

**Representative Rebecca D. Lockhart** proposes the following substitute bill:

**CERTIFIED MEDICATION AIDE**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Rebecca D. Lockhart**

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**LONG TITLE**

**General Description:**

This bill amends the Nurse Practice Act to create a certified nurse aide and certified medication aide in long-term care facilities.

**Highlighted Provisions:**

This bill:

- ▶ defines a certified nurse aide and certified medication aide and the practice of a certified nurse aide and certified medication aide;
- ▶ creates a pilot program for the certified medication aide which sunsets on May 15, 2008;
- ▶ establishes qualification and training for a certified nurse and medication aides;
- ▶ repeals the provisions related to health care assistants; and
- ▶ amends provisions related to unlawful and unprofessional conduct.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:**

AMENDS:

**58-31b-102**, as last amended by Chapter 290, Laws of Utah 2002



- 26           **58-31b-201**, as last amended by Chapter 290, Laws of Utah 2002
- 27           **58-31b-301**, as last amended by Chapter 290, Laws of Utah 2002
- 28           **58-31b-302**, as last amended by Chapter 290, Laws of Utah 2002
- 29           **58-31b-303**, as last amended by Chapter 314, Laws of Utah 2000
- 30           **58-31b-304**, as enacted by Chapter 288, Laws of Utah 1998
- 31           **58-31b-305**, as last amended by Chapter 268, Laws of Utah 2001
- 32           **58-31b-307**, as enacted by Chapter 288, Laws of Utah 1998
- 33           **58-31b-308**, as last amended by Chapter 219, Laws of Utah 2003
- 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-503**, as last amended by Chapter 290, Laws of Utah 2002
- 38           **58-31b-601**, as enacted by Chapter 288, Laws of Utah 1998
- 39           **58-31b-701**, as last amended by Chapter 290, Laws of Utah 2002

40 ENACTS:

- 41           **58-31b-301.6**, Utah Code Annotated 1953
- 42           **58-31b-301.7**, Utah Code Annotated 1953
- 43           **63-55b-158**, Utah Code Annotated 1953

44 REPEALS:

- 45           **58-31b-308.5**, as enacted by Chapter 290, Laws of Utah 2002

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

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

49           **58-31b-102. Definitions.**

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

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

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

57 to the department.

58 (3) "Approved education program" means a nursing education program that meets the  
59 minimum standards for educational programs established under this chapter and by division  
60 rule in collaboration with the board.

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

62 (5) "Certified medication aide" means a certified nursing assistant who has received  
63 additional training, approved by the division in collaboration with the board, in administering  
64 routine medications to patients or residents of long-term care facilities and is certified by the  
65 division as a certified medication aide.

66 (6) "Certified nurse aide" means an individual who is certified by the division as  
67 having completed a training and examination program for nurse aides established by the  
68 division in collaboration with the board.

69 ~~[(5)]~~ (7) "Consultation and referral plan" means a written plan jointly developed by an  
70 advanced practice registered nurse and a consulting physician that permits the advanced  
71 practice registered nurse to prescribe schedule II-III controlled substances in consultation with  
72 the consulting physician.

73 ~~[(6)]~~ (8) "Consulting physician" means a physician and surgeon or osteopathic  
74 physician and surgeon licensed in accordance with this title who has agreed to consult with an  
75 advanced practice registered nurse with a controlled substance license, a DEA registration  
76 number, and who will be prescribing schedule II-III controlled substances.

77 ~~[(7)]~~ (9) "Diagnosis" means the identification of and discrimination between physical  
78 and psychosocial signs and symptoms essential to the effective execution and management of  
79 health care.

80 ~~[(8)]~~ (10) "Examinee" means a person who applies to take or does take any  
81 examination required under this chapter for licensure.

82 ~~[(9) "Health care assistant" means an individual who:]~~

83 ~~[(a) engages in the practice of a health care assistant; and]~~

84 ~~[(b) is subject to registration under this chapter and is not subject to registration,~~  
85 ~~licensure, or certification under any other chapter of this title.]~~

86 ~~[(10)]~~ (11) "Licensee" means a person who is licensed or ~~[registered]~~ certified under  
87 this chapter.

88 ~~[(11) "Practice as a health care assistant" means providing direct personal assistance or~~  
89 ~~care for compensation]~~

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

- 93 (a) a nursing care facility;
- 94 (b) a small health care facility;
- 95 (c) an intermediate care facility for the mentally retarded; or
- 96 (d) an assisted living facility Type I or II.

97 (13) "Practice as a certified medication aide" means:

- 98 (a) practice as a certified nurse aide in:
- 99 (i) a regulated long term care facility; or
- 100 (ii) that part of a general acute care hospital or specialty hospital with designated swing  
101 beds;

- 102 (b) providing direct personal assistance or care; and
- 103 (c) administering routine medications to patients who are medically stable in  
104 accordance with a formulary and protocols to be defined by the division by rule.

105 (14) (a) "Practice as a certified nurse aide" means the limited practice of nursing  
106 involving routine patient care that requires minimal or limited specialized or general  
107 knowledge, judgment, and skill, to an individual who is ill, injured, infirm, developmentally or  
108 physically disabled, mentally disabled, or mentally retarded, and who is in a [private residence  
109 or] regulated facility under Title 26, Chapter 21, Health Care Facility Licensing and Inspection  
110 Act, or in a long-term care facility.

111 ~~[(12)]~~ (15) "Practice of nursing" means assisting individuals or groups to maintain or  
112 attain optimal health, implementing a strategy of care to accomplish defined goals and  
113 evaluating responses to care and treatment. The practice of nursing requires substantial  
114 specialized or general knowledge, judgment, and skill based upon principles of the biological,  
115 physical, behavioral, and social sciences, and includes:

- 116 (a) initiating and maintaining comfort measures;
- 117 (b) promoting and supporting human functions and responses;
- 118 (c) establishing an environment conducive to well-being;

- 119 (d) providing health counseling and teaching;
- 120 (e) collaborating with health care professionals on aspects of the health care regimen;
- 121 (f) performing delegated procedures only within the education, knowledge, judgment,
- 122 and skill of the licensee; and
- 123 (g) delegating nurse interventions that may be performed by others and are not in
- 124 conflict with this chapter.

125 [~~(13)~~] (16) (a) "Practice of nurse anesthesia" means the practice of nursing related to

126 the provision of preoperative, intraoperative, and postoperative anesthesia care and related

127 services upon the request of a physician, surgeon, or other licensed professional, who is acting

128 within the scope of their practice, by a person licensed under this chapter as a certified

129 registered nurse anesthetist and includes:

- 130 (i) preanesthesia preparation and evaluation including:
  - 131 (A) performing a preanesthetic assessment of the patient;
  - 132 (B) ordering and evaluating appropriate lab and other studies to determine the health of
  - 133 the patient; and
  - 134 (C) selecting, ordering, or administering appropriate medications;
- 135 (ii) anesthesia induction, maintenance, and emergence, including:
  - 136 (A) selecting and initiating the planned anesthetic technique;
  - 137 (B) selecting and administering anesthetics and adjunct drugs and fluids; and
  - 138 (C) administering general, regional, and local anesthesia;
- 139 (iii) postanesthesia follow-up care, including:
  - 140 (A) evaluating the patient's response to anesthesia and implementing corrective
  - 141 actions; and
  - 142 (B) selecting, ordering, or administering the above medications and studies; and
  - 143 (iv) other related services within the scope of practice of a certified registered nurse
  - 144 anesthetist, including:
    - 145 (A) emergency airway management;
    - 146 (B) advanced cardiac life support; and
    - 147 (C) the establishment of peripheral, central, and arterial invasive lines.
- 148 (b) Nothing in this section shall be construed as to require a certified registered nurse
- 149 anesthetist to obtain an advance practice registered nurse license in order to select, administer,

150 or provide preoperative, intraoperative, or postoperative anesthesia care and services.

151 [~~(14)~~] (17) "Practice of practical nursing" means the performance of nursing acts in the  
152 generally recognized scope of practice of licensed practical nurses as defined by rule and as  
153 provided in this Subsection [~~(14)~~] (17) by a person licensed under this chapter as a licensed  
154 practical nurse and under the direction of a registered nurse, licensed physician, or other  
155 specified health care professional as defined by rule. Practical nursing acts include:

- 156 (a) contributing to the assessment of the health status of individuals and groups;
- 157 (b) participating in the development and modification of the strategy of care;
- 158 (c) implementing appropriate aspects of the strategy of care;
- 159 (d) maintaining safe and effective nursing care rendered to a patient directly or  
160 indirectly; and
- 161 (e) participating in the evaluation of responses to interventions.

162 [~~(15)~~] (18) "Practice of registered nursing" means performing acts of nursing as  
163 provided in this Subsection [~~(15)~~] (18) by a person licensed under this chapter as a registered  
164 nurse within the generally recognized scope of practice of registered nurses as defined by rule.  
165 Registered nursing acts include:

- 166 (a) assessing the health status of individuals and groups;
- 167 (b) identifying health care needs;
- 168 (c) establishing goals to meet identified health care needs;
- 169 (d) planning a strategy of care;
- 170 (e) prescribing nursing interventions to implement the strategy of care;
- 171 (f) implementing the strategy of care;
- 172 (g) maintaining safe and effective nursing care that is rendered to a patient directly or  
173 indirectly;
- 174 (h) evaluating responses to interventions;
- 175 (i) teaching the theory and practice of nursing; and
- 176 (j) managing and supervising the practice of nursing.

177 [~~(16)~~] (19) "Practice of advanced practice registered nursing" means the practice of  
178 nursing within the generally recognized scope and standards of advanced practice registered  
179 nursing as defined by rule and consistent with professionally recognized preparation and  
180 education standards of an advanced practice registered nurse by a person licensed under this

181 chapter as an advanced practice registered nurse. Advanced practice registered nursing  
182 includes:

- 183 (a) maintenance and promotion of health and prevention of disease;  
184 (b) diagnosis, treatment, correction, consultation, and referral for common health  
185 problems; and  
186 (c) prescription or administration of prescription drugs or devices including:  
187 (i) local anesthesia;  
188 (ii) schedule IV-V controlled substances; and  
189 (iii) schedule II-III controlled substances in accordance with a consultation and referral  
190 plan.

191 [~~(17) "Regulated facility" means a health care facility subject to licensure under Title~~  
192 ~~26, Chapter 21, Health Care Facility Licensing and Inspection Act and does not include:]~~

193 [~~(a) the Utah State Hospital or the Utah State Developmental Center;]~~

194 [~~(b) a residential treatment or residential support facility;]~~

195 [~~(i) subject to licensure under Title 62A, Chapter 2, Licensure of Programs and~~  
196 ~~Facilities; and]~~

197 [~~(ii) serving people with disabilities, as defined by Department of Human Services~~  
198 ~~rules; or]~~

199 [~~(c) a covered health care facility as defined in Section 26-21-9.5.]~~

200 [~~(18)~~ (20) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-31b-501.

201 [~~(19)~~ (21) "Unlicensed assistive personnel" means any unlicensed person, regardless  
202 of title, to whom tasks are delegated by a licensed nurse as permitted by rule and in accordance  
203 with the standards of the profession.

204 [~~(20)~~ (22) "Unprofessional conduct" is as defined in Sections 58-1-501 and  
205 58-31b-502 and as may be further defined by rule.

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

207 **58-31b-201. Board.**

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

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

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

212 [~~(e)~~] (b) two members of the public.

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

214 (3) The board shall carry out the duties and responsibilities in Sections 58-1-202 and  
215 58-1-203 and shall:

216 (a) (i) recommend to the division minimum standards for educational programs  
217 qualifying a person for licensure or certification under this chapter;

218 (ii) recommend to the division denial, approval, or withdrawal of approval regarding  
219 educational programs that meet or fail to meet the established minimum standards; and

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

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

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

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

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

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

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

235 **58-31b-301. License or certification required -- Classifications.**

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

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

240 (a) certified medication aide;

241 (b) certified nurse aide;

242 [~~(a)~~] (c) licensed practical nurse;

- 243           ~~[(b)]~~ (d) registered nurse;  
244           ~~[(c)]~~ (e) advanced practice registered nurse intern;  
245           ~~[(d)]~~ (f) advanced practice registered nurse; and  
246           ~~[(e)]~~ (g) certified registered nurse anesthetist.

247           (3) An individual holding an advanced practice registered nurse license as of July 1,  
248 1998, who cannot document the successful completion of advanced course work in patient  
249 assessment, diagnosis and treatment, and pharmacotherapeutics, may not prescribe and shall be  
250 issued an "APRN - without prescriptive practice" license.

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

254           ~~[(5) (a) An individual shall be registered under this chapter in order to engage in  
255 practice as a health care assistant, except as provided in Sections 58-31b-308 and  
256 58-31b-308.5.]~~

257           ~~[(b) The division shall issue to a person who qualifies under this chapter a registration  
258 in the classification of health care assistant.]~~

259           Section 4. Section **58-31b-301.6** is enacted to read:

260           **58-31b-301.6. Certified medication aide pilot program.**

261           (1) (a) The division shall establish a certified medication aide pilot program to  
262 determine the safety and efficiency of regulating certified medication aides.

263           (b) The pilot program begins on January 1, 2005, and sunsets in accordance with  
264 Section 63-55b-158.

265           (c) If the Legislature does not reauthorize the certification of medication aides in  
266 accordance with Section 63-55b-158, all certifications will automatically expire on the sunset  
267 date.

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

272           Section 5. Section **58-31b-301.7** is enacted to read:

273           **58-31b-301.7. Certification of nurse aides.**

274 (1) The division shall, in collaboration with the board, certify nurse aides to practice in  
275 the state.

276 (2) The Department of Health, which has the responsibility for the regulation of certain  
277 medical facilities, shall, as necessary, assist the board in implementing this section, including  
278 developing and enforcing any required criminal background check for a certified nurse aide in  
279 accordance with health facility license rules promulgated under Title 26, Chapter 21, Health  
280 Care Facility Licensing and Inspection Act.

281 (3) The division shall promulgate rules to carry out the purpose of this section and to  
282 ensure compliance with federal laws and regulations relating to certified nurse aides.

283 (4) The division shall maintain a registry of all certified nurse aides as well as a record  
284 of all final disciplinary action taken against persons under the provisions of this section. The  
285 registry shall conform to all requirements of federal law and regulation.

286 (5) (a) Funding for the nurse aide certification program, as operated by the division,  
287 shall be provided by the federal medicaid and medicare programs.

288 (b) Medicaid and medicare funding shall be:

289 (i) secured by the Department of Health; and

290 (ii) forwarded to the division for its use in operating the nurse aide certification  
291 program.

292 (c) The Department of Health shall take all reasonable and necessary steps to secure  
293 funding for the nurse aide certification program from the federal Medicaid and Medicare  
294 programs.

295 Section 6. Section **58-31b-302** is amended to read:

296 **58-31b-302. Qualifications for licensure or certification -- Criminal background**  
297 **checks.**

298 (1) An applicant for certification as a certified nurse aide or certified medication aide  
299 shall:

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

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

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

303 (d) be in a condition of physical and mental health that will permit the applicant to  
304 practice safely as a certified nurse or medication aide;

305 (e) have completed an approved education program or an equivalent as determined by  
306 the division in collaboration with the board;

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

309 (g) meet with the board, if requested, to determine the applicant's qualifications for  
310 certification.

311 [~~1~~] (2) An applicant for licensure as a licensed practical nurse shall:

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

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

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

315 (d) be in a condition of physical and mental health that will permit the applicant to  
316 practice safely as a licensed practical nurse;

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

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

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

323 [~~2~~] (3) An applicant for licensure as a registered nurse shall:

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

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

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

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

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

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

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

334 [~~3~~] (4) Applicants for licensure as an advanced practice registered nurse shall:

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

- 336 (b) pay to the division a fee determined under Section 63-38-3.2;
- 337 (c) be in a condition of physical and mental health which will allow the applicant to
- 338 practice safely as an advanced practice registered nurse;
- 339 (d) hold a current registered nurse license in good standing issued by the state or be
- 340 qualified at the time for licensure as a registered nurse;
- 341 (e) have earned a graduate degree in nursing or a related area of specialized knowledge
- 342 as determined appropriate by the division in collaboration with the board;
- 343 (f) have completed course work in patient assessment, diagnosis and treatment, and
- 344 pharmacotherapeutics from an education program approved by the division in collaboration
- 345 with the board;
- 346 (g) have successfully completed clinical practice in psychiatric and mental health
- 347 nursing, including psychotherapy as defined by division rule, after completion of the masters
- 348 degree required for licensure, to practice within the psychiatric and mental health nursing
- 349 specialty;
- 350 (h) have passed the examinations as required by division rule made in collaboration
- 351 with the board;
- 352 (i) be currently certified by a program approved by the division in collaboration with
- 353 the board and submit evidence satisfactory to the division of the certification; and
- 354 (j) meet with the board, if requested, to determine the applicant's qualifications for
- 355 licensure.

356 [~~4~~] 5 An applicant for licensure as a certified registered nurse anesthetist shall:

- 357 (a) submit to the division an application on a form prescribed by the division;
- 358 (b) pay to the division a fee determined under Section 63-38-3.2;
- 359 (c) be in a condition of physical and mental health which will allow the applicant to
- 360 practice safely as a certified registered nurse anesthetist;
- 361 (d) hold a current registered nurse license in good standing issued by the state or be
- 362 qualified at the time for licensure as a registered nurse;
- 363 (e) complete a nurse anesthesia program which is approved by the Council on
- 364 Accreditation of Nurse Anesthesia Educational Programs;
- 365 (f) be currently certified by a program approved by the division in collaboration with
- 366 the board and submit evidence satisfactory to the division of the certification; and

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

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

370 [~~(a) submit an application in a form prescribed by the division;~~]

371 [~~(b) pay a fee determined by the department under Section 63-38-3.2;~~]

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

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

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

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

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

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

390 (7) For purposes of conducting the criminal background checks required in Subsection  
391 (6), the division shall have direct access to criminal background information maintained  
392 pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

393 (8) (a) Any new nurse license or [~~health care assistant registration~~] certification issued  
394 under this section shall be conditional, pending completion of the criminal background check.  
395 If the criminal background check discloses the applicant has failed to accurately disclose a  
396 criminal history, the license or [~~registration~~] certification shall be immediately and  
397 automatically revoked.

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

402 Section 7. Section **58-31b-303** is amended to read:

403 **58-31b-303. Qualifications for licensure -- Graduates of nonapproved nursing**  
404 **programs.**

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

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

409 (a) meet all requirements of Subsection 58-31b-302[~~(1)~~] (2), except Subsection [~~(1)~~]  
410 (2)(e); and

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

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

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

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

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

423 Section 8. Section **58-31b-304** is amended to read:

424 **58-31b-304. Qualifications for admission to the examinations.**

425 (1) To be admitted to the examinations required for certification as a certified  
426 medication aide or certified nurse aide, a person shall:

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

428 (b) pay a fee as determined by the division under Section 63-38-3.2; and

429 (c) meet all requirements of Subsection 58-31b-302(1) except the passing of the  
 430 examination.

431 ~~[(1)]~~ (2) To be admitted to the examinations required for licensure as a practical nurse,  
 432 a person shall:

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

434 (b) pay a fee as determined by the division under Section 63-38-3.2; and

435 (c) meet all requirements of Subsection 58-31b-302~~[(1)]~~(2), except Subsection ~~[(1)]~~  
 436 ~~(2)~~(f).

437 ~~[(2)]~~ (3) To be admitted to the examinations required for licensure as a registered  
 438 nurse, a person shall:

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

440 (b) pay a fee as determined by the division under Section 63-38-3.2; and

441 (c) meet all the requirements of Subsection 58-31b-302~~[(2)]~~(3), except Subsection ~~[(2)]~~  
 442 ~~(3)~~(f).

443 Section 9. Section **58-31b-305** is amended to read:

444 **58-31b-305. Term of license -- Expiration -- Renewal.**

445 (1) The division shall issue each license or certification under this chapter in  
 446 accordance with a two-year renewal cycle established by rule. The division may by rule extend  
 447 or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

448 (2) At the time of renewal, the licensee shall show satisfactory evidence of each of the  
 449 following renewal requirements:

450 (a) complete and submit an application for renewal in a form prescribed by the division  
 451 and pay the renewal fee determined under Section 63-38-3.2; and

452 (b) meet continuing competency requirements as established by rule.

453 (3) In addition to the renewal requirements under Subsection (2), a person licensed as a  
 454 advanced practice registered nurse shall be currently certified by a program approved by the  
 455 division in collaboration with the board and submit evidence satisfactory to the division of that  
 456 qualification or if licensed prior to July 1, 1992, meet the requirements established by rule.

457 (4) In addition to the renewal requirements under Subsection (2), a person licensed as a  
 458 certified registered nurse anesthetist shall be currently certified in anesthesia by a program  
 459 approved by the division in collaboration with the board and submit evidence satisfactory to

460 the division of the certification.

461 (5) Each license automatically expires on the expiration date shown on the license  
462 unless renewed in accordance with Section 58-1-308.

463 Section 10. Section **58-31b-307** is amended to read:

464 **58-31b-307. Licensure by endorsement.**

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

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

470 (2) demonstrate that the applicant has completed course work as required in Subsection  
471 58-31b-302[~~(3)~~] (4)(f).

472 Section 11. Section **58-31b-308** is amended to read:

473 **58-31b-308. Exemptions from licensure or certification.**

474 (1) In addition to the exemptions from licensure in Section 58-1-307, the following  
475 persons may engage in acts included within the definition of the practice of nursing, subject to  
476 the stated circumstances and limitations, without being licensed under this chapter:

477 (a) friends, family members, foster parents, or legal guardians of a patient performing  
478 gratuitous nursing care for the patient;

479 (b) persons providing care in a medical emergency;

480 (c) persons engaged in the practice of religious tenets of a church or religious  
481 denomination; and

482 (d) after July 1, 2000, a person licensed to practice nursing by a jurisdiction that has  
483 joined the Nurse Licensure Compact to the extent permitted by Section 58-31c-102.

484 (2) Notwithstanding Subsection (1)(d), the division may, in accordance with Section  
485 58-31c-102, limit or revoke practice privileges in this state of a person licensed to practice  
486 nursing by a jurisdiction that has joined the Nurse Licensing Compact.

487 (3) In addition to the exemptions from licensure under Section 58-1-307, the following  
488 individuals may engage in acts or practices included in the practice of a [~~health care assistant~~]  
489 certified medication aide or certified nurse aide, within the stated limitations, without being  
490 [~~registered~~] certified under this chapter:

- 491 (a) an individual providing gratuitous care for another individual;
- 492 (b) a volunteer, whether or not he receives token compensation other than salary or  
493 wages:
- 494 (i) in programs sponsored or authorized by federal Public Law 93-113; or
- 495 (ii) at any [~~regulated~~] facility regulated by the Department of Health pursuant to Title  
496 26, Chapter 21, Facility Licensing and Inspection Act, or in a long-term care facility; and
- 497 (c) individuals providing:
- 498 (i) services generally considered independent living activities such as preparing meals,  
499 shopping for personal items or groceries, managing money, using the telephone, performing  
500 housekeeping, and other similar activities not involving direct personal assistance and care as  
501 the division may define by rule; and
- 502 (ii) child day care or baby-sitting, whether or not the services are subject to licensure  
503 under Title 26, Chapter 39, Utah Child Care Licensing Act;
- 504 (d) an individual employed on an intermittent basis to provide a specified limited  
505 period of care for an adult or child with disabilities needing regular daily care, in order to allow  
506 the relative or other person who is the adult or child's regular and unpaid caretaker respite from  
507 his or her caregiver duties regarding the adult or child; or
- 508 (e) notwithstanding Subsection 58-31b-102(11) an individual employed by another  
509 person who is self directing his personal care in his private residence.

510 Section 12. Section **58-31b-401** is amended to read:

511 **58-31b-401. Grounds for denial of licensure or certification and disciplinary**  
512 **proceedings.**

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

517 (2) If a court of competent jurisdiction determines a nurse or [~~health care assistant~~]  
518 certified aide is an incapacitated person as defined in Section 75-1-201 or that he is mentally ill  
519 as defined in Section 62A-15-602, and unable to safely engage in the practice of nursing or the  
520 practice of a [~~health care assistant~~] certified aide, the director shall immediately suspend the  
521 license of the nurse or [~~health care assistant~~] certified aide upon the entry of the judgment of

522 the court, without further proceedings under Title 63, Chapter 46b, Administrative Procedures  
523 Act, regardless of whether an appeal from the court's ruling is pending. The director shall  
524 promptly notify the nurse or [~~health care assistant~~] certified aide, in writing, of the suspension.

525 (3) (a) If the division and the majority of the board find reasonable cause to believe a  
526 nurse or [~~health care assistant~~] certified aide, who is not determined judicially to be an  
527 incapacitated person or to be mentally ill, is incapable of practicing nursing or [~~the practice of a~~  
528 ~~health care assistant~~] certified aide with reasonable skill regarding the safety of patients,  
529 because of illness, excessive use of drugs or alcohol, or as a result of any mental or physical  
530 condition, the board shall recommend that the director file a petition with the division, and  
531 cause the petition to be served upon the nurse or [~~health care assistant~~] certified aide with a  
532 notice of hearing on the sole issue of the capacity of the nurse or [~~health care assistant~~] certified  
533 aide to competently, safely engage in the practice of nursing or the practice of a [~~health care~~  
534 ~~assistant~~] certified aide.

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

537 (4) (a) Every nurse or [~~health care assistant~~] certified aide who accepts the privilege of  
538 being licensed under this chapter gives consent to:

539 (i) submitting to an immediate mental or physical examination, at the nurse's or [~~health~~  
540 ~~care assistant's~~] certified aide's expense and by a division-approved practitioner selected by the  
541 nurse or [~~health care assistant~~] certified aide, when directed in writing by the division and a  
542 majority of the board to do so; and

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

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

548 (i) the nurse or [~~health care assistant~~] certified aide is mentally ill or incapacitated or  
549 otherwise unable to practice nursing or [~~health care assistance~~] certified aide with reasonable  
550 skill and safety; and

551 (ii) immediate action by the division and the board is necessary to prevent harm to the  
552 nurse's or [~~health care assistant's~~] certified aide's patients or the general public.

553 (c) (i) Failure of a nurse or [~~health care assistant~~] certified aide to submit to the  
554 examination ordered under this section is a ground for the division's immediate suspension of  
555 the nurse's or [~~health care assistant's~~] certified aide's license by written order of the director.

556 (ii) The division may enter the order of suspension without further compliance with  
557 Title 63, Chapter 46b, Administrative Procedures Act, unless the division finds the failure to  
558 submit to the examination ordered under this section was due to circumstances beyond the  
559 control of the nurse or [~~health care assistant~~] certified aide and was not related directly to the  
560 illness or incapacity of the nurse or [~~health care assistant~~] certified aide.

561 (5) (a) A nurse or [~~health care assistant~~] certified aide whose license is suspended  
562 under Subsection (2), (3), or (4)(c) has the right to a hearing to appeal the suspension within ten  
563 days after the license is suspended.

564 (b) The hearing held under this Subsection (5) shall be conducted in accordance with  
565 Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists  
566 for the continuance of the order of suspension in order to prevent harm to the nurse's or [~~health  
567 care assistant's~~] certified aide's patients or the general public.

568 (6) A nurse or [~~health care assistant~~] certified aide whose license is revoked,  
569 suspended, or in any way restricted under this section may request the division and the board to  
570 consider, at reasonable intervals, evidence presented by the nurse or [~~health care assistant~~]  
571 certified medication aide, under procedures established by division rule, regarding any change  
572 in the nurse's or [~~health care assistant's~~] certified aide's condition, to determine whether:

573 (a) he is or is not able to safely and competently engage in the practice of nursing or the  
574 practice of a [~~health care assistant~~] certified aide; and

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

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

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

583 Section 13. Section **58-31b-501** is amended to read:

584 **58-31b-501. Unlawful conduct.**

585 (1) "Unlawful conduct" includes:

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

587 under this chapter:

588 (i) nurse;

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

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

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

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

593 (vi) registered psychiatric mental health nurse specialist;

594 (vii) advanced practice registered nurse;

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

596 or C.R.N.A.; or

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

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

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

600 chapter; and

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

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

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

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

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

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

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

608 ~~Occupations and Professions.]~~

609 ~~[(b) If any issue is raised regarding a title under this section, the division shall~~

610 ~~determine if the title may be used for health care assistants.]~~

611 (2) An individual certified as a certified medication aide under this chapter may use the

612 title "certified medication aide" or the initials "CMA" to designate his training.

613 (3) An individual certified as a certified nurse aide under this chapter may use the title

614 "certified nurse aide" or the initials "CNA" to designate the individuals training.

615 Section 14. Section **58-31b-502** is amended to read:

616 **58-31b-502. Unprofessional conduct.**

617 "Unprofessional conduct" includes:

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

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

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

626 (a) period when a generally recognized professional relationship exists between the  
627 nurse or care provider and the patient; or

628 (b) extended period when a patient has reasonable cause to believe a professional  
629 relationship exists between the nurse or care provider and the patient;

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

633 (b) exploiting the patient by use of the licensee's knowledge of the patient obtained  
634 while acting as a nurse or certified aide;

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

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

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

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

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

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

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

646 person to practice as a nurse;

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

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

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

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

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

656 (17) administering medications as a certified medication aide that are not allowed by  
657 formulary or protocol to be administered by a certified medication aide.

658 Section 15. Section **58-31b-503** is amended to read:

659 **58-31b-503. Penalty for unlawful conduct.**

660 (1) Any person who violates the unlawful conduct provision specifically defined in  
661 Subsection 58-1-501(1)(a)(i) is guilty of a third degree felony.

662 (2) Any person who violates any of the unlawful conduct provisions specifically  
663 defined in Subsections 58-1-501(1)(a)[~~(ii)~~] through [~~(v)~~] (e) and 58-31b-501(1)(c) is guilty of a  
664 class A misdemeanor.

665 (3) Any person who violates any of the unlawful conduct provisions specifically  
666 defined in this chapter and not set forth in Subsection (1) or (2) is guilty of a class B  
667 misdemeanor.

668 (4) Subject to Subsection (5), the division may assess administrative penalties in  
669 accordance with the provisions of Section 58-31b-402 for acts of unprofessional or unlawful  
670 conduct or any other appropriate administrative action in accordance with the provisions of  
671 Section 58-31b-401.

672 (5) If a licensee or certified aide has been convicted of violating Section 58-31b-501  
673 prior to an administrative finding of a violation of the same section, the [~~licensee~~] person may  
674 not be assessed an administrative penalty under this chapter for the same offense for which the  
675 conviction was obtained.

676 Section 16. Section **58-31b-601** is amended to read:

677           **58-31b-601. Minimum standards for nursing programs and certification training**  
678 **programs.**

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

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

683           (3) The division shall establish by rule the minimum standards a certified medication  
684 aide training program or certified nurse aide program must meet to qualify a person for  
685 certification under this chapter as a certified medication aide.

686           Section 17. Section **58-31b-701** is amended to read:

687           **58-31b-701. Immunity from liability.**

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

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

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

694           Section 18. Section **63-55b-158** is enacted to read:

695           **63-55b-158. Repeal dates -- Title 58.**

696           Section 58-31b-301.6, Certified Medication Aide Pilot Program, is repealed May 15,  
697 2008.

698           Section 19. **Repealer.**

699           This bill repeals:

700           Section **58-31b-308.5, Health care assistant registration -- Temporary employment**  
701 **prior to registration.**

702           Section 20. **Coordinating H.B. 127 with H.B. 70.**

703           If this H.B. 127 and H.B. 70, Geriatric Care Managers, both pass, it is the intent of the  
704 Legislature that:

705           (1) Subsection 58-31b-102(14)(a) shall read:

706           "(14) (a) "Practice as a certified nurse aide" means the limited practice of nursing  
707 involving routine patient care that requires minimal or limited specialized or general

708 knowledge, judgment, and skill, to an individual who is ill, injured, infirm, developmentally or  
709 physically disabled, mentally disabled, or mentally retarded, and who is in a regulated facility  
710 under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, or in a  
711 long-term care facility.";

712 (2) the amendments to Subsection 58-31b-302(8) in this H.B. 127 supercede the  
713 amendments to Subsection 58-31b-302(8) in H.B. 70; and

714 (3) the amendments to Section 58-31b-401 in this H.B. 127 supercede the amendments  
715 to Section 58-31b-401 in H.B. 70.