

1 **DIVISION OF OCCUPATIONAL AND**
2 **PROFESSIONAL LICENSURE AMENDMENTS**

3 2001 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Jack A. Seitz**

6 **This act modifies the Division of Occupational and Professional Licensing Act by amending**
7 **the definition of unprofessional conduct.**

8 This act affects sections of Utah Code Annotated 1953 as follows:

9 AMENDS:

10 **58-1-501**, as last amended by Chapter 159, Laws of Utah 2000

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

12 Section 1. Section **58-1-501** is amended to read:

13 **58-1-501. Unlawful and unprofessional conduct.**

14 (1) "Unlawful conduct" means conduct, by any person, that is defined as unlawful under
15 this title and includes:

16 (a) practicing or engaging in, representing oneself to be practicing or engaging in, or
17 attempting to practice or engage in any occupation or profession requiring licensure under this title
18 if the person is:

19 (i) not licensed to do so or not exempted from licensure under this title; or

20 (ii) restricted from doing so by a suspended, revoked, restricted, temporary, probationary,
21 or inactive license;

22 (b) impersonating another licensee or practicing an occupation or profession under a false
23 or assumed name, except as permitted by law;

24 (c) knowingly employing any other person to practice or engage in or attempt to practice
25 or engage in any occupation or profession licensed under this title if the employee is not licensed
26 to do so under this title;

27 (d) knowingly permitting the person's authority to practice or engage in any occupation or



28 profession licensed under this title to be used by another, except as permitted by law; or

29 (e) obtaining a passing score on a licensure examination, applying for or obtaining a
30 license, or otherwise dealing with the division or a licensing board through the use of fraud,
31 forgery, or intentional deception, misrepresentation, misstatement, or omission.

32 (2) "Unprofessional conduct" means conduct, by a licensee or applicant, that is defined as
33 unprofessional conduct under this title or under any rule adopted under this title and includes:

34 (a) violating, or aiding or abetting any other person to violate, any statute, rule, or order
35 regulating an occupation or profession under this title;

36 (b) violating, or aiding or abetting any other person to violate, any generally accepted
37 professional or ethical standard applicable to an occupation or profession regulated under this title;

38 (c) engaging in conduct that results in conviction ~~[of]~~, ~~[or]~~ a plea of nolo contendere
38a ~~[to]~~, **§ OR h**

39 a plea of guilty or nolo contendere which is held in abeyance pending the successful completion
40 of probation ~~h~~ ~~[, or a pending diversion agreement]~~ **§ [h]** with respect ~~[to]~~ ~~h h~~ to a crime of moral turpitude or

40a any
41 other crime that, when considered with the functions and duties of the occupation or profession
42 for which the license was issued or is to be issued, bears a reasonable relationship to the licensee's
43 or applicant's ability to safely or competently practice the occupation or profession;

44 (d) engaging in conduct that results in disciplinary action, including reprimand, censure,
45 diversion, probation, suspension, or revocation, by any other licensing or regulatory authority
46 having jurisdiction over the licensee or applicant in the same occupation or profession if the
47 conduct would, in this state, constitute grounds for denial of licensure or disciplinary proceedings
48 under Section 58-1-401;

49 (e) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar
50 chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the
51 ability of the licensee or applicant to safely engage in the occupation or profession;

52 (f) practicing or attempting to practice an occupation or profession regulated under this
53 title despite being physically or mentally unfit to do so;

54 (g) practicing or attempting to practice an occupation or profession regulated under this
55 title through gross incompetence, gross negligence, or a pattern of incompetency or negligence;

56 (h) practicing or attempting to practice an occupation or profession requiring licensure
57 under this title by any form of action or communication which is false, misleading, deceptive, or
58 fraudulent;

59 (i) practicing or attempting to practice an occupation or profession regulated under this
60 title beyond the scope of the licensee's competency, abilities, or education;

61 (j) practicing or attempting to practice an occupation or profession regulated under this
62 title beyond the scope of the licensee's license;

63 (k) verbally, physically, mentally, or sexually abusing or exploiting any person through
64 conduct connected with the licensee's practice under this title or otherwise facilitated by the
65 licensee's license; or

66 (l) acting as a supervisor without meeting the qualification requirements for that position
67 that are defined by statute or rule.

Legislative Review Note
as of 12-26-00 9:03 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel