if:
  - (a) the licensee's license is:
    - (i) revoked;
    - (ii) suspended;
    - (iii) surrendered in lieu of administrative action;
    - (iv) lapsed; or
    - (v) voluntarily surrendered; and
  - (b) the licensee:
    - (i) continues to act as a licensee; or
    - (ii) violates the terms of the license limitation.
- (6) A licensee under this chapter shall immediately report to the commissioner:
  - (a) a revocation, suspension, or limitation of the person's license in another state, the District of Columbia, or a territory of the United States;
  - (b) the imposition of a disciplinary sanction imposed on that person by another state, the District of Columbia, or a territory of the United States; or
  - (c) a judgment or injunction entered against that person on the basis of conduct involving:
    - (i) fraud;
    - (ii) deceit;
    - (iii) misrepresentation; or
    - (iv) a violation of an insurance law or rule.
- (7)
  - (a) An order revoking a license under Subsection (4) or an agreement to surrender a license in lieu of administrative action may specify a time, not to exceed five years, within which the former licensee may not apply for a new license.
  - (b) If no time is specified in an order or agreement described in Subsection (7)(a), the former licensee may not apply for a new license for five years from the day on which the order or agreement is made without the express approval of the commissioner.
- (8) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this chapter if so ordered by a court.
- (9) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 138, 2016 General Session

**31A-23b-402 Probation -- Grounds for revocation.**

- (1) The commissioner may place a licensee on probation for a period not to exceed 24 months as follows:
  - (a) after an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, for any circumstances that would justify a suspension under this section; or
  - (b) at the issuance of a new license:
    - (i) with an admitted violation under 18 U.S.C. Sec. 1033; or

- (ii) with a response to background information questions on a new license application indicating that:
  - (A) the person has been convicted of a crime that is listed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a crime that is a ground for probation;
  - (B) the person is currently charged with a crime that is listed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a crime that is a ground for probation regardless of whether adjudication is withheld;
  - (C) the person has been involved in an administrative proceeding regarding any professional or occupational license; or
  - (D) any business in which the person is or was an owner, partner, officer, or director has been involved in an administrative proceeding regarding any professional or occupational license.
- (2) The commissioner may place a licensee on probation for a specified period no longer than 24 months if the licensee has admitted to a violation under 18 U.S.C. Sec. 1033.
- (3) The probation order shall state the conditions for revocation or retention of the license, which shall be reasonable.
- (4) Any violation of the probation is a ground for revocation pursuant to any proceeding authorized under Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 290, 2014 General Session

Amended by Chapter 300, 2014 General Session

**31A-23b-403 License lapse and voluntary surrender.**

- (1)
  - (a) A license issued under this chapter shall lapse if the licensee fails to:
    - (i) pay when due a fee under Section 31A-3-103;
    - (ii) complete continuing education requirements under Section 31A-23b-206 before submitting the license renewal application;
    - (iii) submit a completed renewal application as required by Section 31A-23b-203;
    - (iv) submit additional documentation required to complete the licensing process; or
    - (v) maintain an active license in a resident state if the licensee is a nonresident licensee.
  - (b)
    - (i) A licensee whose license lapses due to the following may request an action described in Subsection (1)(b)(ii):
      - (A) military service;
      - (B) voluntary service for a period of time designated by the person for whom the licensee provides voluntary service; or
      - (C) other extenuating circumstances, including long-term medical disability.
    - (ii) A licensee described in Subsection (1)(b)(i) may request:
      - (A) reinstatement of the license no later than one year after the day on which the license lapses; and
      - (B) waiver of any of the following imposed for failure to comply with renewal procedures:
        - (I) an examination requirement;
        - (II) reinstatement fees set under Section 31A-3-103;
        - (III) continuing education requirements; or
        - (IV) other sanctions imposed for failure to comply with renewal procedures.
- (2) If a license issued under this chapter is voluntarily surrendered, the license may be reinstated:

- (a) during the license period in which the license is voluntarily surrendered; and
  - (b) no later than one year after the day on which the license is voluntarily surrendered.
- (3) A voluntarily surrendered license that is reinstated during the license period set forth in Subsection (2) may not be reinstated until the person who voluntarily surrendered the license complies with any applicable continuing education requirements for the period during which the license was voluntarily surrendered.

Enacted by Chapter 341, 2013 General Session

**31A-23b-404 Penalties.**

- (1)
- (a) If, after notice and opportunity to be heard, the commissioner finds that the navigator or any other person has not materially complied with this part, or any rule made or order issued under this chapter, the commissioner may order the navigator or other person to cease doing business in the state.
  - (b) If the commissioner finds that because of the material noncompliance an insurer, any policyholder of an insurer, or a recipient of a public program who used the services of the navigator or other person has suffered any loss or damage due to the material noncompliance, the commissioner may:
    - (i) maintain a civil action or may intervene in an action brought by or on behalf of the insurer, policyholder, or the recipient of the public program, for recovery of compensatory damages for the benefit of the insurer, policyholder, or recipient of a public program; or
    - (ii) seek other appropriate relief.
- (2) Nothing in this section affects the right of the commissioner to impose any other penalties provided for in this title.
- (3) Nothing contained in this section is intended to or shall in any manner alter or affect the rights of policyholders, claimants, creditors, or other third parties.

Enacted by Chapter 341, 2013 General Session