

Representative Rebecca D. Lockhart proposes the following substitute bill:

GERIATRIC CARE MANAGERS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Rebecca D. Lockhart

LONG TITLE

General Description:

This bill amends the Nurse Practice Act to certify licensed practical nurses who have additional training in long-term care nursing as geriatric care managers.

Highlighted Provisions:

This bill:

- ▶ defines a geriatric care manager and the practice of geriatric care management;
- ▶ creates a pilot program for certification of geriatric care managers;
- ▶ specifies qualifications for geriatric care managers;
- ▶ amends provisions related to unlawful conduct to incorporate geriatric care managers;
- ▶ establishes standards for geriatric care manager training;
- ▶ sunsets the Geriatric Care Manager Pilot Program on July 1, 2007;
- ▶ requires a study of the necessity of registered health care assistants; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 AMENDS:

- 27 **58-31b-102**, as last amended by Chapter 290, Laws of Utah 2002
- 28 **58-31b-201**, as last amended by Chapter 290, Laws of Utah 2002
- 29 **58-31b-301**, as last amended by Chapter 290, Laws of Utah 2002
- 30 **58-31b-302**, as last amended by Chapter 290, Laws of Utah 2002
- 31 **58-31b-303**, as last amended by Chapter 314, Laws of Utah 2000
- 32 **58-31b-304**, as enacted by Chapter 288, Laws of Utah 1998
- 33 **58-31b-307**, as enacted by Chapter 288, Laws of Utah 1998
- 34 **58-31b-401**, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session
- 35 **58-31b-501**, as last amended by Chapter 290, Laws of Utah 2002
- 36 **58-31b-502**, as enacted by Chapter 288, Laws of Utah 1998
- 37 **58-31b-601**, as enacted by Chapter 288, Laws of Utah 1998
- 38 **58-31b-701**, as last amended by Chapter 290, Laws of Utah 2002

39 ENACTS:

- 40 **58-31b-301.5**, Utah Code Annotated 1953
- 41 **63-55b-158**, Utah Code Annotated 1953

42 **Uncodified Material Affected:**

43 ENACTS UNCODIFIED MATERIAL



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

46 Section 1. Section **58-31b-102** is amended to read:

47 **58-31b-102. Definitions.**

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

49 (1) "Administrative penalty" means a monetary fine imposed by the division for acts or
50 omissions determined to constitute unprofessional or unlawful conduct in accordance with a
51 fine schedule established by rule and as a result of an adjudicative proceeding conducted in
52 accordance with Title 63, Chapter 46b, Administrative Procedures Act.

53 (2) "Applicant" means a person who applies for licensure or registration under this
54 chapter by submitting a completed application for licensure or registration and the required fees
55 to the department.

56 (3) "Approved education program" means a nursing education program that meets the

57 minimum standards for educational programs established under this chapter and by division
58 rule in collaboration with the board.

59 (4) "Board" means the Board of Nursing created in Section 58-31b-201.

60 (5) "Consultation and referral plan" means a written plan jointly developed by an
61 advanced practice registered nurse and a consulting physician that permits the advanced
62 practice registered nurse to prescribe schedule II-III controlled substances in consultation with
63 the consulting physician.

64 (6) "Consulting physician" means a physician and surgeon or osteopathic physician and
65 surgeon licensed in accordance with this title who has agreed to consult with an advanced
66 practice registered nurse with a controlled substance license, a DEA registration number, and
67 who will be prescribing schedule II-III controlled substances.

68 (7) "Diagnosis" means the identification of and discrimination between physical and
69 psychosocial signs and symptoms essential to the effective execution and management of
70 health care.

71 (8) "Examinee" means a person who applies to take or does take any examination
72 required under this chapter for licensure.

73 (9) "Health care assistant" means an individual who:

74 (a) engages in the practice of a health care assistant; and

75 (b) is subject to registration under this chapter and is not subject to registration,
76 licensure, or certification under any other chapter of this title.

77 (10) "Geriatric care manager" means a licensed practical nurse who has had additional
78 training in long-term care nursing and holds a current, valid certificate of completion from a
79 training course approved by the division in collaboration with the board, and is certified by the
80 division as a Licensed Practical Nurse - Geriatric Care Manager.

81 ~~[(10)]~~ (11) "Licensee" means a person who is licensed ~~[or]~~, registered, or certified
82 under this chapter.

83 (12) "Long-term care facility" means any of the following facilities licensed by the
84 Department of Health pursuant to Title 26, Chapter 21, Health Care Facility Licensing and
85 Inspection Act:

86 (a) a nursing care facility;

87 (b) a small health care facility;

88 (c) an intermediate care facility for the mentally retarded;

89 (d) an assisted living facility Type I or II; or

90 (e) a designated swing bed unit in a general hospital.

91 ~~[(11)]~~ (13) "Practice as a health care assistant" means providing direct personal
92 assistance or care for compensation to an individual who is ill, injured, infirm, developmentally
93 or physically disabled, mentally disabled, or mentally retarded, and who is in a private
94 residence or regulated facility.

95 (14) "Practice of geriatric care management":

96 (a) means a licensed practical nurse with specialized knowledge of geriatric and
97 chronically ill patients residing in a long-term care facility as provided in Subsection
98 58-31b-302(2); and

99 (b) includes an expanded scope of practice which may include:

100 (i) implementing a plan of care;

101 (ii) completing an assessment and evaluation of response to treatment; and

102 (iii) other tasks and skills as defined by division rule.

103 ~~[(12)]~~ (15) "Practice of nursing" means assisting individuals or groups to maintain or
104 attain optimal health, implementing a strategy of care to accomplish defined goals and
105 evaluating responses to care and treatment. The practice of nursing requires substantial
106 specialized or general knowledge, judgment, and skill based upon principles of the biological,
107 physical, behavioral, and social sciences, and includes:

108 (a) initiating and maintaining comfort measures;

109 (b) promoting and supporting human functions and responses;

110 (c) establishing an environment conducive to well-being;

111 (d) providing health counseling and teaching;

112 (e) collaborating with health care professionals on aspects of the health care regimen;

113 (f) performing delegated procedures only within the education, knowledge, judgment,
114 and skill of the licensee; and

115 (g) delegating nurse interventions that may be performed by others and are not in
116 conflict with this chapter.

117 ~~[(13)]~~ (16) (a) "Practice of nurse anesthesia" means the practice of nursing related to
118 the provision of preoperative, intraoperative, and postoperative anesthesia care and related

119 services upon the request of a physician, surgeon, or other licensed professional, who is acting
120 within the scope of their practice, by a person licensed under this chapter as a certified
121 registered nurse anesthetist and includes:

122 (i) preanesthesia preparation and evaluation including:

123 (A) performing a preanesthetic assessment of the patient;

124 (B) ordering and evaluating appropriate lab and other studies to determine the health of
125 the patient; and

126 (C) selecting, ordering, or administering appropriate medications;

127 (ii) anesthesia induction, maintenance, and emergence, including:

128 (A) selecting and initiating the planned anesthetic technique;

129 (B) selecting and administering anesthetics and adjunct drugs and fluids; and

130 (C) administering general, regional, and local anesthesia;

131 (iii) postanesthesia follow-up care, including:

132 (A) evaluating the patient's response to anesthesia and implementing corrective
133 actions; and

134 (B) selecting, ordering, or administering the above medications and studies; and

135 (iv) other related services within the scope of practice of a certified registered nurse
136 anesthetist, including:

137 (A) emergency airway management;

138 (B) advanced cardiac life support; and

139 (C) the establishment of peripheral, central, and arterial invasive lines.

140 (b) Nothing in this section shall be construed as to require a certified registered nurse
141 anesthetist to obtain an advance practice registered nurse license in order to select, administer,
142 or provide preoperative, intraoperative, or postoperative anesthesia care and services.

143 [~~(14)~~] (17) "Practice of practical nursing" means the performance of nursing acts in the
144 generally recognized scope of practice of licensed practical nurses as defined by rule and as
145 provided in this Subsection [~~(14)~~] (17) by a person licensed under this chapter as a licensed
146 practical nurse and under the direction of a registered nurse, licensed physician, or other
147 specified health care professional as defined by rule. Practical nursing acts include:

148 (a) contributing to the assessment of the health status of individuals and groups;

149 (b) participating in the development and modification of the strategy of care;

- 150 (c) implementing appropriate aspects of the strategy of care;
- 151 (d) maintaining safe and effective nursing care rendered to a patient directly or
- 152 indirectly; and
- 153 (e) participating in the evaluation of responses to interventions.
- 154 [~~(15)~~] (18) "Practice of registered nursing" means performing acts of nursing as
- 155 provided in this Subsection [~~(15)~~] (18) by a person licensed under this chapter as a registered
- 156 nurse within the generally recognized scope of practice of registered nurses as defined by rule.
- 157 Registered nursing acts include:
- 158 (a) assessing the health status of individuals and groups;
- 159 (b) identifying health care needs;
- 160 (c) establishing goals to meet identified health care needs;
- 161 (d) planning a strategy of care;
- 162 (e) prescribing nursing interventions to implement the strategy of care;
- 163 (f) implementing the strategy of care;
- 164 (g) maintaining safe and effective nursing care that is rendered to a patient directly or
- 165 indirectly;
- 166 (h) evaluating responses to interventions;
- 167 (i) teaching the theory and practice of nursing; and
- 168 (j) managing and supervising the practice of nursing.
- 169 [~~(16)~~] (19) "Practice of advanced practice registered nursing" means the practice of
- 170 nursing within the generally recognized scope and standards of advanced practice registered
- 171 nursing as defined by rule and consistent with professionally recognized preparation and
- 172 education standards of an advanced practice registered nurse by a person licensed under this
- 173 chapter as an advanced practice registered nurse. Advanced practice registered nursing
- 174 includes:
- 175 (a) maintenance and promotion of health and prevention of disease;
- 176 (b) diagnosis, treatment, correction, consultation, and referral for common health
- 177 problems; and
- 178 (c) prescription or administration of prescription drugs or devices including:
- 179 (i) local anesthesia;
- 180 (ii) schedule IV-V controlled substances; and

181 (iii) schedule II-III controlled substances in accordance with a consultation and referral
182 plan.

183 ~~[(17)]~~ (20) "Regulated facility" means a health care facility subject to licensure under
184 Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act and does not include:

185 (a) the Utah State Hospital or the Utah State Developmental Center;

186 (b) a residential treatment or residential support facility:

187 (i) subject to licensure under Title 62A, Chapter 2, Licensure of Programs and
188 Facilities; and

189 (ii) serving people with disabilities, as defined by Department of Human Services
190 rules; or

191 (c) a ~~[covered]~~ health care facility ~~[as defined in Section 26-21-9.5]~~ which is licensed
192 or certified under Title 26, Chapter 21.

193 ~~[(18)]~~ (21) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-31b-501.

194 ~~[(19)]~~ (22) "Unlicensed assistive personnel" means any unlicensed person, regardless
195 of title, to whom tasks are delegated by a licensed nurse as permitted by rule and in accordance
196 with the standards of the profession.

197 ~~[(20)]~~ (23) "Unprofessional conduct" is as defined in Sections 58-1-501 and
198 58-31b-502 and as may be further defined by rule.

199 Section 2. Section **58-31b-201** is amended to read:

200 **58-31b-201. Board.**

201 (1) There is created the Board of Nursing that consists of the following eleven
202 members:

203 (a) ~~[eight]~~ nine nurses in a manner as may be further defined in division rule; and

204 ~~[(b) one registered health care assistant; and]~~

205 ~~[(c)]~~ (b) two members of the public.

206 (2) The board shall be appointed and serve in accordance with Section 58-1-201.

207 (3) The board shall carry out the duties and responsibilities in Sections 58-1-202 and
208 58-1-203 and shall:

209 (a) (i) recommend to the division minimum standards for educational programs
210 qualifying a person for licensure, registration, or certification under this chapter;

211 (ii) recommend to the division denial, approval, or withdrawal of approval regarding

212 educational programs that meet or fail to meet the established minimum standards; and

213 (iii) designate one of its members on a permanent or rotating basis to:

214 (A) assist the division in reviewing complaints concerning the unlawful or
215 unprofessional conduct of a licensee; and

216 (B) advise the division in its investigation of these complaints.

217 (b) A board member who has, under Subsection (3)(a)(iii), reviewed a complaint or
218 advised in its investigation may be disqualified from participating with the board when the
219 board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

220 (4) (a) The director shall appoint an individual to serve as the executive administrator
221 of the Board of Nursing. Except when the board serves as a presiding officer in an adjudicative
222 procedure, the executive administrator shall serve as an ex officio member of the board and
223 shall represent the position of the division in matters considered by the board.

224 (b) The executive administrator shall be a licensed registered nurse, shall have earned a
225 masters degree in nursing, and shall have a minimum of five years of experience working in
226 nursing administration or nursing education.

227 Section 3. Section **58-31b-301** is amended to read:

228 **58-31b-301. License or certification required - Classifications.**

229 (1) A license is required to engage in the practice of nursing, except as specifically
230 provided in Sections 58-1-307 and 58-31b-308.

231 (2) The division shall issue to a person who qualifies under this chapter a license or
232 certification in the classification of:

233 (a) licensed practical nurse;

234 (b) licensed practical nurse - geriatric care manager;

235 [~~(b)~~] (c) registered nurse;

236 [~~(c)~~] (d) advanced practice registered nurse intern;

237 [~~(d)~~] (e) advanced practice registered nurse; and

238 [~~(e)~~] (f) certified registered nurse anesthetist.

239 (3) An individual holding an advanced practice registered nurse license as of July 1,
240 1998, who cannot document the successful completion of advanced course work in patient
241 assessment, diagnosis and treatment, and pharmacotherapeutics, may not prescribe and shall be
242 issued an "APRN - without prescriptive practice" license.

243 (4) The division shall grant an advanced practice registered nurse license to any
244 licensed advanced practice registered nurse currently holding prescriptive authority under any
245 predecessor act on July 1, 1998.

246 (5) (a) An individual shall be registered under this chapter in order to engage in
247 practice as a health care assistant, except as provided in Sections 58-31b-308 and
248 58-31b-308.5.

249 (b) The division shall issue to a person who qualifies under this chapter a registration
250 in the classification of health care assistant.

251 Section 4. Section **58-31b-301.5** is enacted to read:

252 **58-31b-301.5. Geriatric Care Manager Pilot Program.**

253 (1) (a) The division shall establish a licensed practical nurse - Geriatric Care Manager
254 Pilot Program to determine the safety and efficiency of expanding the scope of practice for a
255 licensed practical nurse who meets the requirements of Subsection 38-31b-302(2).

256 (b) The pilot program shall begin on July 1, 2004 and sunset in accordance with
257 Section 63-55b-158.

258 (c) If the Legislature does not reauthorize the expanded scope of practice for geriatric
259 care managers after the sunset date in Subsection 58-31b-302(2), an individual licensed and
260 certified in good standing as a geriatric care manager may continue to practice as a licensed
261 practical nurse.

262 (2) If at any time the division determines the certification pilot program has become a
263 threat, or potential threat to the public health, safety, or welfare, the division may authorize
264 emergency rules to place the certification program in abeyance until the next legislative
265 session.

266 Section 5. Section **58-31b-302** is amended to read:

267 **58-31b-302. Qualifications for licensure or certification -- Criminal background**
268 **checks.**

269 (1) An applicant for licensure as a licensed practical nurse shall:

270 (a) submit to the division an application in a form prescribed by the division;

271 (b) pay to the division a fee determined under Section 63-38-3.2;

272 (c) have a high school diploma or its equivalent;

273 (d) be in a condition of physical and mental health that will permit the applicant to

274 practice safely as a licensed practical nurse;

275 (e) have completed an approved practical nursing education program or an equivalent
276 as determined by the board;

277 (f) have passed the examinations as required by division rule made in collaboration
278 with the board; and

279 (g) meet with the board, if requested, to determine the applicant's qualifications for
280 licensure.

281 (2) An applicant for certification as a licensed practical nurse - geriatric care manager
282 shall:

283 (a) submit an application to the division on a form prescribed by the division;

284 (b) pay a fee to the division as determined under Section 63-38-3.2;

285 (c) have a current license, in good standing, as a licensed practical nurse;

286 (d) have one year experience in a long-term care facility;

287 (e) be in a condition of physical and mental health that will permit the applicant to
288 practice safely as a licensed practical nurse - geriatric care manager;

289 (f) have completed a division-approved geriatric care management education program
290 or an equivalent as determined by the division in collaboration with the board;

291 (g) have passed the examinations as required by division rule made in collaboration
292 with the board; and

293 (h) meet with the board, if requested, to determine the applicant's qualifications for
294 licensure.

295 [~~2~~] (3) An applicant for licensure as a registered nurse shall:

296 (a) submit to the division an application form prescribed by the division;

297 (b) pay to the division a fee determined under Section 63-38-3.2;

298 (c) have a high school diploma or its equivalent;

299 (d) be in a condition of physical and mental health that will allow the applicant to
300 practice safely as a registered nurse;

301 (e) have completed an approved registered nursing education program;

302 (f) have passed the examinations as required by division rule made in collaboration
303 with the board; and

304 (g) meet with the board, if requested, to determine the applicant's qualifications for

305 licensure.

306 [~~(3)~~] (4) Applicants for licensure as an advanced practice registered nurse shall:

307 (a) submit to the division an application on a form prescribed by the division;

308 (b) pay to the division a fee determined under Section 63-38-3.2;

309 (c) be in a condition of physical and mental health which will allow the applicant to
310 practice safely as an advanced practice registered nurse;

311 (d) hold a current registered nurse license in good standing issued by the state or be
312 qualified at the time for licensure as a registered nurse;

313 (e) have earned a graduate degree in nursing or a related area of specialized knowledge
314 as determined appropriate by the division in collaboration with the board;

315 (f) have completed course work in patient assessment, diagnosis and treatment, and
316 pharmacotherapeutics from an education program approved by the division in collaboration
317 with the board;

318 (g) have successfully completed clinical practice in psychiatric and mental health
319 nursing, including psychotherapy as defined by division rule, after completion of the masters
320 degree required for licensure, to practice within the psychiatric and mental health nursing
321 specialty;

322 (h) have passed the examinations as required by division rule made in collaboration
323 with the board;

324 (i) be currently certified by a program approved by the division in collaboration with
325 the board and submit evidence satisfactory to the division of the certification; and

326 (j) meet with the board, if requested, to determine the applicant's qualifications for
327 licensure.

328 [~~(4)~~] (5) An applicant for licensure as a certified registered nurse anesthetist shall:

329 (a) submit to the division an application on a form prescribed by the division;

330 (b) pay to the division a fee determined under Section 63-38-3.2;

331 (c) be in a condition of physical and mental health which will allow the applicant to
332 practice safely as a certified registered nurse anesthetist;

333 (d) hold a current registered nurse license in good standing issued by the state or be
334 qualified at the time for licensure as a registered nurse;

335 (e) complete a nurse anesthesia program which is approved by the Council on

336 Accreditation of Nurse Anesthesia Educational Programs;

337 (f) be currently certified by a program approved by the division in collaboration with
338 the board and submit evidence satisfactory to the division of the certification; and

339 (g) meet with the board, if requested, to determine the applicant's qualifications for
340 licensure.

341 [~~(5)~~] (6) An applicant for registration as a health care assistant shall:

342 (a) submit an application in a form prescribed by the division;

343 (b) pay a fee determined by the department under Section 63-38-3.2;

344 (c) certify in writing that he is free from any physical, mental, or emotional condition
345 that will or may reasonably be expected to prevent the applicant from practicing as a health
346 care assistant in compliance with this chapter; and

347 (d) may not, within five years immediately prior to application, have any substantiated
348 allegations of abuse, neglect, or misappropriation of client property listed against him on the
349 certified nurse assistant registry maintained by the State Office of Education or on a similar
350 registry maintained in another state in compliance with 42 CFR 483.156.

351 [~~(6)~~] (7) An applicant for licensure [~~or~~], registration, or certification under this chapter:

352 (a) (i) shall submit fingerprint cards in a form acceptable to the division at the time the
353 license application is filed and shall consent to a fingerprint background check by the Utah
354 Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the
355 application; and

356 (ii) the division shall request the Department of Public Safety to complete a Federal
357 Bureau of Investigation criminal background check for each applicant through the national
358 criminal history system (NCIC) or any successor system; and

359 (b) if convicted of one or more felonies, must receive an absolute discharge from the
360 sentences for all felony convictions five or more years prior to the date of filing an application
361 for licensure or registration under this chapter.

362 [~~(7)~~] (8) For purposes of conducting the criminal background checks required in
363 Subsection (6), the division shall have direct access to criminal background information
364 maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

365 [~~(8)~~] (9) (a) Any new nurse license or health care assistant registration issued under this
366 section shall be conditional, pending completion of the criminal background check. If the

367 criminal background check discloses the applicant has failed to accurately disclose a criminal
368 history, the license or registration shall be immediately and automatically revoked.

369 (b) Any person whose conditional license or registration has been revoked under
370 Subsection [~~(8)~~] (9)(a) shall be entitled to a postrevocation hearing to challenge the revocation.
371 The hearing shall be conducted in accordance with Title 63, Chapter 46b, Administrative
372 Procedures Act.

373 Section 6. Section **58-31b-303** is amended to read:

374 **58-31b-303. Qualifications for licensure -- Graduates of nonapproved nursing**
375 **programs.**

376 An applicant for licensure as a practical nurse or registered nurse who is a graduate of a
377 nursing education program not approved by the division in collaboration with the board must
378 comply with the requirements of this section.

379 (1) An applicant for licensure as a licensed practical nurse shall:

380 (a) meet all requirements of Subsection 58-31b-302(1), except Subsection (1)(e); and

381 (b) produce evidence acceptable to the division and the board that the nursing
382 education program completed by the applicant is equivalent to the minimum standards
383 established by the division in collaboration with the board for an approved licensed practical
384 nursing education program.

385 (2) An applicant for licensure as a registered nurse shall:

386 (a) meet all requirements of Subsection 58-31b-302[~~(2)~~] (3), except Subsection [~~(2)~~]
387 (3)(e); and

388 (b) (i) pass the Commission on Graduates of Foreign Nursing Schools (CGFNS)
389 Examination; or

390 (ii) produce evidence acceptable to the division and the board that the applicant is
391 currently licensed as a registered nurse in one of the states, territories, or the District of
392 Columbia of the United States and has passed the NCLEX-RN examination.

393 Section 7. Section **58-31b-304** is amended to read:

394 **58-31b-304. Qualifications for admission to the examinations.**

395 (1) To be admitted to the examinations required for certification as a licensed practical
396 nurse - geriatric care manager, a person shall:

397 (a) submit an application on a form prescribed by the division;

398 **(b) pay a fee as determined by the division under Section 63-38-3.2; and**
399 **(c) meet all requirements of Subsection 58-31b-302(2) except the passing of the**
400 **examination.**

401 ~~(1)~~ **(2)** To be admitted to the examinations required for licensure as a practical nurse,
402 a person shall:

- 403 (a) submit an application form prescribed by the division;
- 404 (b) pay a fee as determined by the division under Section 63-38-3.2; and
- 405 (c) meet all requirements of Subsection 58-31b-302(1), except Subsection (1)(f).

406 ~~(2)~~ **(3)** To be admitted to the examinations required for licensure as a registered
407 nurse, a person shall:

- 408 (a) submit an application form prescribed by the division;
- 409 (b) pay a fee as determined by the division under Section 63-38-3.2; and
- 410 (c) meet all the requirements of Subsection 58-31b-302~~(2)~~**(3)**, except Subsection
411 ~~(2)~~**(3)**(f).

412 Section 8. Section **58-31b-307** is amended to read:

413 **58-31b-307. Licensure by endorsement.**

414 An applicant for licensure by endorsement as an advanced practice registered nurse
415 under the provisions of Section 58-1-302 shall also:

416 (1) demonstrate that the applicant has successfully engaged in active practice as an
417 advanced practice registered nurse for not less than 1,500 hours per year in not less than three
418 of the past five years immediately preceding the application for licensure; and

419 (2) demonstrate that the applicant has completed course work as required in Subsection
420 58-31b-302~~(3)~~ **(4)**(f).

421 Section 9. Section **58-31b-401** is amended to read:

422 **58-31b-401. Grounds for denial of licensure or certification and disciplinary**
423 **proceedings.**

424 (1) Grounds for refusal to issue a license to an applicant, for refusal to renew the
425 license of a licensee, to revoke, suspend, restrict, or place on probation the license of a licensee,
426 to issue a public or private reprimand to a licensee, and to issue cease and desist orders shall be
427 in accordance with Section 58-1-401.

428 (2) If a court of competent jurisdiction determines a nurse or health care assistant is an

429 incapacitated person as defined in Section 75-1-201 or that he is mentally ill as defined in
430 Section 62A-15-602, and unable to safely engage in the practice of nursing or the practice of a
431 health care assistant, the director shall immediately suspend the license of the nurse or health
432 care assistant upon the entry of the judgment of the court, without further proceedings under
433 Title 63, Chapter 46b, Administrative Procedures Act, regardless of whether an appeal from the
434 court's ruling is pending. The director shall promptly notify the nurse or health care assistant,
435 in writing, of the suspension.

436 (3) (a) If the division and the majority of the board find reasonable cause to believe a
437 nurse or health care assistant, who is not determined judicially to be an incapacitated person or
438 to be mentally ill, is incapable of practicing nursing or the practice of a health care assistant
439 with reasonable skill regarding the safety of patients, because of illness, excessive use of drugs
440 or alcohol, or as a result of any mental or physical condition, the board shall recommend that
441 the director file a petition with the division, and cause the petition to be served upon the nurse
442 or health care assistant with a notice of hearing on the sole issue of the capacity of the nurse or
443 health care assistant to competently, safely engage in the practice of nursing or the practice of a
444 health care assistant.

445 (b) The hearing shall be conducted under Section 58-1-109 and Title 63, Chapter 46b,
446 Administrative Procedures Act, except as provided in Subsection (4).

447 (4) (a) Every nurse or health care assistant who accepts the privilege of being licensed
448 under this chapter gives consent to:

449 (i) submitting to an immediate mental or physical examination, at the nurse's or health
450 care assistant's expense and by a division-approved practitioner selected by the nurse or health
451 care assistant, when directed in writing by the division and a majority of the board to do so; and

452 (ii) the admissibility of the reports of the examining practitioner's testimony or
453 examination, and waives all objections on the ground the reports constitute a privileged
454 communication.

455 (b) The examination may be ordered by the division, with the consent of a majority of
456 the board, only upon a finding of reasonable cause to believe:

457 (i) the nurse or health care assistant is mentally ill or incapacitated or otherwise unable
458 to practice nursing or health care assistance with reasonable skill and safety; and

459 (ii) immediate action by the division and the board is necessary to prevent harm to the

460 nurse's or health care assistant's patients or the general public.

461 (c) (i) Failure of a nurse or health care assistant to submit to the examination ordered
462 under this section is a ground for the division's immediate suspension of the nurse's or health
463 care assistant's license by written order of the director.

464 (ii) The division may enter the order of suspension without further compliance with
465 Title 63, Chapter 46b, Administrative Procedures Act, unless the division finds the failure to
466 submit to the examination ordered under this section was due to circumstances beyond the
467 control of the nurse or health care assistant and was not related directly to the illness or
468 incapacity of the nurse or health care assistant.

469 (5) (a) A nurse or health care assistant whose license is suspended under Subsection
470 (2), (3), or (4)(c) has the right to a hearing to appeal the suspension within ten days after the
471 license is suspended.

472 (b) The hearing held under this Subsection (5) shall be conducted in accordance with
473 Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists
474 for the continuance of the order of suspension in order to prevent harm to the nurse's or health
475 care assistant's patients or the general public.

476 (6) A nurse or health care assistant whose license is revoked, suspended, or in any way
477 restricted under this section may request the division and the board to consider, at reasonable
478 intervals, evidence presented by the nurse or health care assistant, under procedures established
479 by division rule, regarding any change in the nurse's or health care assistant's condition, to
480 determine whether:

481 (a) he is or is not able to safely and competently engage in the practice of nursing or the
482 practice of a health care assistant; and

483 (b) he is qualified to have his license to practice under this chapter restored completely
484 or in part.

485 (7) Nothing in Section 63-2-206 may be construed as limiting the authority of the
486 division to report current significant investigative information to the coordinated licensure
487 information system for transmission to party states as required of the division by Article VII of
488 the Nurse Licensure Compact in Section 58-31c-102.

489 (8) For purposes of this section and Section 58-31b-402, "licensed" or "license"
490 includes "registered" [~~and~~] or "registration" and "certified" or "certification" under this chapter.

491 Section 10. Section **58-31b-501** is amended to read:

492 **58-31b-501. Unlawful conduct.**

493 (1) "Unlawful conduct" includes:

494 (a) using the following titles, names or initials, if the user is not properly licensed

495 under this chapter:

496 (i) nurse;

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

498 (iii) registered nurse or R.N.;

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

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

501 (vi) registered psychiatric mental health nurse specialist;

502 (vii) advanced practice registered nurse;

503 (viii) nurse anesthetist, certified nurse anesthetist, certified registered nurse anesthetist,

504 or C.R.N.A.; or

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

506 (b) using any other name, title, or initials that would cause a reasonable person to

507 believe the user is licensed under this chapter if the user is not properly licensed under this

508 chapter; and

509 (c) conducting a nursing education program in the state for the purpose of qualifying

510 individuals to meet requirements for licensure under this chapter without the program having

511 been approved under Section 58-31b-601.

512 (2) (a) An individual registered as a health care assistant under this chapter may use

513 any title in his practice as a health care assistant, and an employer may assign a title to health

514 care assistants it employs, if the title does not cause a reasonable person to believe the

515 registrant is a licensee in any other license classification under this chapter and Title 58,

516 Occupations and Professions.

517 (b) If any issue is raised regarding a title under this section, the division shall determine

518 if the title may be used for health care assistants.

519 (3) An individual licensed as a practical nurse who is certified as a geriatric care

520 manager under this chapter, may use the title "licensed practical nurse - geriatric care manager"

521 or the initials "LPN-GCM" to designate the additional training and certification.

522 Section 11. Section **58-31b-502** is amended to read:

523 **58-31b-502. Unprofessional conduct.**

524 "Unprofessional conduct" includes:

525 (1) failure to safeguard a patient's right to privacy as to the patient's person, condition,
526 diagnosis, personal effects, or any other matter about which the licensee is privileged to know
527 because of the licensee's position or practice as a nurse;

528 (2) failure to provide nursing service in a manner that demonstrates respect for the
529 patient's human dignity and unique personal character and needs without regard to the patient's
530 race, religion, ethnic background, socioeconomic status, age, sex, or the nature of the patient's
531 health problem;

532 (3) engaging in sexual relations with a patient during any:

533 (a) period when a generally recognized professional relationship exists between the
534 nurse and patient; or

535 (b) extended period when a patient has reasonable cause to believe a professional
536 relationship exists between the nurse and patient;

537 (4) (a) as a result of any circumstance under Subsection (3), exploiting or using
538 information about a patient or exploiting the licensee's professional relationship between the
539 licensee and the patient; or

540 (b) exploiting the patient by use of the licensee's knowledge of the patient obtained
541 while acting as a nurse;

542 (5) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

543 (6) unauthorized taking or personal use of nursing supplies from an employer;

544 (7) unauthorized taking or personal use of a patient's personal property;

545 (8) knowingly entering into any medical record any false or misleading information or
546 altering a medical record in any way for the purpose of concealing an act, omission, or record
547 of events, medical condition, or any other circumstance related to the patient and the medical or
548 nursing care provided;

549 (9) unlawful or inappropriate delegation of nursing care;

550 (10) failure to exercise appropriate supervision of persons providing patient care
551 services under supervision of the licensed nurse;

552 (11) employing or aiding and abetting the employment of an unqualified or unlicensed

553 person to practice as a nurse;

554 (12) failure to file or record any medical report as required by law, impeding or
555 obstructing the filing or recording of such a report, or inducing another to fail to file or record
556 such a report;

557 (13) breach of a statutory, common law, regulatory, or ethical requirement of
558 confidentiality with respect to a person who is a patient, unless ordered by a court;

559 (14) failure to pay a penalty imposed by the division; [~~and~~]

560 (15) prescribing a schedule II-III controlled substance without a consulting physician or
561 outside of a consultation and referral plan; [~~and~~]

562 (16) violating Section 58-31b-801[-]; and

563 (17) practicing as a licensed practical nurse - geriatric care manager in a setting other
564 than a long-term care facility.

565 Section 12. Section **58-31b-601** is amended to read:

566 **58-31b-601. Minimum standards for nursing programs and certification training**
567 **programs.**

568 (1) A nursing education program shall be affiliated with an accredited institution of
569 higher education in order to be approved by the division.

570 (2) The minimum standards a nursing program shall meet to qualify graduates for
571 licensure under this chapter shall be defined by division rule.

572 (3) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
573 division shall make rules defining the minimum standards a licensed practical nurse - geriatric
574 care manager training program must meet to qualify a person for certification under this
575 chapter as a licensed practical nurse - geriatric care manager.

576 Section 13. Section **58-31b-701** is amended to read:

577 **58-31b-701. Immunity from liability.**

578 A person licensed [~~or~~], registered, or certified under this chapter:

579 (1) who provides emergency care in accordance with Section 78-11-22 is entitled to the
580 immunity from civil liability provided under that section; and

581 (2) is considered a health care provider under Chapter 13, Health Care Providers
582 Immunity from Liability Act, and is entitled to the immunity from civil liability provided under
583 that chapter.

584 Section 14. Section **63-55b-158** is enacted to read:

585 **63-55b-158. Repeal dates - Title 58.**

586 Section 58-31b-301.5, Geriatric Care Manager Pilot Program, is repealed July 1, 2007.

587 Section 15. **Study of registered health care assistant.**

588 It is the intent of the Legislature that the Division of Occupational and Professional

589 Licensing in cooperation with the Department of Health and the Department of Human

590 Services, including the Division of Aging and Adult services, study the necessity of the

591 registered health care assistant during the 2004 Interim and report its findings to the Health and

592 Human Services Interim Committee on or before its October interim committee meeting.