

Senator Curtis S. Bramble proposes the following substitute bill:

DIVISION OF OCCUPATIONAL AND PROFESSIONAL

LICENSING AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill modifies provisions related to the Division of Occupational and Professional Licensing (the division).

Highlighted Provisions:

This bill:

- ▶ modifies the division's administrative fine authority;
- ▶ modifies the division's authority to grant a license by endorsement;
- ▶ modifies the responsibilities of the Uniform Building Code Commission;
- ▶ modifies the division's licensing fees for active duty personnel;
- ▶ modifies licensing regulations during disasters;
- ▶ removes good moral character provisions for many licensed professions;
- ▶ modifies provisions concerning the licensing requirements for certain cosmetology related professions;
- ▶ modifies the division's required uses of surcharges for certain professions;
- ▶ modifies background check provisions for certain medical professions and for licensed security guards;
- ▶ modifies provisions related to the health facility administrator license;



- 26 ▶ modifies the citation authority of the division;
- 27 ▶ modifies pharmacy notification requirements;
- 28 ▶ modifies provisions related to prelitigation panels under the Utah Health Care
- 29 Malpractice Act;
- 30 ▶ modifies provisions related to disclosing information from the controlled substance
- 31 database in criminal proceedings;
- 32 ▶ modifies provisions related to unprofessional and unlawful conduct for professions
- 33 regulated by the division; and
- 34 ▶ makes technical and conforming changes.

35 **Money Appropriated in this Bill:**

36 None

37 **Other Special Clauses:**

38 None

39 **Utah Code Sections Affected:**

40 AMENDS:

- 41 **15A-1-203**, as last amended by Laws of Utah 2019, Chapters 20 and 119
- 42 **38-11-102**, as last amended by Laws of Utah 2018, Chapter 229
- 43 **58-1-301.3**, as enacted by Laws of Utah 2018, Chapter 331
- 44 **58-1-301.5**, as last amended by Laws of Utah 2018, Chapter 318
- 45 **58-1-301.7**, as last amended by Laws of Utah 2013, Chapter 262
- 46 **58-1-302**, as last amended by Laws of Utah 2019, Chapter 215
- 47 **58-1-307**, as last amended by Laws of Utah 2019, Chapters 136 and 349
- 48 **58-1-501**, as last amended by Laws of Utah 2019, Chapter 198
- 49 **58-1-502**, as last amended by Laws of Utah 2018, Chapter 318
- 50 **58-3a-105**, as enacted by Laws of Utah 2019, Chapter 215
- 51 **58-3a-302**, as last amended by Laws of Utah 2009, Chapter 183
- 52 **58-3a-304**, as last amended by Laws of Utah 2016, Chapter 268
- 53 **58-3a-502**, as last amended by Laws of Utah 2018, Chapter 318
- 54 **58-5a-302**, as last amended by Laws of Utah 2017, Chapter 244
- 55 **58-11a-102**, as last amended by Laws of Utah 2017, Chapters 215 and 342
- 56 **58-11a-302**, as last amended by Laws of Utah 2018, Chapters 415 and 445

- 57 [58-11a-304](#), as last amended by Laws of Utah 2018, Chapter 318
- 58 [58-11a-306](#), as last amended by Laws of Utah 2018, Chapter 318
- 59 [58-11a-502](#), as last amended by Laws of Utah 2016, Chapters 249 and 274
- 60 [58-11a-503](#), as last amended by Laws of Utah 2018, Chapter 318
- 61 [58-15-11](#), as last amended by Laws of Utah 1993, Chapter 297
- 62 [58-16a-102](#), as last amended by Laws of Utah 2012, Chapters 256 and 362
- 63 [58-16a-302](#), as last amended by Laws of Utah 2016, Chapter 238
- 64 [58-16a-501](#), as last amended by Laws of Utah 2012, Chapter 256
- 65 [58-16a-503](#), as last amended by Laws of Utah 2000, Chapter 160
- 66 [58-17b-303](#), as last amended by Laws of Utah 2012, Chapter 93
- 67 [58-17b-304](#), as last amended by Laws of Utah 2013, Chapter 166
- 68 [58-17b-305](#), as last amended by Laws of Utah 2013, Chapter 166
- 69 [58-17b-305.1](#), as enacted by Laws of Utah 2014, Chapter 385
- 70 [58-17b-308](#), as last amended by Laws of Utah 2017, Chapter 384
- 71 [58-17b-504](#), as last amended by Laws of Utah 2018, Chapter 318
- 72 [58-17b-614](#), as last amended by Laws of Utah 2007, Chapter 279
- 73 [58-20b-302](#), as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
- 74 [58-22-102](#), as last amended by Laws of Utah 2017, Chapter 218
- 75 [58-22-104](#), as enacted by Laws of Utah 2019, Chapter 215
- 76 [58-22-302](#), as last amended by Laws of Utah 2017, Chapter 382
- 77 [58-22-305](#), as last amended by Laws of Utah 2013, Chapter 262
- 78 [58-22-503](#), as last amended by Laws of Utah 2018, Chapter 318
- 79 [58-24b-302](#), as last amended by Laws of Utah 2019, Chapter 101
- 80 [58-26a-302](#), as last amended by Laws of Utah 2017, Chapter 229
- 81 [58-26a-305](#), as last amended by Laws of Utah 2008, Chapter 265
- 82 [58-26a-306](#), as last amended by Laws of Utah 2019, Chapter 122
- 83 [58-28-301](#), as enacted by Laws of Utah 2006, Chapter 109
- 84 [58-28-302](#), as last amended by Laws of Utah 2009, Chapter 183
- 85 [58-28-304](#), as renumbered and amended by Laws of Utah 2006, Chapter 109
- 86 [58-31b-503](#), as last amended by Laws of Utah 2018, Chapter 318
- 87 [58-31b-803](#), as last amended by Laws of Utah 2019, Chapter 233

- 88 [58-37f-203](#), as last amended by Laws of Utah 2019, Chapter 59
- 89 [58-37f-301](#), as last amended by Laws of Utah 2018, Chapter 123
- 90 [58-37f-302](#), as enacted by Laws of Utah 2010, Chapter 287
- 91 [58-37f-303](#), as enacted by Laws of Utah 2016, Chapter 112
- 92 [58-40-302](#), as last amended by Laws of Utah 2015, Chapter 77
- 93 [58-40-501](#), as enacted by Laws of Utah 2012, Chapter 82
- 94 [58-41-5](#), as last amended by Laws of Utah 2010, Chapter 397
- 95 [58-42a-302](#), as last amended by Laws of Utah 2015, Chapters 28, 432 and last amended
- 96 by Coordination Clause, Laws of Utah 2015, Chapter 28
- 97 [58-42a-501](#), as repealed and reenacted by Laws of Utah 2015, Chapter 432
- 98 [58-46a-302](#), as last amended by Laws of Utah 2013, Chapter 87
- 99 [58-47b-302](#), as last amended by Laws of Utah 2009, Chapter 183
- 100 [58-49-4](#), as last amended by Laws of Utah 1989, Chapter 225
- 101 [58-49-5](#), as enacted by Laws of Utah 1986, Chapter 192
- 102 [58-49-9](#), as enacted by Laws of Utah 1986, Chapter 192
- 103 [58-53-502](#), as last amended by Laws of Utah 2018, Chapter 318
- 104 [58-54-302](#), as last amended by Laws of Utah 2012, Chapter 369
- 105 [58-55-103](#), as last amended by Laws of Utah 2016, Chapter 25
- 106 [58-55-106](#), as enacted by Laws of Utah 2019, Chapter 215
- 107 [58-55-302](#), as last amended by Laws of Utah 2019, Chapter 215
- 108 [58-55-305](#), as last amended by Laws of Utah 2019, Chapters 136 and 215
- 109 [58-55-308](#), as last amended by Laws of Utah 2019, Chapter 340
- 110 [58-55-401](#), as last amended by Laws of Utah 2011, Chapter 413
- 111 [58-55-501](#), as last amended by Laws of Utah 2018, Chapter 318
- 112 [58-55-503](#), as last amended by Laws of Utah 2018, Chapter 318
- 113 [58-56-9.5](#), as last amended by Laws of Utah 2018, Chapters 229 and 318
- 114 [58-57-4](#), as last amended by Laws of Utah 2009, Chapter 183
- 115 [58-60-109](#), as last amended by Laws of Utah 2015, Chapter 323
- 116 [58-60-115](#), as last amended by Laws of Utah 2012, Chapter 179
- 117 [58-60-117](#), as last amended by Laws of Utah 2018, Chapter 318
- 118 [58-60-205](#), as last amended by Laws of Utah 2019, Chapter 393

- 119 **58-60-207**, as last amended by Laws of Utah 2019, Chapter 393
- 120 **58-60-305.5**, as last amended by Laws of Utah 2009, Chapter 183
- 121 **58-60-305**, as last amended by Laws of Utah 2019, Chapter 393
- 122 **58-60-308**, as last amended by Laws of Utah 2019, Chapter 393
- 123 **58-60-405**, as last amended by Laws of Utah 2015, Chapter 77
- 124 **58-60-407**, as last amended by Laws of Utah 2019, Chapter 393
- 125 **58-60-506**, as last amended by Laws of Utah 2015, Chapter 77
- 126 **58-61-304**, as last amended by Laws of Utah 2013, Chapters 16 and 262
- 127 **58-61-501**, as last amended by Laws of Utah 2001, Chapter 281
- 128 **58-61-704**, as enacted by Laws of Utah 2015, Chapter 367
- 129 **58-61-705**, as enacted by Laws of Utah 2015, Chapter 367
- 130 **58-63-302**, as last amended by Laws of Utah 2018, Chapter 177
- 131 **58-63-306**, as last amended by Laws of Utah 2008, Chapter 246
- 132 **58-63-503**, as last amended by Laws of Utah 2018, Chapter 318
- 133 **58-64-302**, as last amended by Laws of Utah 2016, Chapter 201
- 134 **58-67-503**, as last amended by Laws of Utah 2018, Chapter 318
- 135 **58-67-302**, as last amended by Laws of Utah 2019, Chapter 445
- 136 **58-67-302.5**, as last amended by Laws of Utah 2019, Chapter 445
- 137 **58-67-302.7**, as last amended by Laws of Utah 2018, Chapter 318
- 138 **58-67-302.8**, as last amended by Laws of Utah 2018, Chapter 318
- 139 **58-67-304**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 140 **58-67-403**, as last amended by Laws of Utah 2018, Chapter 318
- 141 **58-68-302**, as last amended by Laws of Utah 2019, Chapter 445
- 142 **58-68-302.5**, as last amended by Laws of Utah 2018, Chapter 318
- 143 **58-68-304**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 144 **58-68-403**, as last amended by Laws of Utah 2018, Chapter 318
- 145 **58-68-503**, as last amended by Laws of Utah 2018, Chapter 318
- 146 **58-69-302**, as last amended by Laws of Utah 2018, Chapter 66
- 147 **58-70a-302**, as last amended by Laws of Utah 2017, Chapter 309
- 148 **58-70a-306**, as last amended by Laws of Utah 2010, Chapter 37
- 149 **58-71-302**, as last amended by Laws of Utah 2009, Chapter 183

- 150 [58-72-302](#), as last amended by Laws of Utah 2019, Chapter 485
- 151 [58-73-302](#), as last amended by Laws of Utah 2009, Chapter 183
- 152 [58-74-102](#), as last amended by Laws of Utah 2019, Chapter 379
- 153 [58-74-302](#), as last amended by Laws of Utah 2019, Chapter 379
- 154 [58-75-302](#), as last amended by Laws of Utah 2009, Chapter 183
- 155 [58-76-302](#), as last amended by Laws of Utah 2009, Chapter 183
- 156 [58-76-502](#), as last amended by Laws of Utah 2018, Chapter 318
- 157 [58-77-302](#), as last amended by Laws of Utah 2009, Chapter 183
- 158 [58-78-302](#), as last amended by Laws of Utah 2011, Chapter 367
- 159 [58-79-302](#), as enacted by Laws of Utah 2009, Chapter 52
- 160 [58-84-201](#), as enacted by Laws of Utah 2014, Chapter 340
- 161 [58-86-202](#), as enacted by Laws of Utah 2016, Chapter 294
- 162 [58-86-302](#), as enacted by Laws of Utah 2016, Chapter 294
- 163 [63G-2-305](#), as last amended by Laws of Utah 2019, Chapters 128, 193, 244, and 277
- 164 [78B-3-416](#), as last amended by Laws of Utah 2018, Chapter 318

165 ENACTS:

166 [58-61-304.1](#), Utah Code Annotated 1953

167

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

169 Section 1. Section **15A-1-203** is amended to read:

170 **15A-1-203. Uniform Building Code Commission -- Unified Code Analysis**

171 **Council.**

172 (1) There is created a Uniform Building Code Commission to advise the division with
173 respect to the division's responsibilities in administering the codes.

174 (2) The commission shall consist of 11 members as follows:

175 (a) one member shall be from among candidates nominated by the Utah League of
176 Cities and Towns and the Utah Association of Counties;

177 (b) one member shall be a licensed building inspector employed by a political
178 subdivision of the state;

179 (c) one member shall be a licensed professional engineer;

180 (d) one member shall be a licensed architect;

181 (e) one member shall be a fire official;

182 (f) three members shall be contractors licensed by the state, of which one shall be a
183 general contractor, one an electrical contractor, and one a plumbing contractor;

184 (g) two members shall be from the general public and have no affiliation with the
185 construction industry or real estate development industry; and

186 (h) one member shall be from the Division of Facilities Construction and Management
187 of the Department of Administrative Services.

188 (3) (a) The executive director shall appoint each commission member after submitting
189 a nomination to the governor for confirmation or rejection.

190 (b) If the governor rejects a nominee, the executive director shall submit an alternative
191 nominee until the governor confirms the nomination. An appointment is effective after the
192 governor confirms the nomination.

193 (4) (a) Except as required by Subsection (4)(b), as terms of commission members
194 expire, the executive director shall appoint each new commission member or reappointed
195 commission member to a four-year term.

196 (b) Notwithstanding the requirements of Subsection (4)(a), the executive director shall,
197 at the time of appointment or reappointment, adjust the length of terms to ensure that the terms
198 of commission members are staggered so that approximately half of the commission is
199 appointed every two years.

200 (5) When a vacancy occurs in the commission membership for any reason, the
201 executive director shall appoint a replacement for the unexpired term.

202 (6) (a) A commission member may not serve more than two full terms.

203 (b) A commission member who ceases to serve may not again serve on the commission
204 until after the expiration of two years after the day on which service ceased.

205 (7) A majority of the commission members constitute a quorum and may act on behalf
206 of the commission.

207 (8) A commission member may not receive compensation or benefits for the
208 commission member's service, but may receive per diem and travel expenses in accordance
209 with:

210 (a) Section [63A-3-106](#);

211 (b) Section [63A-3-107](#); and

212 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
213 63A-3-107.

214 (9) (a) The commission shall annually designate one of the commission's members to
215 serve as chair of the commission.

216 (b) The division shall provide a secretary to facilitate the function of the commission
217 and to record the commission's actions and recommendations.

218 (10) The commission shall:

219 (a) in accordance with Section 15A-1-204, report to the Business and Labor Interim
220 Committee;

221 ~~[(b) offer an opinion regarding the interpretation of or the application of a code if a~~
222 ~~person submits a request for an opinion;]~~

223 ~~[(e)]~~ (b) act as an appeals board as provided in Section 15A-1-207;

224 ~~[(d)]~~ (c) establish advisory peer committees on either a standing or ad hoc basis to
225 advise the commission with respect to matters related to a code, including a committee to
226 advise the commission regarding health matters related to a plumbing code; and

227 ~~[(e)]~~ (d) assist the division in overseeing code-related training in accordance with
228 Section 15A-1-209.

229 ~~[(11) A person requesting an opinion under Subsection (10)(b) shall submit a formal~~
230 ~~request clearly stating:]~~

231 ~~[(a) the facts in question;]~~

232 ~~[(b) the specific citation at issue in a code; and]~~

233 ~~[(c) the position taken by the persons involved in the facts in question.]~~

234 ~~[(12)]~~ (11) (a) In a manner consistent with Subsection ~~[(10)(d)]~~ (10)(c), the
235 commission shall jointly create with the Utah Fire Prevention Board an advisory peer
236 committee known as the "Unified Code Analysis Council" to review fire prevention and
237 construction code issues that require definitive and specific analysis.

238 (b) The commission and Utah Fire Prevention Board shall jointly, by rule made in
239 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for:

240 (i) the appointment of members to the Unified Code Analysis Council; and

241 (ii) procedures followed by the Unified Code Analysis Council.

242 Section 2. Section 38-11-102 is amended to read:

243 **38-11-102. Definitions.**

244 (1) "Board" means the Residence Lien Recovery Fund Advisory Board established
245 under Section 38-11-104.

246 (2) "Certificate of compliance" means an order issued by the director to the owner
247 finding that the owner is in compliance with the requirements of Subsections 38-11-204(4)(a)
248 and (4)(b) and is entitled to protection under Section 38-11-107.

249 (3) "Construction on an owner-occupied residence" means designing, engineering,
250 constructing, altering, remodeling, improving, repairing, or maintaining a new or existing
251 residence.

252 (4) "Department" means the Department of Commerce.

253 (5) "Director" means the director of the Division of Occupational and Professional
254 Licensing or the director's designee.

255 (6) "Division" means the Division of Occupational and Professional Licensing.

256 (7) "Duplex" means a single building having two separate living units.

257 (8) "Encumbered fund balance" means the aggregate amount of outstanding claims
258 against the fund. The remainder of the money in the fund is unencumbered funds.

259 (9) "Executive director" means the executive director of the Department of Commerce.

260 (10) "Factory built housing" is as defined in Section 15A-1-302.

261 (11) "Factory built housing retailer" means a person that sells factory built housing to
262 consumers.

263 (12) "Fund" means the Residence Lien Recovery Fund established under Section
264 38-11-201.

265 (13) "Laborer" means a person who provides services at the site of the construction on
266 an owner-occupied residence as an employee of an original contractor or other qualified
267 beneficiary performing qualified services on the residence.

268 (14) "Licensee" means any holder of a license issued under Title 58, Chapter 3a,
269 Architects Licensing Act; Chapter 22, Professional Engineers and Professional Land Surveyors
270 Licensing Act; Chapter 53, Landscape Architects Licensing Act; and Chapter 55, Utah
271 Construction Trades Licensing Act.

272 (15) "Nonpaying party" means the original contractor, subcontractor, or real estate
273 developer who has failed to pay the qualified beneficiary making a claim against the fund.

274 (16) "Original contractor" means a person who contracts with the owner of real
275 property or the owner's agent to provide services, labor, or material for the construction of an
276 owner-occupied residence.

277 (17) "Owner" means a person who:

278 (a) contracts with a person who is licensed as a contractor or is exempt from licensure
279 under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction on an
280 owner-occupied residence upon real property that the person:

281 (i) owns; or

282 (ii) purchases after the person enters into a contract described in this Subsection (17)(a)
283 and before completion of the owner-occupied residence;

284 (b) contracts with a real estate developer to buy a residence upon completion of the
285 construction on the owner-occupied residence; or

286 (c) purchases a residence from a real estate developer after completion of the
287 construction on the owner-occupied residence.

288 (18) "Owner-occupied residence" means a residence that is, or after completion of the
289 construction on the residence will be, occupied by the owner or the owner's tenant or lessee as a
290 primary or secondary residence within 180 days after the day on which the construction on the
291 residence is complete.

292 (19) "Qualified beneficiary" means a person who:

293 (a) provides qualified services;

294 (b) pays necessary fees required under this chapter; and

295 (c) registers with the division:

296 (i) as a licensed contractor under Subsection 38-11-301(1) or (2), if that person seeks
297 recovery from the fund as a licensed contractor; or

298 (ii) as a person providing qualified services other than as a licensed contractor under
299 Subsection 38-11-301(3) if the person seeks recovery from the fund in a capacity other than as
300 a licensed contractor.

301 (20) (a) "Qualified services" means the following performed in construction on an
302 owner-occupied residence:

303 (i) contractor services provided by a contractor licensed or exempt from licensure
304 under Title 58, Chapter 55, Utah Construction Trades Licensing Act;

305 (ii) architectural services provided by an architect licensed under Title 58, Chapter 3a,
306 Architects Licensing Act;

307 (iii) engineering and land surveying services provided by a professional engineer or
308 land surveyor licensed or exempt from licensure under Title 58, Chapter 22, Professional
309 Engineers and Professional Land Surveyors Licensing Act;

310 (iv) landscape architectural services by a landscape architect licensed or exempt from
311 licensure under Title 58, Chapter 53, Landscape Architects Licensing Act;

312 (v) design and specification services of mechanical or other systems;

313 (vi) other services related to the design, drawing, surveying, specification, cost
314 estimation, or other like professional services;

315 (vii) providing materials, supplies, components, or similar products;

316 (viii) renting equipment or materials;

317 (ix) labor at the site of the construction on the owner-occupied residence; and

318 (x) site preparation, set up, and installation of factory built housing.

319 (b) "Qualified services" does not include the construction of factory built housing in
320 the factory.

321 (21) "Real estate developer" means a person having an ownership interest in real
322 property who:

323 (a) contracts with a person who is licensed as a contractor or is exempt from licensure
324 under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction of a
325 residence that is offered for sale to the public; or

326 (b) is a licensed contractor under Title 58, Chapter 55, Utah Construction Trades
327 Licensing Act, who engages in the construction of a residence that is offered for sale to the
328 public.

329 (22) (a) "Residence" means an improvement to real property used or occupied, to be
330 used or occupied as, or in conjunction with:

331 (i) a primary or secondary detached single-family dwelling; or

332 (ii) a multifamily dwelling up to and including duplexes.

333 (b) "Residence" includes factory built housing.

334 (23) "Subsequent owner" means a person who purchases a residence from an owner
335 within 180 days after the day on which the construction on the residence is completed.

336 Section 3. Section **58-1-301.3** is amended to read:

337 **58-1-301.3. Waiver of licensing fees.**

338 An individual applying for initial licensure or licensure renewal under this title may
339 apply for initial licensure or licensure renewal without paying the fees described in Subsection
340 **58-1-301(1)** if the applicant provides evidence to the division in a form prescribed by the
341 division that at the time of the application the applicant is:

342 (1) on full-time active service with a branch of the armed forces of the United States,
343 including an applicant who is on full-time active duty orders with the National Guard or
344 reserve component of the armed forces; or

345 (2) receiving public assistance through one of the following programs administered by
346 the Department of Workforce Services:

347 (a) the Family Employment Program described in Section **35A-3-302**; or

348 (b) General Assistance described in Section **35A-3-401**.

349 Section 4. Section **58-1-301.5** is amended to read:

350 **58-1-301.5. Division access to Bureau of Criminal Identification records.**

351 (1) The division shall have direct access to criminal background information
352 maintained by the Bureau of Criminal Identification under Title 53, Chapter 10, Part 2, Bureau
353 of Criminal Identification, for background screening of persons who are applying for licensure,
354 licensure renewal, licensure reinstatement, or relicensure, as required in:

355 (a) Section **58-17b-307** of Title 58, Chapter 17b, Pharmacy Practice Act;

356 (b) Sections **58-24b-302** and **58-24b-302.1** of Title 58, Chapter 24b, Physical Therapy
357 Practice Act;

358 (c) Section **58-31b-302** of Title 58, Chapter 31b, Nurse Practice Act;

359 (d) Section **58-47b-302** of Title 58, Chapter 47b, Massage Therapy Practice Act;

360 (e) Section **58-55-302** of Title 58, Chapter 55, Utah Construction Trades Licensing
361 Act, as it applies to alarm companies and alarm company agents;

362 (f) Sections **58-61-304** and **58-61-304.1** of Title 58, Chapter 61, Psychologist
363 Licensing Act;

364 [(f)] (g) Section **58-63-302** of Title 58, Chapter 63, Security Personnel Licensing Act;

365 [(g)] (h) Section **58-64-302** of Title 58, Chapter 64, Deception Detection Examiners
366 Licensing Act;

367 ~~(h)~~ (i) Sections 58-67-302 and 58-67-302.1 of Title 58, Chapter 67, Utah Medical
368 Practice Act; and

369 ~~(i)~~ (j) Sections 58-68-302 and 58-68-302.1 of Title 58, Chapter 68, Utah Osteopathic
370 Medical Practice Act.

371 (2) The division's access to criminal background information under this section:

372 (a) shall meet the requirements of Section 53-10-108; and

373 (b) includes convictions, pleas of nolo contendere, pleas of guilty or nolo contendere
374 held in abeyance, dismissed charges, and charges without a known disposition.

375 (3) The division may not disseminate outside of the division any criminal history
376 record information that the division obtains from the Bureau of Criminal Identification or the
377 Federal Bureau of Investigation under the criminal background check requirements of this
378 section.

379 Section 5. Section 58-1-301.7 is amended to read:

380 **58-1-301.7. Change of information.**

381 (1) (a) An applicant, licensee, or certificate holder shall ~~[send the division a signed~~
382 ~~statement, in a form required by the division, notifying]~~ notify the division within 10 business
383 days of a change in mailing address or email address.

384 (b) When providing a mailing address, the individual may provide a post office box or
385 other mail drop location.

386 (c) In addition to providing a mailing address, an applicant, licensee, or certificate
387 holder ~~[may]~~ shall provide to the division, in a form ~~[required]~~ approved by the division, an
388 email address ~~[and may designate email as the preferred method of receiving notifications from~~
389 ~~the division]~~.

390 (2) An applicant, licensee, or certificate holder is considered to have received a
391 notification that has been sent to the most recent:

392 (a) mailing address provided to the division by the applicant, licensee, or certificate
393 holder; or

394 (b) email address furnished to the division by the applicant, licensee, or certificate
395 holder~~[, if email has been designated by the applicant, licensee, or certificate holder as the~~
396 ~~preferred method of receiving notifications from the division]~~.

397 Section 6. Section 58-1-302 is amended to read:

398 **58-1-302. License by endorsement.**

399 (1) Subject to Subsections (2), (3), and (4), the division [may] shall issue a license
400 without examination to a person who has been licensed in a state, district, or territory of the
401 United States [~~or in a foreign country~~] if:

402 [~~(a) the division determines the education, experience, and examination requirements~~
403 ~~of the state, district, or territory of the United States or the foreign country, at the time the~~
404 ~~license was issued, were substantially equal to the current requirements of this state; or]~~

405 [~~(b) after being licensed outside of this state, the person has at least one year of~~
406 ~~experience in the state, district, or territory of the United States where the license was issued;~~
407 ~~and the division determines the person has the education, experience, and skills necessary to~~
408 ~~demonstrate competency in the occupation or profession for which licensure is sought.]~~

409 (a) after being licensed outside of this state, the person has at least one year of
410 experience in the state, district, or territory of the United States where the license was issued;

411 (b) the person's license is in good standing in the state, district, or territory of the
412 United States where the license was issued; and

413 (c) the person has no previous or pending disciplinary actions related to the person's
414 license.

415 (2) (a) The division, in consultation with the applicable licensing board, may make
416 rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
417 prescribing the requirements of Subsection (1).

418 (b) Notwithstanding the provisions of Subsection (1), the division may refuse to issue a
419 license to a person as described in Subsection (1), if the division determines that there is
420 reasonable cause to believe that the person is not qualified to receive a license in this state.

421 (3) Before a [~~resident~~] person may be issued a license under this section, the [~~resident~~]
422 person shall:

423 (a) pay a fee determined by the department under Section 63J-1-504; and

424 (b) produce satisfactory evidence of the [~~resident's~~] person's identity, qualifications,
425 and good standing in the occupation or profession for which licensure is sought.

426 (4) In accordance with Section 58-1-107, licensure endorsement provisions in this
427 section may be supplemented or altered by licensure endorsement provisions or multistate
428 licensure compacts in specific chapters of this title.

429 Section 7. Section **58-1-307** is amended to read:

430 **58-1-307. Exemptions from licensure.**

431 (1) Except as otherwise provided by statute or rule, the following individuals may
432 engage in the practice of their occupation or profession, subject to the stated circumstances and
433 limitations, without being licensed under this title:

434 (a) an individual serving in the armed forces of the United States, the United States
435 Public Health Service, the United States Department of Veterans Affairs, or other federal
436 agencies while engaged in activities regulated under this chapter as a part of employment with
437 that federal agency if the individual holds a valid license to practice a regulated occupation or
438 profession issued by any other state or jurisdiction recognized by the division;

439 (b) a student engaged in activities constituting the practice of a regulated occupation or
440 profession while in training in a recognized school approved by the division to the extent the
441 activities are supervised by qualified faculty, staff, or designee and the activities are a defined
442 part of the training program;

443 (c) an individual engaged in an internship, residency, preceptorship, postceptorship,
444 fellowship, apprenticeship, or on-the-job training program approved by the division while
445 under the supervision of qualified individuals;

446 (d) an individual residing in another state and licensed to practice a regulated
447 occupation or profession in that state, who is called in for a consultation by an individual
448 licensed in this state, and the services provided are limited to that consultation;

449 (e) an individual who is invited by a recognized school, association, society, or other
450 body approved by the division to conduct a lecture, clinic, or demonstration of the practice of a
451 regulated occupation or profession if the individual does not establish a place of business or
452 regularly engage in the practice of the regulated occupation or profession in this state;

453 (f) an individual licensed under the laws of this state, other than under this title, to
454 practice or engage in an occupation or profession, while engaged in the lawful, professional,
455 and competent practice of that occupation or profession;

456 (g) an individual licensed in a health care profession in another state who performs that
457 profession while attending to the immediate needs of a patient for a reasonable period during
458 which the patient is being transported from outside of this state, into this state, or through this
459 state;

460 (h) an individual licensed in another state or country who is in this state temporarily to
461 attend to the needs of an athletic team or group, except that the practitioner may only attend to
462 the needs of the athletic team or group, including all individuals who travel with the team or
463 group in any capacity except as a spectator;

464 (i) an individual licensed and in good standing in another state, who is in this state:

465 (i) temporarily, under the invitation and control of a sponsoring entity;

466 (ii) for a reason associated with a special purpose event, based upon needs that may
467 exceed the ability of this state to address through its licensees, as determined by the division;

468 and

469 (iii) for a limited period of time not to exceed the duration of that event, together with
470 any necessary preparatory and conclusionary periods; and

471 (j) the spouse of an individual serving in the armed forces of the United States while
472 the individual is stationed within this state, provided:

473 (i) the spouse holds a valid license to practice a regulated occupation or profession
474 issued by any other state or jurisdiction recognized by the division; and

475 (ii) the license is current and the spouse is in good standing in the state of licensure.

476 (2) (a) A practitioner temporarily in this state who is exempted from licensure under
477 Subsection (1) shall comply with each requirement of the licensing jurisdiction from which the
478 practitioner derives authority to practice.

479 (b) Violation of a limitation imposed by this section constitutes grounds for removal of
480 exempt status, denial of license, or other disciplinary proceedings.

481 (3) An individual who is licensed under a specific chapter of this title to practice or
482 engage in an occupation or profession may engage in the lawful, professional, and competent
483 practice of that occupation or profession without additional licensure under other chapters of
484 this title, except as otherwise provided by this title.

485 (4) Upon the declaration of a national, state, or local emergency, a public health
486 emergency as defined in Section 26-23b-102, or a declaration by the president of the United
487 States or other federal official requesting public health-related activities, the division in
488 collaboration with the relevant board may:

489 (a) suspend the requirements for permanent or temporary licensure of individuals who
490 are licensed in another state for the duration of the emergency while engaged in the scope of

491 practice for which they are licensed in the other state;

492 (b) modify, under the circumstances described in this Subsection (4) and Subsection
493 (5), the scope of practice restrictions under this title for individuals who are licensed under this
494 title as:

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

497 (ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter 31e, Nurse Licensure
498 Compact - Revised;

499 (iii) a certified nurse midwife under Chapter 44a, Nurse Midwife Practice Act;

500 (iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17b,
501 Pharmacy Practice Act;

502 (v) a respiratory therapist under Chapter 57, Respiratory Care Practices Act;

503 (vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist
504 Practice Act; and

505 (vii) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

506 (c) suspend the requirements for licensure under this title and modify the scope of
507 practice in the circumstances described in this Subsection (4) and Subsection (5) for medical
508 services personnel or paramedics required to be licensed under Section 26-8a-302;

509 (d) suspend requirements in Subsections 58-17b-620(3) through (6) which require
510 certain prescriptive procedures;

511 (e) exempt or modify the requirement for licensure of an individual who is activated as
512 a member of a medical reserve corps during a time of emergency as provided in Section
513 26A-1-126; ~~and~~

514 (f) exempt or modify the requirement for licensure of an individual who is registered as
515 a volunteer health practitioner as provided in Title 26, Chapter 49, Uniform Emergency
516 Volunteer Health Practitioners Act~~[-]; and~~

517 (g) in accordance with rules made by the division in accordance with Title 63G,
518 Chapter 3, Utah Administrative Rulemaking Act, exempt or modify the requirements for
519 licensure of an individual engaged in one or more of the construction trades described in
520 Chapter 55, Utah Construction Trades Licensing Act.

521 (5) Individuals exempt under Subsection (4)(c) and individuals operating under

522 modified scope of practice provisions under Subsection (4)(b):

523 (a) are exempt from licensure or subject to modified scope of practice for the duration
524 of the emergency;

525 (b) must be engaged in the distribution of medicines or medical devices in response to
526 the emergency or declaration; and

527 (c) must be employed by or volunteering for:

528 (i) a local or state department of health; or

529 (ii) a host entity as defined in Section 26-49-102.

530 (6) In accordance with the protocols established under Subsection (8), upon the
531 declaration of a national, state, or local emergency, the Department of Health or a local health
532 department shall coordinate with public safety authorities as defined in Subsection
533 26-23b-110(1) and may:

534 (a) use a vaccine, antiviral, antibiotic, or other prescription medication that is not a
535 controlled substance to prevent or treat a disease or condition that gave rise to, or was a
536 consequence of, the emergency; or

537 (b) distribute a vaccine, antiviral, antibiotic, or other prescription medication that is not
538 a controlled substance:

539 (i) if necessary, to replenish a commercial pharmacy in the event that the commercial
540 pharmacy's normal source of the vaccine, antiviral, antibiotic, or other prescription medication
541 is exhausted; or

542 (ii) for dispensing or direct administration to treat the disease or condition that gave
543 rise to, or was a consequence of, the emergency by:

544 (A) a pharmacy;

545 (B) a prescribing practitioner;

546 (C) a licensed health care facility;

547 (D) a federally qualified community health clinic; or

548 (E) a governmental entity for use by a community more than 50 miles from a person
549 described in Subsections (6)(b)(ii)(A) through (D).

550 (7) In accordance with protocols established under Subsection (8), upon the declaration
551 of a national, state, or local emergency, the Department of Health shall coordinate the
552 distribution of medications:

553 (a) received from the strategic national stockpile to local health departments; and
554 (b) from local health departments to emergency personnel within the local health
555 departments' geographic region.

556 (8) The Department of Health shall establish by rule, made in accordance with Title
557 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for administering, dispensing,
558 and distributing a vaccine, an antiviral, an antibiotic, or other prescription medication that is
559 not a controlled substance in the event of a declaration of a national, state, or local emergency.

560 The protocol shall establish procedures for the Department of Health or a local health
561 department to:

562 (a) coordinate the distribution of:

563 (i) a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a
564 controlled substance received by the Department of Health from the strategic national stockpile
565 to local health departments; and

566 (ii) a vaccine, an antiviral, an antibiotic, or other non-controlled prescription
567 medication received by a local health department to emergency personnel within the local
568 health department's geographic region;

569 (b) authorize the dispensing, administration, or distribution of a vaccine, an antiviral,
570 an antibiotic, or other prescription medication that is not a controlled substance to the contact
571 of a patient without a patient-practitioner relationship, if the contact's condition is the same as
572 that of the physician's or physician assistant's patient; and

573 (c) authorize the administration, distribution, or dispensing of a vaccine, an antiviral,
574 an antibiotic, or other non-controlled prescription medication to an individual who:

575 (i) is working in a triage situation;

576 (ii) is receiving preventative or medical treatment in a triage situation;

577 (iii) does not have coverage for the prescription in the individual's health insurance
578 plan;

579 (iv) is involved in the delivery of medical or other emergency services in response to
580 the declared national, state, or local emergency; or

581 (v) otherwise has a direct impact on public health.

582 (9) The Department of Health shall give notice to the division upon implementation of
583 the protocol established under Subsection (8).

584 Section 8. Section **58-1-501** is amended to read:

585 **58-1-501. Unlawful and unprofessional conduct.**

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

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

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

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

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

596 (ii) for a licensee who has had a license under this title reinstated following disciplinary
597 action, practicing the same occupation or profession using a different name than the name used
598 before the disciplinary action, except as permitted by law and after notice to, and approval by,
599 the division;

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

603 (d) knowingly permitting the person's authority to practice or engage in any occupation
604 or profession licensed under this title to be used by another, except as permitted by law;

605 (e) obtaining a passing score on a licensure examination, applying for or obtaining a
606 license, or otherwise dealing with the division or a licensing board through the use of fraud,
607 forgery, or intentional deception, misrepresentation, misstatement, or omission; [or]

608 (f) (i) issuing, or aiding and abetting in the issuance of, an order or prescription for a
609 drug or device to a person located in this state:

610 (A) without prescriptive authority conferred by a license issued under this title, or by
611 an exemption to licensure under this title; or

612 (B) with prescriptive authority conferred by an exception issued under this title or a
613 multistate practice privilege recognized under this title, if the prescription was issued without
614 first obtaining information, in the usual course of professional practice, that is sufficient to

615 establish a diagnosis, to identify underlying conditions, and to identify contraindications to the
616 proposed treatment; and

617 (ii) Subsection (1)(f)(i) does not apply to treatment rendered in an emergency, on-call
618 or cross coverage situation, provided that the person who issues the prescription has
619 prescriptive authority conferred by a license under this title, or is exempt from licensure under
620 this title[-]; or

621 (g) aiding or abetting any other person to violate any statute, rule, or order regulating
622 an occupation or profession under this title.

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

626 (a) violating~~[-, or aiding or abetting any other person to violate,]~~ any statute, rule, or
627 order regulating an occupation or profession under this title;

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

631 (c) engaging in conduct that results in conviction, a plea of nolo contendere, or a plea
632 of guilty or nolo contendere which is held in abeyance pending the successful completion of
633 probation with respect to a crime of moral turpitude or any other crime that, when considered
634 with the functions and duties of the occupation or profession for which the license was issued
635 or is to be issued, bears a substantial relationship to the licensee's or applicant's ability to safely
636 or competently practice the occupation or profession;

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

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

645 (f) practicing or attempting to practice an occupation or profession regulated under this

646 title despite being physically or mentally unfit to do so;

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

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

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

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

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

659 (l) acting as a supervisor without meeting the qualification requirements for that
660 position that are defined by statute or rule;

661 (m) issuing, or aiding and abetting in the issuance of, an order or prescription for a
662 drug or device:

663 (i) without first obtaining information in the usual course of professional practice, that
664 is sufficient to establish a diagnosis, to identify conditions, and to identify contraindications to
665 the proposed treatment; or

666 (ii) with prescriptive authority conferred by an exception issued under this title, or a
667 multi-state practice privilege recognized under this title, if the prescription was issued without
668 first obtaining information, in the usual course of professional practice, that is sufficient to
669 establish a diagnosis, to identify underlying conditions, and to identify contraindications to the
670 proposed treatment;

671 (n) violating a provision of Section [58-1-501.5](#); or

672 (o) violating the terms of an order governing a license.

673 (3) Unless otherwise specified by statute or administrative rule, in a civil or
674 administrative proceeding commenced by the division under this title, a person subject to any
675 of the unlawful and unprofessional conduct provisions of this title is strictly liable for each
676 violation.

677 Section 9. Section **58-1-502** is amended to read:

678 **58-1-502. Unlawful and unprofessional conduct -- Penalties.**

679 (1) (a) Unless otherwise specified in this title, a person who violates the unlawful
680 conduct provisions defined in this title is guilty of a class A misdemeanor.

681 (b) Unless a specific fine amount is specified elsewhere in this title, the director or the
682 director's designee may assess an administrative fine of up to \$1,000 for each instance of
683 unprofessional or unlawful conduct defined in this title.

684 (2) (a) In addition to any other statutory penalty for a violation related to a specific
685 occupation or profession regulated by this title, if upon inspection or investigation, the division
686 concludes that a person has violated Subsection **58-1-501**(1)(a), (1)(c), (1)(g), or (2)(o), or a
687 rule or order issued with respect to those subsections, and that disciplinary action is
688 appropriate, the director or the director's designee from within the division shall promptly:

689 (i) issue a citation to the person according to this section and any pertinent rules;

690 (ii) attempt to negotiate a stipulated settlement; or

691 (iii) notify the person to appear before an adjudicative proceeding conducted under
692 Title 63G, Chapter 4, Administrative Procedures Act.

693 (b) (i) The division may assess a fine under this Subsection (2) against a person who
694 violates Subsection **58-1-501**(1)(a), (1)(c), (1)(g), or (2)(o), or a rule or order issued with
695 respect to those subsections, as evidenced by:

696 (A) an uncontested citation;

697 (B) a stipulated settlement; or

698 (C) a finding of a violation in an adjudicative proceeding.

699 (ii) The division may, in addition to or in lieu of a fine under Subsection (2)(b)(i),
700 order the person to cease and desist from violating Subsection **58-1-501**(1)(a), (1)(c), (1)(g), or
701 (2)(o), or a rule or order issued with respect to those subsections.

702 (c) Except for a cease and desist order, the division may not assess the licensure
703 sanctions cited in Section **58-1-401** through a citation.

704 (d) A citation shall:

705 (i) be in writing;

706 (ii) describe with particularity the nature of the violation, including a reference to the
707 provision of the chapter, rule, or order alleged to have been violated;

708 (iii) clearly state that the recipient must notify the division in writing within 20
709 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing
710 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

711 (iv) clearly explain the consequences of failure to timely contest the citation or to make
712 payment of a fine assessed by the citation within the time specified in the citation.

713 (e) The division may issue a notice in lieu of a citation.

714 (f) (i) If within 20 calendar days from the service of the citation, the person to whom
715 the citation was issued fails to request a hearing to contest the citation, the citation becomes the
716 final order of the division and is not subject to further agency review.

717 (ii) The period to contest a citation may be extended by the division for cause.

718 (g) The division may refuse to issue or renew, suspend, revoke, or place on probation
719 the license of a licensee who fails to comply with a citation after it becomes final.

720 (h) The failure of an applicant for licensure to comply with a citation after it becomes
721 final is a ground for denial of license.

722 (i) ~~[The]~~ Subject to the time limitations described in Subsection 58-1-401(6), the
723 division may not issue a citation under this section after the expiration of one year following
724 the [occurrence of a violation] date on which the violation that is the subject of the citation is
725 reported to the division.

726 (j) The director or the director's designee shall assess fines according to the following:

727 (i) for the first offense handled pursuant to Subsection (2)(a), a fine of up to \$1,000;

728 (ii) for a second offense handled pursuant to Subsection (2)(a), a fine of up to \$2,000;

729 and

730 (iii) for each subsequent offense handled pursuant to Subsection (2)(a), a fine of up to
731 \$2,000 for each day of continued offense.

732 (3) (a) An action for a first or second offense that has not yet resulted in a final order of
733 the division may not preclude initiation of a subsequent action for a second or subsequent
734 offense during the pendency of a preceding action.

735 (b) The final order on a subsequent action is considered a second or subsequent
736 offense, respectively, provided the preceding action resulted in a first or second offense,
737 respectively.

738 (4) (a) The director may collect a penalty that is not paid by:

- 739 (i) referring the matter to a collection agency; or
- 740 (ii) bringing an action in the district court of the county where the person against whom
- 741 the penalty is imposed resides or in the county where the office of the director is located.

742 (b) A county attorney or the attorney general of the state shall provide legal assistance
743 and advice to the director in an action to collect a penalty.

744 (c) A court may award reasonable attorney fees and costs to the prevailing party in an
745 action brought by the division to collect a penalty.

746 Section 10. Section **58-3a-105** is amended to read:

747 **58-3a-105. Surcharge fee.**

748 (1) In addition to any other fees authorized by this chapter or by the division in
749 accordance with Section **63J-1-504**, the division shall require each applicant for an initial
750 license, renewal of a license, or reinstatement of a license under this chapter to pay a \$1
751 surcharge fee.

752 (2) The surcharge fee shall be deposited in the General Fund as a dedicated credit to be
753 used by the division to provide each licensee under this chapter with access to an electronic
754 reference library that provides web-based access to national, state, and local building codes and
755 standards.

756 Section 11. Section **58-3a-302** is amended to read:

757 **58-3a-302. Qualifications for licensure.**

758 (1) Except as provided in Subsection (2), each applicant for licensure as an architect
759 shall:

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

761 (b) pay a fee determined by the department under Section **63J-1-504**;

762 [~~(c) provide satisfactory evidence of good moral character;~~]

763 [~~(d)~~] (c) have graduated and received an earned bachelors or masters degree from an
764 architecture program meeting criteria established by rule by the division in collaboration with
765 the board;

766 [~~(e)~~] (d) have successfully completed a program of diversified practical experience
767 established by rule by the division in collaboration with the board;

768 [~~(f)~~] (e) have successfully passed examinations established by rule by the division in
769 collaboration with the board; and

770 [~~(g)~~] (f) meet with the board or representative of the division upon request for the
771 purpose of evaluating the applicant's qualifications for license.

772 (2) Each applicant for licensure as an architect by endorsement shall:

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

774 (b) pay a fee determined by the department under Section 63J-1-504;

775 [~~(c) provide satisfactory evidence of good moral character;~~]

776 [~~(d)~~] (c) submit satisfactory evidence of:

777 (i) current licensure in good standing in a jurisdiction recognized by rule by the
778 division in collaboration with the board; and

779 (ii) current certification from the National Council of Architectural Registration
780 Boards; or

781 (iii) current license in good standing in a jurisdiction recognized by rule by the division
782 in collaboration with the board; and

783 (iv) full-time employment as a licensed architect as a principal for at least five of the
784 last seven years immediately preceding the date of the application;

785 [~~(e)~~] (d) have successfully passed any examination established by rule by the division
786 in collaboration with the board; and

787 [~~(f)~~] (e) meet with the board or representative of the division upon request for the
788 purpose of evaluating the applicant's qualifications for license.

789 Section 12. Section 58-3a-304 is amended to read:

790 **58-3a-304. Exemptions from licensure.**

791 (1) In addition to the exemptions from licensure in Section 58-1-307, the following
792 may engage in the stated limited acts or practices without being licensed under this chapter:

793 (a) a person offering to render architectural services in this state when not licensed
794 under this chapter if the person:

795 (i) holds a current and valid architect license issued by a licensing authority recognized
796 by rule by the division in collaboration with the board;

797 (ii) discloses in writing to the potential client the fact that the architect:

798 (A) is not licensed in the state;

799 (B) may not provide architectural services in the state until the architect is licensed in
800 the state; and

801 (C) that such condition may cause a delay in the ability of the architect to provide
802 architectural services in the state;

803 (iii) notifies the division in writing of his intent to offer to render architectural services
804 in the state; and

805 (iv) does not provide architectural services or engage in the practice of architecture in
806 this state until licensed to do so;

807 (b) a person preparing a plan and specification for one or two-family dwellings,
808 including townhouses;

809 (c) a person licensed to practice professional engineering under Title 58, Chapter 22,
810 Professional Engineers and Professional Land Surveyors Licensing Act, performing
811 engineering or incidental architectural acts or practices that do not exceed the scope of the
812 education and training of the person performing architecture;

813 (d) unlicensed employees, subordinates, associates, or drafters of a person licensed
814 under this chapter while preparing plans and specifications under the supervision of an
815 architect;

816 (e) a person preparing a plan or specification for, or supervising the alteration of or
817 repair to, an existing building affecting an area not exceeding 3,000 square feet when structural
818 elements of a building are not changed, such as foundations, beams, columns, and structural
819 slabs, joists, bearing walls, and trusses; and

820 (f) an organization engaged in the practice of architecture, provided that:

821 (i) the organization employs a principal; and

822 (ii) all individuals employed by the organization, who are engaged in the practice of
823 architecture, are licensed or exempt from licensure under this chapter.

824 (2) Nothing in this section shall be construed to restrict a ~~[draftsman]~~ person from
825 preparing plans for a client under the exemption provided in Subsection (1)(b) or taking those
826 plans to a licensed architect for ~~[his]~~ review, approval, and subsequent fixing of the architect's
827 seal to that set of plans ~~[if they meet the building code standards]~~.

828 Section 13. Section **58-3a-502** is amended to read:

829 **58-3a-502. Penalty for unlawful conduct.**

830 (1) (a) If upon inspection or investigation, the division concludes that a person has
831 violated Subsections **58-1-501(1)(a)** through (d) or Section **58-3a-501** or any rule or order

832 issued with respect to Section 58-3a-501, and that disciplinary action is appropriate, the
833 director or the director's designee from within the division for each alternative respectively,
834 shall promptly issue a citation to the person according to this chapter and any pertinent rules,
835 attempt to negotiate a stipulated settlement, or notify the person to appear before an
836 adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

837 (i) A person who violates Subsections 58-1-501(1)(a) through (d) or Section 58-3a-501
838 or any rule or order issued with respect to Section 58-3a-501, as evidenced by an uncontested
839 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may
840 be assessed a fine pursuant to this Subsection (1) and may, in addition to or in lieu of, be
841 ordered to cease and desist from violating Subsections 58-1-501(1)(a) through (d) or Section
842 58-3a-501 or any rule or order issued with respect to this section.

843 (ii) Except for a cease and desist order, the licensure sanctions cited in Section
844 58-3a-401 may not be assessed through a citation.

845 (b) A citation shall:

846 (i) be in writing;

847 (ii) describe with particularity the nature of the violation, including a reference to the
848 provision of the chapter, rule, or order alleged to have been violated;

849 (iii) clearly state that the recipient must notify the division in writing within 20
850 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing
851 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

852 (iv) clearly explain the consequences of failure to timely contest the citation or to make
853 payment of any fines assessed by the citation within the time specified in the citation.

854 (c) The division may issue a notice in lieu of a citation.

855 (d) Each citation issued under this section, or a copy of each citation, may be served
856 upon a person upon whom a summons may be served in accordance with the Utah Rules of
857 Civil Procedure and may be made personally or upon the person's agent by a division
858 investigator or by any person specially designated by the director or by mail.

859 (e) If within 20 calendar days from the service of the citation, the person to whom the
860 citation was issued fails to request a hearing to contest the citation, the citation becomes the
861 final order of the division and is not subject to further agency review. The period to contest a
862 citation may be extended by the division for cause.

863 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation
864 the license of a licensee who fails to comply with a citation after it becomes final.

865 (g) The failure of an applicant for licensure to comply with a citation after it becomes
866 final is a ground for denial of license.

867 (h) No citation may be issued under this section after the expiration of [~~six months~~
868 ~~following the occurrence of any violation~~] one year following the date on which the violation
869 that is the subject of the citation is reported to the division.

870 (i) The director or the director's designee shall assess fines according to the following:

871 (i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to \$1,000;

872 (ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000;

873 and

874 (iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to
875 \$2,000 for each day of continued offense.

876 (2) An action initiated for a first or second offense which has not yet resulted in a final
877 order of the division shall not preclude initiation of any subsequent action for a second or
878 subsequent offense during the pendency of any preceding action. The final order on a
879 subsequent action shall be considered a second or subsequent offense, respectively, provided
880 the preceding action resulted in a first or second offense, respectively.

881 (3) (a) The director may collect a penalty that is not paid by:

882 (i) referring the matter to a collection agency; or

883 (ii) bringing an action in the district court of the county where the person against whom
884 the penalty is imposed resides or in the county where the office of the director is located.

885 (b) A county attorney or the attorney general of the state shall provide legal assistance
886 and advice to the director in an action to collect a penalty.

887 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an
888 action brought by the division to collect a penalty.

889 Section 14. Section **58-5a-302** is amended to read:

890 **58-5a-302. Qualifications to practice podiatry.**

891 An applicant for licensure to practice podiatry shall:

892 (1) submit an application in a form as prescribed by the division;

893 (2) pay a fee as determined by the department under Section [63J-1-504](#);

894 [~~(3)~~] be of good moral character;

895 [~~(4)~~] (3) provide satisfactory documentation of having successfully completed a
896 program of professional education preparing an individual as a podiatric physician, as
897 evidenced by having received an earned degree of doctor of podiatric medicine from a podiatry
898 school or college accredited by the Council on Podiatric Medical Education;

899 [~~(5)~~] (4) if licensed on or after July 1, 2015, satisfy the division and board that the
900 applicant:

901 (a) has successfully completed 24 months of resident training in a program approved
902 by the Council on Podiatric Medical Education; or

903 (b) (i) has successfully completed 12 months of resident training in a program
904 approved by the Council on Podiatric Medical Education after receiving a degree of doctor of
905 podiatric medicine as required under Subsection [~~(4)~~] (3);

906 (ii) has been accepted in, and is successfully participating in, progressive resident
907 training in a Council on Podiatric Medical Education approved program within Utah, in the
908 applicant's second or third year of postgraduate training; and

909 (iii) has agreed to surrender to the division the applicant's license as a podiatric
910 physician without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act,
911 and has agreed the applicant's license as a podiatric physician will be automatically revoked by
912 the division if the applicant fails to continue in good standing in a Council on Podiatric
913 Medical Education approved progressive resident training program within the state; and

914 [~~(6)~~] (5) pass examinations required by rule.

915 Section 15. Section **58-11a-102** is amended to read:

916 **58-11a-102. Definitions.**

917 As used in this chapter:

918 (1) "Approved barber or cosmetologist/barber apprenticeship" means an apprenticeship
919 that meets the requirements of Subsection **58-11a-306**(1) for barbers or Subsection
920 **58-11a-306**(2) for cosmetologist/barbers and the requirements established by rule by the
921 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah
922 Administrative Rulemaking Act.

923 (2) "Approved esthetician apprenticeship" means an apprenticeship that meets the
924 requirements of Subsection **58-11a-306**[~~(3)~~](4) and the requirements established by rule by the

925 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah
 926 Administrative Rulemaking Act.

927 (3) "Approved hair designer apprenticeship" means an apprenticeship that meets the
 928 requirements of Subsection 58-11a-306(3) and the requirements established by rule by the
 929 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah
 930 Administrative Rulemaking Act.

931 [~~3~~] (4) "Approved master esthetician apprenticeship" means an apprenticeship that
 932 meets the requirements of Subsection 58-11a-306[~~(4)~~](5) and the requirements established by
 933 rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3,
 934 Utah Administrative Rulemaking Act.

935 [~~4~~] (5) "Approved nail technician apprenticeship" means an apprenticeship that meets
 936 the requirements of Subsection 58-11a-306[~~(5)~~](6) and the requirements established by rule by
 937 the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah
 938 Administrative Rulemaking Act.

939 [~~5~~] (6) "Barber" means a person who is licensed under this chapter to engage in the
 940 practice of barbering.

941 [~~6~~] (7) "Barber instructor" means a barber who is licensed under this chapter to
 942 engage in the practice of barbering instruction.

943 [~~7~~] (8) "Board" means the Cosmetology and Associated Professions Licensing Board
 944 created in Section 58-11a-201.

945 [~~8~~] (9) "Cosmetic laser procedure" includes a nonablative procedure as defined in
 946 Section 58-67-102.

947 [~~9~~] (10) "Cosmetic supervisor" means a supervisor as defined in Section 58-1-505.

948 [~~10~~] (11) "Cosmetologist/barber" means a person who is licensed under this chapter
 949 to engage in the practice of cosmetology/barbering.

950 [~~11~~] (12) "Cosmetologist/barber instructor" means a cosmetologist/barber who is
 951 licensed under this chapter to engage in the practice of cosmetology/barbering instruction.

952 [~~12~~] (13) "Direct supervision" means that the supervisor of an apprentice or the
 953 instructor of a student is immediately available for consultation, advice, instruction, and
 954 evaluation.

955 [~~13~~] (14) "Electrologist" means a person who is licensed under this chapter to engage

956 in the practice of electrology.

957 [~~(14)~~] (15) "Electrologist instructor" means an electrologist who is licensed under this
958 chapter to engage in the practice of electrology instruction.

959 [~~(15)~~] (16) "Esthetician" means a person who is licensed under this chapter to engage
960 in the practice of esthetics.

961 [~~(16)~~] (17) "Esthetician instructor" means a master esthetician who is licensed under
962 this chapter to engage in the practice of esthetics instruction.

963 [~~(17)~~] (18) "Fund" means the Cosmetology and Associated Professions Education and
964 Enforcement Fund created in Section [58-11a-103](#).

965 [~~(18)~~] (19) (a) "Hair braiding" means the twisting, weaving, or interweaving of a
966 person's natural human hair.

967 (b) "Hair braiding" includes the following methods or styles:

968 (i) African-style braiding;

969 (ii) box braids;

970 (iii) cornrows;

971 (iv) dreadlocks;

972 (v) french braids;

973 (vi) invisible braids;

974 (vii) micro braids;

975 (viii) single braids;

976 (ix) single plaits;

977 (x) twists;

978 (xi) visible braids;

979 (xii) the use of lock braids; and

980 (xiii) the use of decorative beads, accessories, and nonhair extensions.

981 (c) "Hair braiding" does not include:

982 (i) the use of:

983 (A) wefts;

984 (B) synthetic tape;

985 (C) synthetic glue;

986 (D) keratin bonds;

987 (E) fusion bonds; or

988 (F) heat tools;

989 (ii) the cutting of human hair; or

990 (iii) the application of heat, dye, a reactive chemical, or other preparation to:

991 (A) alter the color of the hair; or

992 (B) straighten, curl, or alter the structure of the hair.

993 [~~(19)~~] (20) "Hair designer" means a person who is licensed under this chapter to
994 engage in the practice of hair design.

995 [~~(20)~~] (21) "Hair designer instructor" means a hair designer who is licensed under this
996 chapter to engage in the practice of hair design instruction.

997 [~~(21)~~] (22) "Licensed barber or cosmetology/barber school" means a barber or
998 cosmetology/barber school licensed under this chapter.

999 [~~(22)~~] (23) "Licensed electrology school" means an electrology school licensed under
1000 this chapter.

1001 [~~(23)~~] (24) "Licensed esthetics school" means an esthetics school licensed under this
1002 chapter.

1003 [~~(24)~~] (25) "Licensed hair design school" means a hair design school licensed under
1004 this chapter.

1005 [~~(25)~~] (26) "Licensed nail technology school" means a nail technology school licensed
1006 under this chapter.

1007 [~~(26)~~] (27) "Master esthetician" means an individual who is licensed under this chapter
1008 to engage in the practice of master-level esthetics.

1009 [~~(27)~~] (28) "Nail technician" means an individual who is licensed under this chapter to
1010 engage in the practice of nail technology.

1011 [~~(28)~~] (29) "Nail technician instructor" means a nail technician licensed under this
1012 chapter to engage in the practice of nail technology instruction.

1013 [~~(29)~~] (30) "Practice of barbering" means:

1014 (a) cutting, clipping, or trimming the hair of the head of any person by the use of
1015 scissors, shears, clippers, or other appliances;

1016 (b) draping, shampooing, scalp treatments, basic wet styling, and blow drying;

1017 (c) removing hair from the face or neck of a person by the use of shaving equipment;

1018 and

1019 (d) when providing other services described in this Subsection [~~(29)~~] (30), gently
1020 massaging the head, back of the neck, and shoulders by manual or mechanical means.

1021 [~~(30)~~] (31) "Practice of barbering instruction" means teaching the practice of barbering
1022 at a licensed barber school, at a licensed cosmetology/barber school, or for an approved barber
1023 apprenticeship.

1024 [~~(31)~~] (32) "Practice of basic esthetics" means any one of the following skin care
1025 procedures done on the body for cosmetic purposes and not for the treatment of medical,
1026 physical, or mental ailments:

1027 (a) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays, or
1028 masks, manual extraction, including a comedone extractor, depilatories, waxes, tweezing, the
1029 application of eyelash or eyebrow extensions, natural nail manicures or pedicures, or callous
1030 removal by buffing or filing;

1031 (b) limited chemical exfoliation as defined by rule;

1032 (c) removing superfluous hair by means other than electrolysis, except that an
1033 individual is not required to be licensed as an esthetician to engage in the practice of threading;

1034 (d) other esthetic preparations or procedures with the use of the hands, a
1035 high-frequency or galvanic electrical apparatus, or a heat lamp for cosmetic purposes and not
1036 for the treatment of medical, physical, or mental ailments;

1037 (e) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes, or applying
1038 eyelash or eyebrow extensions; or

1039 (f) except as provided in Subsection [~~(31)(f)(i)~~] (32)(f)(i), cosmetic laser procedures
1040 under the direct cosmetic medical procedure supervision of a cosmetic supervisor limited to the
1041 following:

1042 (i) superfluous hair removal which shall be under indirect supervision;

1043 (ii) anti-aging resurfacing enhancements;

1044 (iii) photo rejuvenation; or

1045 (iv) tattoo removal.

1046 [~~(32)~~] (33) (a) "Practice of cosmetology/barbering" means:

1047 (i) styling, arranging, dressing, curling, waving, permanent waving, cleansing,
1048 singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a

1049 person;

1050 (ii) cutting, clipping, or trimming the hair by the use of scissors, shears, clippers, or
1051 other appliances;

1052 (iii) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes, applying
1053 eyelash or eyebrow extensions;

1054 (iv) removing hair from the body of a person by the use of depilatories, waxing, or
1055 shaving equipment;

1056 (v) cutting, curling, styling, fitting, measuring, or forming caps for wigs or hairpieces
1057 or both on the human head; or

1058 (vi) practicing hair weaving or hair fusing or servicing previously medically implanted
1059 hair.

1060 (b) The term "practice of cosmetology/barbering" includes:

1061 (i) the practice of barbering;

1062 (ii) the practice of basic esthetics; and

1063 (iii) the practice of nail technology.

1064 (c) An individual is not required to be licensed as a cosmetologist/barber to engage in
1065 the practice of threading.

1066 [~~(33)~~] (34) "Practice of cosmetology/barbering instruction" means teaching the practice
1067 of cosmetology/barbering:

1068 (a) at a licensed cosmetology/barber school, a licensed barber school, or a licensed nail
1069 technology school; or

1070 (b) for an approved cosmetologist/barber apprenticeship.

1071 [~~(34)~~] (35) "Practice of electrology" means:

1072 (a) the removal of superfluous hair from the body of a person by the use of electricity,
1073 waxing, shaving, or tweezing; or

1074 (b) cosmetic laser procedures under the supervision of a cosmetic supervisor limited to
1075 superfluous hair removal.

1076 [~~(35)~~] (36) "Practice of electrology instruction" means teaching the practice of
1077 electrology at a licensed electrology school.

1078 [~~(36)~~] (37) "Practice of esthetics instruction" means teaching the practice of basic
1079 esthetics or the practice of master-level esthetics:

1080 (a) at a licensed esthetics school or a licensed cosmetology/barber school; or
1081 (b) for an approved esthetician apprenticeship or an approved master esthetician
1082 apprenticeship.

1083 [~~(37)~~] (38) "Practice of hair design" means:

1084 (a) styling, arranging, dressing, curling, waving, permanent waving, cleansing,
1085 singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a
1086 person;

1087 (b) barbering, cutting, clipping, shaving, or trimming the hair by the use of scissors,
1088 shears, clippers, or other appliances;

1089 (c) cutting, curling, styling, fitting, measuring, or forming caps for wigs, hairpieces, or
1090 both on the human head; or

1091 (d) practicing hair weaving, hair fusing, or servicing previously medically implanted
1092 hair.

1093 [~~(38)~~] (39) "Practice of hair design instruction" means teaching the practice of hair
1094 design at a licensed cosmetology/barber school, a licensed hair design school, or a licensed
1095 barber school.

1096 [~~(39)~~] (40) (a) "Practice of master-level esthetics" means:

1097 (i) any of the following when done for cosmetic purposes on the body and not for the
1098 treatment of medical, physical, or mental ailments:

1099 (A) body wraps as defined by rule;

1100 (B) hydrotherapy as defined by rule;

1101 (C) chemical exfoliation as defined by rule;

1102 (D) advanced pedicures as defined by rule;

1103 (E) sanding, including microdermabrasion;

1104 (F) advanced extraction;

1105 (G) other esthetic preparations or procedures with the use of:

1106 (I) the hands; or

1107 (II) a mechanical or electrical apparatus which is approved for use by division rule for
1108 beautifying or similar work performed on the body for cosmetic purposes and not for the
1109 treatment of a medical, physical, or mental ailment; or

1110 (H) cosmetic laser procedures under the supervision of a cosmetic supervisor with a

1111 physician's evaluation before the procedure, as needed, unless specifically required under
1112 Section [58-1-506](#), and limited to the following:

1113 (I) superfluous hair removal;

1114 (II) anti-aging resurfacing enhancements;

1115 (III) photo rejuvenation; or

1116 (IV) tattoo removal with a physician's, advanced practice nurse's, or physician
1117 assistant's evaluation before the tattoo removal procedure, as required by Subsection
1118 [58-1-506\(3\)\(a\)](#); and

1119 (ii) lymphatic massage by manual or other means as defined by rule.

1120 (b) Notwithstanding the provisions of Subsection [~~(39)(a)~~] [\(40\)\(a\)](#), a master-level
1121 esthetician may perform procedures listed in Subsection [~~(39)(a)(i)(H)~~] [\(40\)\(a\)\(i\)\(H\)](#) if done
1122 under the supervision of a cosmetic supervisor acting within the scope of the cosmetic
1123 supervisor license.

1124 (c) The term "practice of master-level esthetics" includes the practice of esthetics, but
1125 an individual is not required to be licensed as an esthetician or master-level esthetician to
1126 engage in the practice of threading.

1127 [~~(40)~~] [\(41\)](#) "Practice of nail technology" means to trim, cut, clean, manicure, shape,
1128 massage, or enhance the appearance of the hands, feet, and nails of an individual by the use of
1129 hands, mechanical, or electrical preparation, antiseptic, lotions, or creams, including the
1130 application and removal of sculptured or artificial nails.

1131 [~~(41)~~] [\(42\)](#) "Practice of nail technology instruction" means teaching the practice of nail
1132 technology at a licensed nail technician school, at a licensed cosmetology/barber school, or for
1133 an approved nail technician apprenticeship.

1134 [~~(42)~~] [\(43\)](#) "Recognized barber school" means a barber school located in a state other
1135 than Utah, whose students, upon graduation, are recognized as having completed the
1136 educational requirements for licensure in that state.

1137 [~~(43)~~] [\(44\)](#) "Recognized cosmetology/barber school" means a cosmetology/barber
1138 school located in a state other than Utah, whose students, upon graduation, are recognized as
1139 having completed the educational requirements for licensure in that state.

1140 [~~(44)~~] [\(45\)](#) "Recognized electrology school" means an electrology school located in a
1141 state other than Utah, whose students, upon graduation, are recognized as having completed the

1142 educational requirements for licensure in that state.

1143 ~~[(45)]~~ (46) "Recognized esthetics school" means an esthetics school located in a state
1144 other than Utah, whose students, upon graduation, are recognized as having completed the
1145 educational requirements for licensure in that state.

1146 ~~[(46)]~~ (47) "Recognized hair design school" means a hair design school located in a
1147 state other than Utah, whose students, upon graduation, are recognized as having completed the
1148 educational requirements for licensure in that state.

1149 ~~[(47)]~~ (48) "Recognized nail technology school" means a nail technology school
1150 located in a state other than Utah, whose students, upon graduation, are recognized as having
1151 completed the educational requirements for licensure in that state.

1152 ~~[(48)]~~ (49) "Salon" means a place, shop, or establishment in which
1153 cosmetology/barbering, esthetics, electrology, or nail technology is practiced.

1154 ~~[(49)]~~ (50) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-11a-502.

1155 ~~[(50)]~~ (51) "Unprofessional conduct" is as defined in Sections 58-1-501 and
1156 58-11a-501 and as may be further defined by rule by the division in collaboration with the
1157 board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1158 Section 16. Section 58-11a-302 is amended to read:

1159 **58-11a-302. Qualifications for licensure.**

1160 (1) Each applicant for licensure as a barber shall:

1161 (a) submit an application in a form prescribed by the division;

1162 (b) pay a fee determined by the department under Section 63J-1-504;

1163 ~~[(c) be of good moral character;]~~

1164 ~~[(d)]~~ (c) provide satisfactory documentation of:

1165 (i) graduation from a licensed or recognized barber school, or a licensed or recognized
1166 cosmetology/barber school, whose curriculum consists of a minimum of 1,000 hours of
1167 instruction, or the equivalent number of credit hours, over a period of not less than 25 weeks;

1168 (ii) (A) graduation from a recognized barber school located in a state other than Utah
1169 whose curriculum consists of less than 1,000 hours of instruction or the equivalent number of
1170 credit hours; and

1171 (B) practice as a licensed barber in a state other than Utah for not less than the number
1172 of hours required to equal 1,000 total hours when added to the hours of instruction described in

1173 Subsection ~~[(1)(d)(ii)(A)]~~ (1)(c)(ii)(A); or
1174 (iii) completion of an approved barber apprenticeship; and
1175 ~~[(e)]~~ (d) meet the examination requirement established by rule.
1176 (2) Each applicant for licensure as a barber instructor shall:
1177 (a) submit an application in a form prescribed by the division;
1178 (b) subject to Subsection (24), pay a fee determined by the department under Section
1179 [63J-1-504](#);
1180 (c) provide satisfactory documentation that the applicant is currently licensed as a
1181 barber;
1182 ~~[(d) be of good moral character;]~~
1183 ~~[(e)]~~ (d) provide satisfactory documentation of completion of:
1184 (i) an instructor training program conducted by a licensed or recognized school, as
1185 defined by rule, consisting of a minimum of 250 hours or the equivalent number of credit
1186 hours;
1187 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or
1188 recognized school, as defined by rule, consisting of a minimum of 250 hours or the equivalent
1189 number of credit hours; or
1190 (iii) a minimum of 2,000 hours of experience as a barber; and
1191 ~~[(f)]~~ (e) meet the examination requirement established by rule.
1192 (3) Each applicant for licensure as a barber school shall:
1193 (a) submit an application in a form prescribed by the division;
1194 (b) pay a fee determined by the department under Section [63J-1-504](#); and
1195 (c) provide satisfactory documentation:
1196 (i) of appropriate registration with the Division of Corporations and Commercial Code;
1197 (ii) of business licensure from the city, town, or county in which the school is located;
1198 (iii) that the applicant's physical facilities comply with the requirements established by
1199 rule; and
1200 (iv) that the applicant meets:
1201 (A) the standards for barber schools, including staff and accreditation requirements,
1202 established by rule; and
1203 (B) the requirements for recognition as an institution of postsecondary study as

1204 described in Subsection (22).

1205 (4) Each applicant for licensure as a cosmetologist/barber shall:

1206 (a) submit an application in a form prescribed by the division;

1207 (b) pay a fee determined by the department under Section 63J-1-504;

1208 [~~(c) be of good moral character;~~]

1209 [~~(d)~~] (c) provide satisfactory documentation of:

1210 (i) graduation from a licensed or recognized cosmetology/barber school whose
1211 curriculum consists of a minimum of 1,600 hours of instruction, or the equivalent number of
1212 credit hours, with full flexibility within those hours;

1213 (ii) (A) graduation from a recognized cosmetology/barber school located in a state
1214 other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the
1215 equivalent number of credit hours, with full flexibility within those hours; and

1216 (B) practice as a licensed cosmetologist/barber in a state other than Utah for not less
1217 than the number of hours required to equal 1,600 total hours when added to the hours of
1218 instruction described in Subsection [~~(4)(d)(ii)(A)~~] (4)(c)(ii)(A); or

1219 (iii) completion of an approved cosmetology/barber apprenticeship; and

1220 [~~(e)~~] (d) meet the examination requirement established by rule.

1221 (5) Each applicant for licensure as a cosmetologist/barber instructor shall:

1222 (a) submit an application in a form prescribed by the division;

1223 (b) subject to Subsection (24), pay a fee determined by the department under Section
1224 63J-1-504;

1225 (c) provide satisfactory documentation that the applicant is currently licensed as a
1226 cosmetologist/barber;

1227 [~~(d) be of good moral character;~~]

1228 [~~(e)~~] (d) provide satisfactory documentation of completion of:

1229 (i) an instructor training program conducted by a licensed or recognized school, as
1230 defined by rule, consisting of a minimum of 400 hours or the equivalent number of credit
1231 hours;

1232 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or
1233 recognized school, as defined by rule, consisting of a minimum of 400 hours or the equivalent
1234 number of credit hours; or

- 1235 (iii) a minimum of 3,000 hours of experience as a cosmetologist/barber; and
1236 [~~(f)~~] (e) meet the examination requirement established by rule.
- 1237 (6) Each applicant for licensure as a cosmetologist/barber school shall:
1238 (a) submit an application in a form prescribed by the division;
1239 (b) pay a fee determined by the department under Section 63J-1-504; and
1240 (c) provide satisfactory documentation:
1241 (i) of appropriate registration with the Division of Corporations and Commercial Code;
1242 (ii) of business licensure from the city, town, or county in which the school is located;
1243 (iii) that the applicant's physical facilities comply with the requirements established by
1244 rule; and
1245 (iv) that the applicant meets:
1246 (A) the standards for cosmetology schools, including staff and accreditation
1247 requirements, established by rule; and
1248 (B) the requirements for recognition as an institution of postsecondary study as
1249 described in Subsection (22).
- 1250 (7) Each applicant for licensure as an electrologist shall:
1251 (a) submit an application in a form prescribed by the division;
1252 (b) pay a fee determined by the department under Section 63J-1-504;
1253 [~~(c)~~ be of good moral character;]
1254 [~~(d)~~] (c) provide satisfactory documentation of having graduated from a licensed or
1255 recognized electrology school after completing a curriculum of 600 hours of instruction or the
1256 equivalent number of credit hours; and
1257 [~~(e)~~] (d) meet the examination requirement established by rule.
- 1258 (8) Each applicant for licensure as an electrologist instructor shall:
1259 (a) submit an application in a form prescribed by the division;
1260 (b) subject to Subsection (24), pay a fee determined by the department under Section
1261 63J-1-504;
1262 (c) provide satisfactory documentation that the applicant is currently licensed as an
1263 electrologist;
1264 [~~(d)~~ be of good moral character;]
1265 [~~(e)~~] (d) provide satisfactory documentation of completion of:

- 1266 (i) an instructor training program conducted by a licensed or recognized school, as
1267 defined by rule, consisting of a minimum of 150 hours or the equivalent number of credit
1268 hours;
- 1269 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or
1270 recognized school, as defined by rule, consisting of a minimum of 150 hours or the equivalent
1271 number of credit hours; or
- 1272 (iii) a minimum of 1,000 hours of experience as an electrologist; and
1273 ~~[(f)]~~ (e) meet the examination requirement established by rule.
- 1274 (9) Each applicant for licensure as an electrologist school shall:
- 1275 (a) submit an application in a form prescribed by the division;
- 1276 (b) pay a fee determined by the department under Section 63J-1-504; and
- 1277 (c) provide satisfactory documentation:
- 1278 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 1279 (ii) of business licensure from the city, town, or county in which the school is located;
- 1280 (iii) that the applicant's facilities comply with the requirements established by rule; and
- 1281 (iv) that the applicant meets:
- 1282 (A) the standards for electrologist schools, including staff, curriculum, and
1283 accreditation requirements, established by rule; and
- 1284 (B) the requirements for recognition as an institution of postsecondary study as
1285 described in Subsection (22).
- 1286 (10) Each applicant for licensure as an esthetician shall:
- 1287 (a) submit an application in a form prescribed by the division;
- 1288 (b) pay a fee determined by the department under Section 63J-1-504;
- 1289 ~~[(c) be of good moral character;]~~
- 1290 ~~[(d)]~~ (c) provide satisfactory documentation of one of the following:
- 1291 (i) graduation from a licensed or recognized esthetic school or a licensed or recognized
1292 cosmetology/barber school whose curriculum consists of not less than 15 weeks of esthetic
1293 instruction with a minimum of 600 hours or the equivalent number of credit hours;
- 1294 (ii) completion of an approved esthetician apprenticeship; or
- 1295 (iii) (A) graduation from a recognized cosmetology/barber school located in a state
1296 other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the

1297 equivalent number of credit hours, with full flexibility within those hours; and

1298 (B) practice as a licensed cosmetologist/barber for not less than the number of hours

1299 required to equal 1,600 total hours when added to the hours of instruction described in

1300 Subsection ~~[(10)(d)(iii)(A)]~~ (10)(c)(iii)(A); and

1301 ~~[(e)]~~ (d) meet the examination requirement established by division rule.

1302 (11) Each applicant for licensure as a master esthetician shall:

1303 (a) submit an application in a form prescribed by the division;

1304 (b) pay a fee determined by the department under Section [63J-1-504](#);

1305 ~~[(c) be of good moral character;]~~

1306 ~~[(d)]~~ (c) provide satisfactory documentation of:

1307 (i) completion of at least 1,200 hours of training, or the equivalent number of credit

1308 hours, at a licensed or recognized esthetics school, except that up to 600 hours toward the

1309 1,200 hours may have been completed:

1310 (A) at a licensed or recognized cosmetology/barbering school, if the applicant

1311 graduated from the school and its curriculum consisted of at least 1,600 hours of instruction, or

1312 the equivalent number of credit hours, with full flexibility within those hours; or

1313 (B) at a licensed or recognized cosmetology/barber school located in a state other than

1314 Utah, if the applicant graduated from the school and its curriculum contained full flexibility

1315 within its hours of instruction; or

1316 (ii) completion of an approved master esthetician apprenticeship;

1317 ~~[(e)]~~ (d) if the applicant will practice lymphatic massage, provide satisfactory

1318 documentation to show completion of 200 hours of training, or the equivalent number of credit

1319 hours, in lymphatic massage as defined by division rule; and

1320 ~~[(f)]~~ (e) meet the examination requirement established by division rule.

1321 (12) Each applicant for licensure as an esthetician instructor shall:

1322 (a) submit an application in a form prescribed by the division;

1323 (b) subject to Subsection (24), pay a fee determined by the department under Section

1324 [63J-1-504](#);

1325 (c) provide satisfactory documentation that the applicant is currently licensed as a

1326 master esthetician;

1327 ~~[(d) be of good moral character;]~~

- 1328 ~~[(e)]~~ (d) provide satisfactory documentation of completion of:
- 1329 (i) an instructor training program conducted by a licensed or recognized school, as
- 1330 defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit
- 1331 hours;
- 1332 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or
- 1333 recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent
- 1334 number of credit hours; or
- 1335 (iii) a minimum of 1,000 hours of experience in esthetics; and
- 1336 ~~[(f)]~~ (e) meet the examination requirement established by rule.
- 1337 (13) Each applicant for licensure as an esthetics school shall:
- 1338 (a) submit an application in a form prescribed by the division;
- 1339 (b) pay a fee determined by the department under Section 63J-1-504; and
- 1340 (c) provide satisfactory documentation:
- 1341 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 1342 (ii) of business licensure from the city, town, or county in which the school is located;
- 1343 (iii) that the applicant's physical facilities comply with the requirements established by
- 1344 rule; and
- 1345 (iv) that the applicant meets:
- 1346 (A) the standards for esthetics schools, including staff, curriculum, and accreditation
- 1347 requirements, established by division rule made in collaboration with the board; and
- 1348 (B) the requirements for recognition as an institution of postsecondary study as
- 1349 described in Subsection (22).
- 1350 (14) Each applicant for licensure as a hair designer shall:
- 1351 (a) submit an application in a form prescribed by the division;
- 1352 (b) pay a fee determined by the department under Section 63J-1-504;
- 1353 ~~[(c) be of good moral character;]~~
- 1354 ~~[(d)]~~ (c) provide satisfactory documentation of:
- 1355 (i) graduation from a licensed or recognized cosmetology/barber, hair design, or
- 1356 barbering school whose curriculum consists of a minimum of 1,200 hours of instruction, or the
- 1357 equivalent number of credit hours, with full flexibility within those hours;
- 1358 (ii) (A) graduation from a recognized cosmetology/barber, hair design, or barbering

1359 school located in a state other than Utah whose curriculum consists of less than 1,200 hours of
1360 instruction, or the equivalent number of credit hours, with full flexibility within those hours;
1361 and

1362 (B) practice as a licensed cosmetologist/barber or hair designer in a state other than
1363 Utah for not less than the number of hours required to equal 1,200 total hours when added to
1364 the hours of instruction described in Subsection ~~[(14)(d)(ii)(A); or]~~ (14)(c)(ii)(A);

1365 (iii) being a state licensed cosmetologist/barber; ~~[and]~~ or

1366 (iv) completion of an approved hair designer apprenticeship; and

1367 ~~[(e)]~~ (d) meet the examination requirements established by rule.

1368 (15) Each applicant for licensure as a hair designer instructor shall:

1369 (a) submit an application in a form prescribed by the division;

1370 (b) subject to Subsection (24), pay a fee determined by the department under Section
1371 [63J-1-504](#);

1372 (c) provide satisfactory documentation that the applicant is currently licensed as a hair
1373 designer or as a cosmetologist/barber;

1374 ~~[(d) be of good moral character;]~~

1375 ~~[(e)]~~ (d) provide satisfactory documentation of completion of:

1376 (i) an instructor training program conducted by a licensed or recognized school, as
1377 defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit
1378 hours;

1379 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or
1380 recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent
1381 number of credit hours; or

1382 (iii) a minimum of 2,500 hours of experience as a hair designer or as a
1383 cosmetologist/barber; and

1384 ~~[(f)]~~ (e) meet the examination requirement established by rule.

1385 (16) Each applicant for licensure as a hair design school shall:

1386 (a) submit an application in a form prescribed by the division;

1387 (b) pay a fee determined by the department under Section [63J-1-504](#); and

1388 (c) provide satisfactory documentation:

1389 (i) of appropriate registration with the Division of Corporations and Commercial Code;

- 1390 (ii) of business licensure from the city, town, or county in which the school is located;
- 1391 (iii) that the applicant's physical facilities comply with the requirements established by
- 1392 rule; and
- 1393 (iv) that the applicant meets:
- 1394 (A) the standards for a hair design school, including staff and accreditation
- 1395 requirements, established by rule; and
- 1396 (B) the requirements for recognition as an institution of postsecondary study as
- 1397 described in Subsection (22).
- 1398 (17) Each applicant for licensure as a nail technician shall:
- 1399 (a) submit an application in a form prescribed by the division;
- 1400 (b) pay a fee determined by the department under Section 63J-1-504;
- 1401 ~~[(c) be of good moral character;]~~
- 1402 ~~[(d)]~~ (c) provide satisfactory documentation of:
- 1403 (i) graduation from a licensed or recognized nail technology school, or a licensed or
- 1404 recognized cosmetology/barber school, whose curriculum consists of not less than 300 hours of
- 1405 instruction, or the equivalent number of credit hours;
- 1406 (ii) (A) graduation from a recognized nail technology school located in a state other
- 1407 than Utah whose curriculum consists of less than 300 hours of instruction or the equivalent
- 1408 number of credit hours; and
- 1409 (B) practice as a licensed nail technician in a state other than Utah for not less than the
- 1410 number of hours required to equal 300 total hours when added to the hours of instruction
- 1411 described in Subsection ~~[(17)(d)(ii)(A)]~~ (17)(c)(ii)(A); or
- 1412 (iii) completion of an approved nail technician apprenticeship; and
- 1413 ~~[(e)]~~ (d) meet the examination requirement established by division rule.
- 1414 (18) Each applicant for licensure as a nail technician instructor shall:
- 1415 (a) submit an application in a form prescribed by the division;
- 1416 (b) subject to Subsection (24), pay a fee determined by the department under Section
- 1417 63J-1-504;
- 1418 (c) provide satisfactory documentation that the applicant is currently licensed as a nail
- 1419 technician;
- 1420 ~~[(d) be of good moral character;]~~

- 1421 [~~(e)~~] (d) provide satisfactory documentation of completion of:
- 1422 (i) an instructor training program conducted by a licensed or recognized school, as
- 1423 defined by rule, consisting of a minimum of 75 hours or the equivalent number of credit hours;
- 1424 (ii) an on-the-job instructor training program conducted by a licensed instructor at a
- 1425 licensed or recognized school, as defined by rule, consisting of a minimum of 75 hours or the
- 1426 equivalent number of credit hours; or
- 1427 (iii) a minimum of 600 hours of experience in nail technology; and
- 1428 [~~(f)~~] (e) meet the examination requirement established by rule.
- 1429 (19) Each applicant for licensure as a nail technology school shall:
- 1430 (a) submit an application in a form prescribed by the division;
- 1431 (b) pay a fee determined by the department under Section [63J-1-504](#); and
- 1432 (c) provide satisfactory documentation:
- 1433 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 1434 (ii) of business licensure from the city, town, or county in which the school is located;
- 1435 (iii) that the applicant's facilities comply with the requirements established by rule; and
- 1436 (iv) that the applicant meets:
- 1437 (A) the standards for nail technology schools, including staff, curriculum, and
- 1438 accreditation requirements, established by rule; and
- 1439 (B) the requirements for recognition as an institution of postsecondary study as
- 1440 described in Subsection (22).
- 1441 (20) Each applicant for licensure under this chapter whose education in the field for
- 1442 which a license is sought was completed at a foreign school may satisfy the educational
- 1443 requirement for licensure by demonstrating, to the satisfaction of the division, the educational
- 1444 equivalency of the foreign school education with a licensed school under this chapter.
- 1445 (21) (a) A licensed or recognized school under this section shall accept credit hours
- 1446 towards graduation for documented, relevant, and substantially equivalent coursework
- 1447 previously completed by:
- 1448 (i) a student that did not complete the student's education while attending a different
- 1449 school; or
- 1450 (ii) a licensee of any other profession listed in this section, based on the licensee's
- 1451 schooling, apprenticeship, or experience.

1452 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
1453 consistent with this section, the division may make rules governing the acceptance of credit
1454 hours under Subsection (21)(a).

1455 (22) A school licensed or applying for licensure under this chapter shall maintain
1456 recognition as an institution of postsecondary study by meeting the following conditions:

1457 (a) the school shall admit as a regular student only an individual who has earned a
1458 recognized high school diploma or the equivalent of a recognized high school diploma, or who
1459 is beyond the age of compulsory high school attendance as prescribed by Title 53G, Chapter 6,
1460 Part 2, Compulsory Education; and

1461 (b) the school shall be licensed by name, or in the case of an applicant, shall apply for
1462 licensure by name, under this chapter to offer one or more training programs beyond the
1463 secondary level.

1464 (23) A person seeking to qualify for licensure under this chapter by apprenticing in an
1465 approved apprenticeship shall register with the division as described in Section 58-11a-306.

1466 (24) The department may only charge a fee to a person applying for licensure as any
1467 type of instructor under this chapter if the person is not a licensed instructor in any other
1468 profession under this chapter.

1469 (25) In order to encourage economic development in the state in accordance with
1470 Subsection 63G-1-201(4)(e), the department may offer any required examination under this
1471 section, which is prepared by a national testing organization, in languages in addition to
1472 English.

1473 Section 17. Section 58-11a-304 is amended to read:

1474 **58-11a-304. Exemptions from licensure.**

1475 In addition to the exemptions from licensure in Section 58-1-307, the following persons
1476 may engage in the practice of barbering, cosmetology/barbering, hair design, esthetics,
1477 master-level esthetics, electrology, or nail technology without being licensed under this
1478 chapter:

1479 (1) a person licensed under the laws of this state to engage in the practice of medicine,
1480 surgery, osteopathy, or chiropractic when engaged in the practice of the profession for which
1481 they are licensed;

1482 (2) a commissioned physician or surgeon serving in the armed forces of the United

1483 States or another federal agency;

1484 (3) a registered nurse, undertaker, or mortician licensed under the laws of this state
1485 when engaged in the practice of the profession for which the person is licensed;

1486 (4) a person who visits the state to engage in instructional seminars, advanced classes,
1487 trade shows, or competitions of a limited duration;

1488 (5) a person who engages in the practice of barbering, cosmetology/barbering, hair
1489 design, esthetics, master-level esthetics, electrology, or nail technology without compensation;

1490 (6) a person instructing an adult education class or other educational program directed
1491 toward persons who are not licensed under this chapter and that is not intended to train persons
1492 to become licensed under this chapter, provided:

1493 (a) an attendee receives no credit toward educational requirements for licensure under
1494 this chapter;

1495 (b) the instructor informs each attendee in writing that taking such a class or program
1496 will not certify or qualify the attendee to perform a service for compensation that requires
1497 licensure under this chapter; and

1498 (c) (i) the instructor is properly licensed; or

1499 (ii) the instructor receives no compensation;

1500 (7) a person providing instruction in workshops, seminars, training meetings, or other
1501 educational programs whose purpose is to provide continuing professional development to
1502 licensed barbers, cosmetologists/barbers, hair designers, estheticians, master estheticians,
1503 electrologists, or nail technicians;

1504 (8) a person enrolled in a licensed barber [or], cosmetology/barber, or hair design
1505 school when participating in an on the job training internship under the direct supervision of a
1506 licensed barber [or], cosmetologist/barber, or hair design upon completion of a basic program
1507 under the standards established by rule by the division in collaboration with the board;

1508 (9) a person enrolled in an approved apprenticeship pursuant to Section [58-11a-306](#);

1509 (10) an employee of a company that is primarily engaged in the business of selling
1510 products used in the practice of barbering, cosmetology/barbering, hair design, esthetics,
1511 master-level esthetics, electrology, or nail technology when demonstrating the company's
1512 products to a potential customer, provided the employee makes no representation to a potential
1513 customer that attending such a demonstration will certify or qualify the attendee to perform a

1514 service for compensation that requires licensure under this chapter;

1515 (11) a person who:

1516 (a) is qualified to engage in the practice of barbering, cosmetology/barbering, hair
1517 design, esthetics, master-level esthetics, electrology, or nail technology in another jurisdiction
1518 as evidenced by licensure, certification, or lawful practice in the other jurisdiction;

1519 (b) is employed by, or under contract with, a motion picture company; and

1520 (c) engages in the practice of barbering, cosmetology/barbering, hair design, esthetics,
1521 master-level esthetics, electrology, or nail technology in the state:

1522 (i) solely to assist in the production of a motion picture; and

1523 (ii) for no more than 120 days per calendar year; and

1524 (12) a person who:

1525 (a) engages in hair braiding; and

1526 (b) unless it is expressly exempted under this section or Section 58-1-307, does not
1527 engage in other activity requiring licensure under this chapter.

1528 Section 18. Section 58-11a-306 is amended to read:

1529 **58-11a-306. Apprenticeship.**

1530 (1) An approved barber apprenticeship shall:

1531 (a) consist of not less than 1,250 hours of training [~~in not less than eight months~~]; and

1532 (b) be conducted by a supervisor who:

1533 (i) is licensed under this chapter as a barber instructor or a cosmetology/barber
1534 instructor; and

1535 (ii) provides one-on-one direct supervision of the barber apprentice during the
1536 apprenticeship program.

1537 (2) An approved cosmetologist/barber apprenticeship shall:

1538 (a) consist of not less than 2,500 hours of training [~~in not less than 15 months~~]; and

1539 (b) be conducted by a supervisor who:

1540 (i) is licensed under this chapter as a cosmetologist/barber instructor; and

1541 (ii) provides one-on-one direct supervision of the cosmetologist/barber apprentice
1542 during the apprenticeship program.

1543 (3) An approved hair designer apprenticeship shall:

1544 (a) consist of not less than 1,600 hours of training; and

- 1545 (b) be conducted by a supervisor who:
- 1546 (i) is licensed under this chapter as a hair designer instructor or a cosmetologist/barber
- 1547 instructor; and
- 1548 (ii) provides one-on-one direct supervision of the hair designer apprentice during the
- 1549 apprenticeship program.
- 1550 [~~3~~] (4) An approved esthetician apprenticeship shall:
- 1551 (a) consist of not less than 800 hours of training [~~in not less than five months~~]; and
- 1552 (b) be conducted by a supervisor who:
- 1553 (i) is licensed under this chapter as an esthetician instructor; and
- 1554 (ii) provides one-on-one direct supervision of the esthetician apprentice during the
- 1555 apprenticeship program.
- 1556 [~~4~~] (5) An approved master esthetician apprenticeship shall:
- 1557 (a) consist of not less than 1,500 hours of training [~~in not less than 10 months~~]; and
- 1558 (b) be conducted by a supervisor who:
- 1559 (i) is licensed under this chapter as a master-level esthetician instructor; and
- 1560 (ii) provides one-on-one direct supervision of the master esthetician apprentice during
- 1561 the apprenticeship program.
- 1562 [~~5~~] (6) An approved nail technician apprenticeship shall:
- 1563 (a) consist of not less than 375 hours of training [~~in not less than three months~~]; and
- 1564 (b) be conducted by a supervisor who:
- 1565 (i) is licensed under this chapter as a nail technician instructor or a cosmetology/barber
- 1566 instructor;
- 1567 (ii) provides direct supervision of the nail technician apprentice during the
- 1568 apprenticeship program; and
- 1569 (iii) provides direct supervision to no more than two nail technician apprentices during
- 1570 the apprentice program.
- 1571 [~~6~~] (7) A person seeking to qualify for licensure by apprenticing in an approved
- 1572 apprenticeship under this chapter shall:
- 1573 (a) register with the division before beginning the training requirements by:
- 1574 (i) submitting a form prescribed by the division, which includes the name of the
- 1575 licensed supervisor; and

- 1576 (ii) paying a fee determined by the department under Section 63J-1-504;
- 1577 (b) complete the apprenticeship within five years of the date on which the division
- 1578 approves the registration; and
- 1579 (c) notify the division within 30 days if the licensed supervisor changes after the
- 1580 registration is approved by the division.

1581 ~~[(7)]~~ (8) Notwithstanding Subsection ~~[(6)]~~ (7), if a person seeking to qualify for

1582 licensure by apprenticing in an approved apprenticeship under this chapter registers with the

1583 division before January 1, 2017, any training requirements completed by the person as an

1584 apprentice in an approved apprenticeship before registration may be applied to successful

1585 completion of the approved apprenticeship.

1586 Section 19. Section 58-11a-502 is amended to read:

1587 **58-11a-502. Unlawful conduct.**

1588 Unlawful conduct includes:

1589 (1) practicing or engaging in, or attempting to practice or engage in activity for which a

1590 license is required under this chapter unless:

1591 (a) the person holds the appropriate license under this chapter; or

1592 (b) an exemption in Section 58-1-307 or 58-11a-304 applies;

1593 ~~[(2) aiding or abetting a person engaging in the practice of, or attempting to engage in~~

1594 ~~the practice of, any occupation or profession licensed under this chapter if the employee is not~~

1595 ~~licensed to do so under this chapter or exempt from licensure;]~~

1596 ~~[(3)]~~ (2) touching, or applying an instrument or device to the following areas of a

1597 client's body:

1598 (a) the genitals or the anus, except in cases where the patron states to a licensee that the

1599 patron requests a hair removal procedure and signs a written consent form, which must also

1600 include the witnessed signature of a legal guardian if the patron is a minor, authorizing the

1601 licensee to perform a hair removal procedure; or

1602 (b) the breast of a female patron, except in cases in which the female patron states to a

1603 licensee that the patron requests breast skin procedures and signs a written consent form, which

1604 must also include the witnessed signature of a parent or legal guardian if the patron is a minor,

1605 authorizing the licensee to perform breast skin procedures;

1606 ~~[(4)]~~ (3) using or possessing a solution composed of at least 10% methyl methacrylate

1607 on a client;

1608 ~~[(5)]~~ (4) performing an ablative procedure as defined in Section 58-67-102;

1609 ~~[(6)]~~ (5) when acting as an instructor regarding a service requiring licensure under this

1610 chapter, for a class or education program where attendees are not licensed under this chapter,

1611 failing to inform each attendee in writing that:

1612 (a) taking the class or program without completing the requirements for licensure under

1613 this chapter is insufficient to certify or qualify the attendee to perform a service for

1614 compensation that requires licensure under this chapter; and

1615 (b) the attendee is required to obtain licensure under this chapter before performing the

1616 service for compensation; or

1617 ~~[(7)]~~ (6) failing as a salon or school where nail technology is practiced or taught to

1618 maintain a source capture system required under Title 15A, State Construction and Fire Codes

1619 Act, including failing to maintain and clean a source capture system's air filter according to the

1620 manufacturer's instructions.

1621 Section 20. Section **58-11a-503** is amended to read:

1622 **58-11a-503. Penalties.**

1623 (1) Unless Subsection (2) applies, an individual who commits an act of unlawful

1624 conduct under Section 58-11a-502 or who fails to comply with a citation issued under this

1625 section after it is final is guilty of a class A misdemeanor.

1626 (2) Sexual conduct that violates Section 58-11a-502 and Title 76, Utah Criminal Code,

1627 shall be subject to the applicable penalties in Title 76, Utah Criminal Code.

1628 (3) Grounds for immediate suspension of a licensee's license by the division include

1629 the issuance of a citation for violation of Subsection 58-11a-502(1), (2), (4), (5), (6), or (7).

1630 (4) (a) If upon inspection or investigation, the division concludes that a person has

1631 violated the provisions of Subsection 58-11a-502(1), (2), (4), (5), (6), or (7), or a rule or order

1632 issued with respect to Subsection 58-11a-502(1), (2), (4), (5), (6), or (7), and that disciplinary

1633 action is appropriate, the director or the director's designee from within the division shall

1634 promptly issue a citation to the person according to this chapter and any pertinent rules, attempt

1635 to negotiate a stipulated settlement, or notify the person to appear before an adjudicative

1636 proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

1637 (i) A person who is in violation of Subsection 58-11a-502(1), (2), (4), (5), (6), or (7),

1638 as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in
1639 an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (4) and may, in
1640 addition to or in lieu of, be ordered to cease and desist from violating Subsection
1641 [58-11a-502](#)(1), (2), (4), (5), (6), or (7).

1642 (ii) Except for a cease and desist order, the licensure sanctions cited in Section
1643 [58-11a-401](#) may not be assessed through a citation.

1644 (b) (i) Each citation shall be in writing and describe with particularity the nature of the
1645 violation, including a reference to the provision of the chapter, rule, or order alleged to have
1646 been violated.

1647 (ii) The citation shall clearly state that the recipient must notify the division in writing
1648 within 20 calendar days of service of the citation if the recipient wishes to contest the citation
1649 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

1650 (iii) The citation shall clearly explain the consequences of failure to timely contest the
1651 citation or to make payment of a fine assessed by the citation within the time specified in the
1652 citation.

1653 (c) Each citation issued under this section, or a copy of each citation, may be served
1654 upon a person upon whom a summons may be served in accordance with the Utah Rules of
1655 Civil Procedure and may be made personally or upon the person's agent by a division
1656 investigator or by a person specially designated by the director or by mail.

1657 (d) (i) If within 20 calendar days from the service of a citation, the person to whom the
1658 citation was issued fails to request a hearing to contest the citation, the citation becomes the
1659 final order of the division and is not subject to further agency review.

1660 (ii) The period to contest a citation may be extended by the division for cause.

1661 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation
1662 the license of a licensee who fails to comply with a citation after it becomes final.

1663 (f) The failure of an applicant for licensure to comply with a citation after it becomes
1664 final is a ground for denial of license.

1665 (g) No citation may be issued under this section after the expiration of [~~six months~~
1666 ~~following the occurrence of a violation~~] one year following the date on which the violation that
1667 is the subject of the citation is reported to the division.

1668 (h) Fines shall be assessed by the director or the director's designee according to the

1669 following:

1670 (i) for a first offense under Subsection (4)(a), a fine of up to \$1,000;

1671 (ii) for a second offense under Subsection (4)(a), a fine of up to \$2,000; and

1672 (iii) for any subsequent offense under Subsection (4)(a), a fine of up to \$2,000 for each
1673 day of continued offense.

1674 (i) (i) For purposes of issuing a final order under this section and assessing a fine under
1675 Subsection (4)(h), an offense constitutes a second or subsequent offense if:

1676 (A) the division previously issued a final order determining that a person committed a
1677 first or second offense in violation of Subsection 58-11a-502(1), (2), (4), (5), (6), or (7); or

1678 (B) (I) the division initiated an action for a first or second offense;

1679 (II) no final order has been issued by the division in the action initiated under
1680 Subsection (4)(i)(i)(B)(I);

1681 (III) the division determines during an investigation that occurred after the initiation of
1682 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent
1683 violation of Subsection 58-11a-502(1), (2), (4), (5), (6), or (7); and

1684 (IV) after determining that the person committed a second or subsequent offense under
1685 Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under
1686 Subsection (4)(i)(i)(B)(I).

1687 (ii) In issuing a final order for a second or subsequent offense under Subsection
1688 (4)(i)(i), the division shall comply with the requirements of this section.

1689 (5) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited
1690 into the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician
1691 Education and Enforcement Fund.

1692 (b) A penalty which is not paid may be collected by the director by either:

1693 (i) referring the matter to a collection agency; or

1694 (ii) bringing an action in the district court of the county in which the person against
1695 whom the penalty is imposed resides or in the county where the office of the director is located.

1696 (c) A county attorney or the attorney general of the state shall provide legal assistance
1697 and advice to the director in an action to collect a penalty.

1698 (d) A court shall award reasonable attorney fees and costs to the prevailing party in an
1699 action brought by the division to collect a penalty.

1700 Section 21. Section **58-15-11** is amended to read:

1701 **58-15-11. Exemptions to chapter.**

1702 (1) In addition to the exemptions described in Section **58-1-307**, this chapter does not
1703 apply to [~~facilities of any~~]:

1704 (a) a facility of a recognized church or denomination that cares for the sick and
1705 suffering by mental or spiritual means if no drug or material remedy is used in the care
1706 provided[-]; or

1707 (b) the superintendent of the Utah State Developmental Center described in Section
1708 [62A-5-201](#).

1709 (2) Any [~~facilities~~] facility or person exempted under this section shall comply with
1710 each statute and rule on sanitation and life safety.

1711 Section 22. Section **58-16a-102** is amended to read:

1712 **58-16a-102. Definitions.**

1713 In addition to the definitions in Section **58-1-102**, as used in this chapter:

1714 (1) "Board" means the Optometrist Licensing Board created in Section **58-16a-201**.

1715 (2) "Contact lens" means any lens that:

1716 (a) has a spherical, cylindrical, or prismatic power or curvature;

1717 (b) is made pursuant to a current prescription; and

1718 (c) is intended to be worn on the surface of the eye.

1719 (3) (a) "Contact lens prescription" means a written or verbal order for contact lenses
1720 that includes:

1721 (i) the commencement date of the prescription;

1722 (ii) the base curve, power, diameter, material or brand name, and expiration date;

1723 (iii) for a written order, the signature of the prescribing optometrist or physician; and

1724 (iv) for a verbal order, a record maintained by the recipient of:

1725 (A) the name of the prescribing optometrist or physician; and

1726 (B) the date when the prescription was issued or ordered.

1727 (b) A prescription may include:

1728 (i) a limit on the quantity of lenses that may be ordered under the prescription if
1729 required for medical reasons documented in the patient's files; and

1730 (ii) the expiration date of the prescription, which shall be two years from the

- 1731 commencement date, unless documented medical reasons require otherwise.
- 1732 (c) When a provider prescribes a private label contact lens for a patient the prescription
1733 shall include:
- 1734 (i) the name of the manufacturer;
- 1735 (ii) the trade name of the private label brand; and
- 1736 (iii) if applicable, the trade name of the equivalent national brand.
- 1737 (4) "Contact lens prescription verification" means a written request from a person who
1738 sells or provides contact lenses that:
- 1739 (a) is sent to the prescribing optometrist or physician; and
- 1740 (b) seeks the confirmation of the accuracy of a patient's prescription.
- 1741 (5) "Eye and its adnexa" means the human eye and all structures situated within the
1742 orbit, including the conjunctiva, lids, lashes, and lacrimal system.
- 1743 (6) "Fitting of a contact lens" means:
- 1744 (a) the using of a keratometer to measure the human eye;
- 1745 (b) utilizing refractive data provided by a licensed optometrist or ophthalmologist; and
- 1746 (c) trial fitting of contact lenses, which includes a period of time for evaluation for fit
1747 and performance, to determine a tentative contact lens prescription for a patient if the patient:
- 1748 (i) has not worn contact lenses before; or
- 1749 (ii) has changed to a different type or base curve.
- 1750 (7) "Laser surgery" means surgery in which human tissue is cut, burned, or vaporized
1751 by means of laser or ionizing radiation.
- 1752 (8) "Ophthalmic lens" means any lens used to treat the eye and that:
- 1753 (a) has a spherical, cylindrical, or prismatic power;
- 1754 (b) is made pursuant to an unexpired prescription; and
- 1755 (c) is intended to be used in eyeglasses or spectacles.
- 1756 (9) "Optometric assistant" means an unlicensed individual:
- 1757 (a) working under the direct and immediate supervision of a licensed optometrist; and
- 1758 (b) engaged in specific tasks assigned by the licensed optometrist in accordance with
1759 the standards and ethics of the profession.
- 1760 (10) "Optometrist" or "optometric physician" means an individual licensed under this
1761 chapter.

1762 (11) "Optometry" and "practice of optometry" mean any one or any combination of the
1763 following practices:

1764 (a) examination of the human eye and its adnexa to detect and diagnose defects or
1765 abnormal conditions;

1766 (b) determination or modification of the accommodative or refractive state of the
1767 human eye or its range or power of vision by administration and prescription of pharmaceutical
1768 agents or the use of diagnostic instruments;

1769 (c) prescription, ordering, administration, or adaptation of ophthalmic lenses, contact
1770 lenses, ophthalmic devices, pharmaceutical agents, laboratory tests, or ocular exercises to
1771 diagnose and treat diseases, defects, or other abnormal conditions of the human eye and its
1772 adnexa;

1773 (d) display of any advertisement, circular, sign, or device offering to:

1774 (i) examine the eyes;

1775 (ii) fit glasses or contact lenses; or

1776 (iii) adjust frames;

1777 (e) removal of a foreign body from the eye or its adnexa, that is not deeper than the
1778 anterior 1/2 of the cornea; and

1779 (f) consultation regarding the eye and its adnexa with other appropriate health care
1780 providers, including referral to other appropriate health care providers~~[-and]~~.

1781 ~~[(g) a person, not licensed as an optometrist, directing a licensee under this chapter to~~
1782 ~~withhold or alter the eye care services the licensee has ordered.]~~

1783 (12) "Pharmaceutical agent" means any diagnostic or therapeutic drug or combination
1784 of drugs that has the property of assisting in the diagnosis, prevention, treatment, or mitigation
1785 of abnormal conditions or symptoms of the eye and its adnexa.

1786 (13) "Physician" has the same meaning as defined in Sections [58-67-102](#) and
1787 [58-68-102](#).

1788 (14) "Prescription drug" has the same definition as in Section [58-17b-102](#).

1789 (15) "Unexpired" means a prescription that was issued:

1790 (a) for ophthalmic lenses which does not expire unless the optometrist or physician
1791 includes an expiration date on the prescription based on medical reasons that are documented
1792 in the patient's file; and

1793 (b) in accordance with Subsection (3) for a contact lens.

1794 Section 23. Section **58-16a-302** is amended to read:

1795 **58-16a-302. Qualifications for licensure.**

1796 (1) An applicant for licensure as an optometrist shall:

1797 (a) submit an application in a form prescribed by the division;

1798 (b) pay a fee as determined by the division under Section [63J-1-504](#);

1799 [~~(c) be of good moral character;~~]

1800 [~~(d)~~] (c) (i) be a doctoral graduate of a recognized school of optometry accredited by

1801 the American Optometric Association's Accreditation Council on Optometric Education; or

1802 (ii) be a graduate of a school of optometry located outside the United States that meets

1803 the criteria that would qualify the school for accreditation under Subsection [~~(1)(d)(i)~~] (1)(c)(i),

1804 as demonstrated by the applicant for licensure;

1805 [~~(e)~~] (d) if the applicant graduated from a recognized school of optometry prior to July

1806 1, 1996, have successfully completed a course of study satisfactory to the division, in

1807 consultation with the board, in general and ocular pharmacology and emergency medical care;

1808 [~~(f)~~] (e) have passed examinations approved by the division in consultation with the

1809 board that include:

1810 (i) a standardized national optometry examination;

1811 (ii) a standardized clinical examination; and

1812 (iii) a standardized national therapeutics examination; and

1813 [~~(g)~~] (f) meet with the board and representatives of the division, if requested by either

1814 party, for the purpose of evaluating the applicant's qualifications for licensure.

1815 (2) Notwithstanding Subsection (1) and Section [58-1-302](#), the division shall issue a

1816 license under this chapter by endorsement to an individual who:

1817 (a) submits an application for licensure by endorsement on a form approved by the

1818 division;

1819 (b) pays a fee established by the division in accordance with Section [63J-1-504](#);

1820 [~~(c) provides satisfactory evidence to the division that the individual is of good moral~~

1821 ~~character;~~]

1822 [~~(d)~~] (c) verifies that the individual is licensed as an optometrist in good standing in

1823 each state of the United States, or province of Canada, in which the individual is currently

1824 licensed as an optometrist; and
1825 ~~[(e)]~~ (d) has been actively engaged in the legal practice of optometry for at least 3,200
1826 hours during the immediately preceding two years in a manner consistent with the legal
1827 practice of optometry in this state.

1828 Section 24. Section **58-16a-501** is amended to read:

1829 **58-16a-501. Unlawful conduct.**

1830 "Unlawful conduct" includes, in addition to the definition in Section **58-1-501**:

1831 (1) buying, selling, or fraudulently obtaining, any optometry diploma, license,
1832 certificate, or registration;

1833 ~~[(2) aiding or abetting the buying, selling, or fraudulently obtaining, of any optometry
1834 diploma, license, certificate, or registration;]~~

1835 ~~[(3)]~~ (2) selling or providing contact lenses or ophthalmic lenses in a manner
1836 inconsistent with Section **58-16a-801** or intentionally altering a prescription unless the person
1837 selling or providing the lenses is a licensed optometrist or ophthalmologist; or

1838 ~~[(4)]~~ (3) representing oneself as or using the title of "optometrist," "optometric
1839 physician," "doctor of optometry," or "O.D.," unless currently licensed under this chapter.

1840 Section 25. Section **58-16a-503** is amended to read:

1841 **58-16a-503. Penalty for unlawful conduct.**

1842 (1) Except as provided in Subsection (2), any person who violates the unlawful
1843 conduct provision defined in Section **58-16a-501** or Subsection **58-1-501**(1)(a) or (1)(c) is
1844 guilty of a third degree felony.

1845 (2) A person who violates Subsection **58-16a-501**~~[(3)]~~(2) is guilty of a class C
1846 misdemeanor.

1847 Section 26. Section **58-17b-303** is amended to read:

1848 **58-17b-303. Qualifications for licensure as a pharmacist.**

1849 (1) An applicant for licensure as a pharmacist shall:

1850 (a) submit an application in a form prescribed by the division;

1851 (b) pay a fee as determined by the department under Section **63J-1-504**;

1852 ~~[(c) produce satisfactory evidence of good moral character as it relates to the
1853 applicant's ability to practice pharmacy;]~~

1854 ~~[(d)]~~ (c) complete a criminal background check and be free from criminal convictions

1855 as described in Section 58-1-501;

1856 ~~[(e)]~~ (d) have no physical or mental condition of a nature which prevents the applicant
1857 from engaging in the practice of pharmacy with reasonable skill, competency, and safety to the
1858 public;

1859 ~~[(f)]~~ (e) have graduated and received a professional entry degree from a school or
1860 college of pharmacy which is accredited by the Accreditation Council on Pharmacy Education;

1861 ~~[(g)]~~ (f) have completed an internship meeting standards established by division rule
1862 made in collaboration with the board; and

1863 ~~[(h)]~~ (g) have successfully passed examinations required by division rule made in
1864 collaboration with the board.

1865 (2) An applicant for licensure as a pharmacist whose pharmacy education was
1866 completed at a foreign pharmacy school shall, in addition to the requirements under
1867 Subsections (1)(a) through ~~[(e), (g), and (h)]~~ (d), (f), and (g), obtain a certification of
1868 equivalency from a credentialing agency required by division rule made in collaboration with
1869 the board.

1870 (3) An applicant for a license by endorsement as a pharmacist under this section shall:

1871 (a) submit a written application in the form prescribed by the division;

1872 (b) pay the fee determined by the department under Section 63J-1-504;

1873 ~~[(c) be of good moral character as required of applicants for licensure as pharmacists~~
1874 ~~under Subsection (1);]~~

1875 ~~[(d)]~~ (c) complete a criminal background check and be free from criminal convictions
1876 as described in Section 58-1-501;

1877 ~~[(e)]~~ (d) have no physical or mental condition of a nature which prevents the applicant
1878 from engaging in the practice of pharmacy with reasonable skill, competency, and safety to the
1879 public;

1880 ~~[(f)]~~ (e) have lawfully practiced as a licensed pharmacist a minimum of 2,000 hours in
1881 the four years immediately preceding the date of application;

1882 ~~[(g)]~~ (f) produce satisfactory evidence of completing the professional education
1883 required under Subsection (1);

1884 ~~[(h)]~~ (g) be currently licensed in good standing as a pharmacist in another state,
1885 territory, or possession of the United States;

1886 [(i)] (h) produce satisfactory evidence that the examination requirements are or were at
1887 the time the license was issued, equal to those of this state; and

1888 [(j)] (i) pass the jurisprudence examination prescribed by division rule made in
1889 collaboration with the board.

1890 Section 27. Section **58-17b-304** is amended to read:

1891 **58-17b-304. Qualifications for licensure of pharmacy intern.**

1892 An applicant for licensure as a pharmacy intern shall:

1893 (1) submit an application in a form prescribed by the division;

1894 (2) pay a fee determined by the department under Section [63J-1-504](#);

1895 [~~(3)~~] produce satisfactory evidence of good moral character as it relates to the
1896 applicant's ability to practice pharmacy;]

1897 [(4)] (3) complete a criminal background check and be free from criminal convictions
1898 as described in Section [58-1-501](#);

1899 [(5)] (4) have no physical or mental condition of a nature which prevents the applicant
1900 from engaging in the practice of pharmacy with reasonable skill, competency, and safety to the
1901 public;

1902 [(6)] (5) meet the preliminary educational qualifications required by division rule made
1903 in collaboration with the board; and

1904 [(7)] (6) meet one of the following educational criteria:

1905 (a) be a current pharmacy student, a resident, or fellow in a program approved by
1906 division rule made in collaboration with the board; or

1907 (b) have graduated from a foreign pharmacy school and received certification of
1908 equivalency from a credentialing agency approved by division rule made in collaboration with
1909 the board.

1910 Section 28. Section **58-17b-305** is amended to read:

1911 **58-17b-305. Qualifications for licensure of pharmacy technician.**

1912 (1) An applicant for licensure as a pharmacy technician shall:

1913 (a) submit an application in a form prescribed by the division;

1914 (b) pay a fee determined by the department under Section [63J-1-504](#);

1915 [~~(c)~~] produce satisfactory evidence of good moral character as it relates to the
1916 applicant's ability to practice pharmacy;]

1917 [(d)] (c) complete a criminal background check and be free from criminal convictions
1918 as described in Section 58-1-501;

1919 [(e)] (d) have no physical or mental condition of a nature which prevents the applicant
1920 from engaging in practice as a pharmacy technician with reasonable skill, competency, and
1921 safety to the public;

1922 [(f)] (e) have completed a program and curriculum of education and training, meeting
1923 standards established by division rule made in collaboration with the board; and

1924 [(g)] (f) successfully complete the examinations requirement within the time periods
1925 established by division rule made in collaboration with the board.

1926 (2) A pharmacist whose license has been denied, revoked, suspended, or restricted for
1927 disciplinary purposes is not eligible to be a licensed pharmacy technician while on probation
1928 with the division.

1929 Section 29. Section 58-17b-305.1 is amended to read:

1930 **58-17b-305.1. Qualifications for licensure of pharmacy technician trainee.**

1931 (1) An applicant for licensure as a pharmacy technician trainee shall:

1932 (a) submit an application to the division on a form created by the division;

1933 (b) pay a fee established by the division in accordance with Section 63J-1-504;

1934 ~~[(c) submit satisfactory evidence, as determined by the division, of good moral~~
1935 ~~character as it relates to the applicant's ability to practice pharmacy;]~~

1936 [(d)] (c) unless exempted by the division, submit a completed criminal background
1937 check;

1938 [(e)] (d) demonstrate, as determined by the division, that the applicant does not have a
1939 physical or mental condition that would prevent the applicant from engaging in practice as a
1940 pharmacy technician with reasonable skill, competency, and safety to the public; and

1941 [(f)] (e) submit evidence that the applicant is enrolled in a training program approved
1942 by the division.

1943 (2) A pharmacist whose license has been denied, revoked, suspended, or restricted for
1944 disciplinary purposes is not eligible to be licensed as a pharmacy technician trainee during
1945 division probation.

1946 Section 30. Section 58-17b-308 is amended to read:

1947 **58-17b-308. Term of license -- Expiration -- Renewal.**

1948 (1) Except as provided in Subsection (2), each license issued under this chapter shall be
1949 issued in accordance with a two-year renewal cycle established by rule. A renewal period may
1950 be extended or shortened by as much as one year to maintain established renewal cycles or to
1951 change an established renewal cycle. Each license automatically expires on the expiration date
1952 shown on the license unless renewed by the licensee in accordance with Section 58-1-308.

1953 (2) The duration of a pharmacy intern license may be no longer than:

1954 (a) one year for a license issued under Subsection [~~58-17b-304(7)(b)~~]

1955 58-17b-304(6)(b); or

1956 (b) five years for a license issued under Subsection [~~58-17b-304(7)(a)~~]

1957 58-17b-304(6)(b).

1958 (3) A pharmacy intern license issued under this chapter may not be renewed, but may
1959 be extended by the division in collaboration with the board.

1960 (4) As a prerequisite for renewal of a class D pharmacy license of a pharmacy that
1961 engages in compounding, a licensee shall submit the most recent inspection report:

1962 (a) conducted within two years before the application for renewal; and

1963 (b) (i) conducted as part of the National Association of Boards of Pharmacy Verified
1964 Pharmacy Program; or

1965 (ii) performed by the state licensing agency of the state in which the applicant is a
1966 resident and in accordance with the National Association of Boards of Pharmacy multistate
1967 inspection blueprint program.

1968 Section 31. Section **58-17b-504** is amended to read:

1969 **58-17b-504. Penalty for unlawful or unprofessional conduct -- Fines -- Citations.**

1970 (1) Any person who violates any of the unlawful conduct provisions of Subsection
1971 58-1-501(1)(a)(i) and Subsections 58-17b-501(7) and (11) is guilty of a third degree felony.

1972 (2) Any person who violates any of the unlawful conduct provisions of Subsection
1973 58-1-501(1)(a)(ii), Subsections 58-1-501(1)(b) through (e), and Section 58-17b-501, except
1974 Subsections 58-17b-501(7) and (11), is guilty of a class A misdemeanor.

1975 (3) (a) Subject to Subsection (5) and in accordance with Section 58-17b-401, for acts
1976 of unprofessional or unlawful conduct, the division may:

1977 (i) assess administrative penalties; and

1978 (ii) take any other appropriate administrative action.

1979 (b) An administrative penalty imposed pursuant to this section shall be deposited in the
1980 General Fund as a dedicated credit to be used by the division for pharmacy licensee education
1981 and enforcement as provided in Section 58-17b-505.

1982 (4) If a licensee has been convicted of violating Section 58-17b-501 prior to an
1983 administrative finding of a violation of the same section, the licensee may not be assessed an
1984 administrative fine under this chapter for the same offense for which the conviction was
1985 obtained.

1986 (5) (a) If upon inspection or investigation, the division concludes that a person has
1987 violated the provisions of Section 58-17b-501 or 58-17b-502, Chapter 37, Utah Controlled
1988 Substances Act, Chapter 37f, Controlled Substance Database Act, Chapter 1, Division of
1989 Occupational and Professional Licensing Act, or any rule or order issued with respect to these
1990 provisions, and that disciplinary action is appropriate, the director or the director's designee
1991 from within the division shall promptly issue a citation to the person according to this chapter
1992 and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to
1993 appear before an adjudicative proceeding conducted under Title 63G, Chapter 4,
1994 Administrative Procedures Act.

1995 (b) Any person who is in violation of the provisions of Section 58-17b-501 or
1996 58-17b-502, Chapter 37, Utah Controlled Substances Act, Chapter 37f, Controlled Substance
1997 Database Act, Chapter 1, Division of Occupational and Professional Licensing Act, or any rule
1998 or order issued with respect to these provisions, as evidenced by an uncontested citation, a
1999 stipulated settlement, or a finding of violation in an adjudicative proceeding, may be assessed a
2000 fine pursuant to this Subsection (5) of up to \$10,000 per single violation or up to \$2,000 per
2001 day of ongoing violation, whichever is greater, in accordance with a fine schedule established
2002 by rule, and may, in addition to or in lieu of, be ordered to cease and desist from violating the
2003 provisions of Section 58-17b-501 or 58-17b-502, Chapter 37, Utah Controlled Substances Act,
2004 Chapter 1, Division of Occupational and Professional Licensing Act, or any rule or order issued
2005 with respect to these provisions.

2006 (c) Except for an administrative fine and a cease and desist order, the licensure
2007 sanctions cited in Section 58-17b-401 may not be assessed through a citation.

2008 (d) Each citation shall be in writing and specifically describe with particularity the
2009 nature of the violation, including a reference to the provision of the chapter, rule, or order

2010 alleged to have been violated. The citation shall clearly state that the recipient must notify the
2011 division in writing within 20 calendar days of service of the citation in order to contest the
2012 citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

2013 The citation shall clearly explain the consequences of failure to timely contest the citation or to
2014 make payment of any fines assessed by the citation within the time specified in the citation.

2015 (e) Each citation issued under this section, or a copy of each citation, may be served
2016 upon any person upon whom a summons may be served:

2017 (i) in accordance with the Utah Rules of Civil Procedure;

2018 (ii) personally or upon the person's agent by a division investigator or by any person
2019 specially designated by the director; or

2020 (iii) by mail.

2021 (f) If within 20 calendar days from the service of a citation, the person to whom the
2022 citation was issued fails to request a hearing to contest the citation, the citation becomes the
2023 final order of the division and is not subject to further agency review. The period to contest the
2024 citation may be extended by the division for cause.

2025 (g) The division may refuse to issue or renew, suspend, revoke, or place on probation
2026 the license of a licensee who fails to comply with the citation after it becomes final.

2027 (h) The failure of an applicant for licensure to comply with a citation after it becomes
2028 final is a ground for denial of license.

2029 (i) No citation may be issued under this section after the expiration of [~~six months~~
2030 ~~following the occurrence of any violation~~] one year following the date on which the violation
2031 that is the subject of the citation is reported to the division.

2032 (6) (a) The director may collect a penalty that is not paid by:

2033 (i) referring the matter to a collection agency; or

2034 (ii) bringing an action in the district court of the county where the person against whom
2035 the penalty is imposed resides or in the county where the office of the director is located.

2036 (b) A county attorney or the attorney general of the state shall provide legal assistance
2037 and advice to the director in an action to collect a penalty.

2038 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an
2039 action brought by the division to collect a penalty.

2040 Section 32. Section ~~58-17b-614~~ is amended to read:

2041 **58-17b-614. Notification.**

2042 (1) A pharmacy shall report in writing to the division not later than 10 business days;

2043 (a) before the date of:2044 ~~[(a)]~~ (i) a permanent closure of the pharmacy facility;2045 ~~[(b)]~~ (ii) a change of name or ownership of the pharmacy facility;2046 ~~[(c)]~~ (iii) a change of location of the pharmacy facility;2047 ~~[(d)]~~ (iv) a sale or transfer of any controlled substance as a result of the permanent
2048 closing or change of ownership of the pharmacy facility; or2049 ~~[(e)]~~ (v) any matter or occurrence that the ~~[board]~~ division requires by rule to be
2050 reported; or2051 (b) after the day on which:2052 ~~[(f)]~~ (i) a final administrative disciplinary order is issued against the pharmacy license
2053 holder by the regulatory or licensing agency of the state in which the pharmacy is located if the
2054 pharmacy is a class D pharmacy; ~~[or]~~2055 ~~[(g)]~~ (ii) a final order against a pharmacist is issued who is designated as the
2056 pharmacist-in-charge of the pharmacy by the regulatory or licensing agency of the state in
2057 which the pharmacy is located if the pharmacy is a class D pharmacy~~[-];~~ or2058 (iii) any matter or occurrence that the division requires by rule to be reported.2059 (2) A pharmacy shall report in writing to the division a disaster, accident, or emergency
2060 that may affect the purity or labeling of a drug, medication, device, or other material used in the
2061 diagnosis or treatment of injury, illness, or disease immediately upon the occurrence of the
2062 disaster, accident, or emergency as defined by rule.2063 (3) A reporting pharmacy shall maintain a copy of any notification required by this
2064 section for two years and make a copy available for inspection.2065 Section 33. Section **58-20b-302** is amended to read:2066 **58-20b-302. Qualifications for licensure.**2067 (1) Except as provided in Subsection (2), an applicant for licensure as an
2068 environmental health scientist shall:

2069 (a) submit an application in a form prescribed by the division;

2070 (b) pay a fee determined by the department under Section [63J-1-504](#);2071 ~~[(c) be of good moral character;]~~

2072 ~~[(d)]~~ (c) hold, at a minimum, a bachelor's degree from an accredited program in a
2073 university or college, which degree includes completion of specific course work as defined by
2074 rule;

2075 ~~[(e)]~~ (d) pass an examination as determined by division rule in collaboration with the
2076 board; and

2077 ~~[(f)]~~ (e) pass the Utah Law and Rules Examination for Environmental Health Scientists
2078 administered by the division.

2079 (2) An applicant for licensure as an environmental health scientist-in-training shall:

2080 (a) submit an application in a form prescribed by the division;

2081 (b) pay a fee determined by the department under Section [63J-1-504](#);

2082 ~~[(e) be of good moral character;]~~

2083 ~~[(d)]~~ (c) hold, at a minimum, a bachelor's degree from an accredited program in a
2084 university or college, which degree includes completion of specific course work as defined by
2085 rule;

2086 ~~[(e)]~~ (d) pass the Utah Law and Rules Examination for Environmental Health
2087 Scientists administered by the division; and

2088 ~~[(f)]~~ (e) present evidence acceptable to the division and the board that the applicant,
2089 when licensed, will practice as an environmental health scientist-in-training only under the
2090 general supervision of a supervising environmental health scientist licensed under this chapter.

2091 Section 34. Section **58-22-102** is amended to read:

2092 **58-22-102. Definitions.**

2093 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

2094 (1) "Board" means the Professional Engineers and Professional Land Surveyors
2095 Licensing Board created in Section [58-22-201](#).

2096 (2) "Building" means a structure which has human occupancy or habitation as its
2097 principal purpose, and includes the structural, mechanical, and electrical systems, utility
2098 services, and other facilities required for the building, and is otherwise governed by the State
2099 Construction Code or an approved code under Title 15A, State Construction and Fire Codes
2100 Act.

2101 (3) "Complete construction plans" means a final set of plans, specifications, and reports
2102 for a building or structure that normally includes:

- 2103 (a) floor plans;
- 2104 (b) elevations;
- 2105 (c) site plans;
- 2106 (d) foundation, structural, and framing detail;
- 2107 (e) electrical, mechanical, and plumbing design;
- 2108 (f) information required by the energy code;
- 2109 (g) specifications and related calculations as appropriate; and
- 2110 (h) all other documents required to obtain a building permit.
- 2111 (4) "EAC/ABET" means the Engineering Accreditation Commission/Accreditation
- 2112 Board for Engineering and Technology.
- 2113 (5) "Fund" means the Professional Engineer, Professional Structural Engineer, and
- 2114 Professional Land Surveyor Education and Enforcement Fund created in Section [58-22-103](#).
- 2115 (6) "NCEES" means the National Council of Examiners for Engineering and
- 2116 Surveying.
- 2117 (7) "Principal" means a licensed professional engineer, professional structural engineer,
- 2118 or professional land surveyor having responsible charge of an organization's professional
- 2119 engineering, professional structural engineering, or professional land surveying practice.
- 2120 (8) "Professional engineer" means a person licensed under this chapter as a
- 2121 professional engineer.
- 2122 (9) (a) "Professional engineering," "the practice of engineering," or "the practice of
- 2123 professional engineering" means a service or creative work, the adequate performance of which
- 2124 requires engineering education, training, and experience in the application of special
- 2125 knowledge of the mathematical, physical, and engineering sciences to the service or creative
- 2126 work as consultation, investigation, evaluation, planning, design, and design coordination of
- 2127 engineering works and systems, planning the use of land and water, facility programming,
- 2128 performing engineering surveys and studies, and the review of construction for the purpose of
- 2129 monitoring compliance with drawings and specifications; any of which embraces these services
- 2130 or work, either public or private, in connection with any utilities, structures, buildings,
- 2131 machines, equipment, processes, work systems, projects, and industrial or consumer products
- 2132 or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, and
- 2133 including other professional services as may be necessary to the planning, progress, and

2134 completion of any engineering services.

2135 (b) "The practice of professional engineering" does not include the practice of
2136 architecture as defined in Section 58-3a-102, but a licensed professional engineer may perform
2137 architecture work as is incidental to the practice of engineering.

2138 (10) "Professional engineering intern" means a person who:

2139 (a) has completed the education requirements to become a professional engineer;

2140 (b) has passed the fundamentals of engineering examination; and

2141 (c) is engaged in obtaining the four years of qualifying experience for licensure under
2142 the direct supervision of a licensed professional engineer.

2143 (11) "Professional land surveying" or "the practice of land surveying" means a service
2144 or work, the adequate performance of which requires the application of special knowledge of
2145 the principles of mathematics, the related physical and applied sciences, and the relevant
2146 requirements of law for adequate evidence to the act of measuring and locating lines, angles,
2147 elevations, natural and man-made features in the air, on the surface of the earth, within
2148 underground workings, and on the beds of bodies of water for the purpose of determining areas
2149 and volumes, for the monumenting or locating of property boundaries or points controlling
2150 boundaries, and for the platting and layout of lands and subdivisions of lands, including the
2151 topography, alignment and grades of streets, and for the preparation and perpetuation of maps,
2152 record plats, field notes records, and property descriptions that represent these surveys and
2153 other duties as sound surveying practices could direct.

2154 (12) "Professional land surveyor" means an individual licensed under this chapter as a
2155 professional land surveyor.

2156 (13) "Professional structural engineer" means a person licensed under this chapter as a
2157 professional structural engineer.

2158 (14) (a) "Professional structural engineering" or "the practice of structural engineering"
2159 means a service or creative work providing structural engineering services for significant
2160 structures, including:

2161 (i) buildings and other structures representing a substantial hazard to human life, which
2162 include:

2163 (A) buildings and other structures whose primary occupancy is public assembly with an
2164 occupant load greater than 300;

- 2165 (B) buildings and other structures with elementary school, secondary school, or day
2166 care facilities with an occupant load greater than 250;
- 2167 (C) buildings and other structures with an occupant load greater than 500 for colleges
2168 or adult education facilities;
- 2169 (D) health care facilities with an occupant load of 50 or more resident patients, but not
2170 having surgery or emergency treatment facilities;
- 2171 (E) jails and detention facilities with a gross area greater than 3,000 square feet; and
- 2172 (F) buildings and other structures with an occupant load greater than 5,000;
- 2173 (ii) buildings and other structures designated as essential facilities, including:
- 2174 (A) hospitals and other health care facilities having surgery or emergency treatment
2175 facilities with a gross area greater than 3,000 square feet;
- 2176 (B) fire, rescue, and police stations and emergency vehicle garages with a mean height
2177 greater than 24 feet or a gross area greater than 5,000 square feet;
- 2178 (C) designated earthquake, hurricane, or other emergency shelters with a gross area
2179 greater than 3,000 square feet;
- 2180 (D) designated emergency preparedness, communication, and operation centers and
2181 other buildings required for emergency response with a mean height more than 24 feet or a
2182 gross area greater than 5,000 square feet;
- 2183 (E) power-generating stations and other public utility facilities required as emergency
2184 backup facilities with a gross area greater than 3,000 square feet;
- 2185 (F) structures with a mean height more than 24 feet or a gross area greater than 5,000
2186 square feet containing highly toxic materials as defined by the division by rule, where the
2187 quantity of the material exceeds the maximum allowable quantities set by the division by rule;
2188 and
- 2189 (G) aviation control towers, air traffic control centers, and emergency aircraft hangars
2190 at commercial service and cargo air services airports as defined by the Federal Aviation
2191 Administration with a mean height greater than 35 feet or a gross area greater than 20,000
2192 square feet; and
- 2193 (iii) buildings and other structures requiring special consideration, including:
- 2194 (A) structures or buildings that are normally occupied by human beings and are five
2195 stories or more in height;

2196 (B) structures or buildings that are normally occupied by human beings and have an
2197 average roof height more than 60 feet above the average ground level measured at the
2198 perimeter of the structure; and

2199 (C) buildings that are over 200,000 aggregate gross square feet in area.

2200 (b) "Professional structural engineering" or "the practice of structural engineering":

2201 (i) includes the definition of professional engineering or the practice of professional
2202 engineering as provided in Subsection (9); and

2203 (ii) may be further defined by rules made by the division in collaboration with the
2204 board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2205 (15) "Structure" means that which is built or constructed, an edifice or building of any
2206 kind, or a piece of work artificially built up or composed of parts joined together in a definite
2207 manner, and as otherwise governed by the State Construction Code or an approved code under
2208 Title 15A, State Construction and Fire Codes Act.

2209 (16) "Supervision of an employee, subordinate, associate, or drafter of a licensee"
2210 means that a licensed professional engineer, professional structural engineer, or professional
2211 land surveyor is responsible for and personally reviews, corrects when necessary, and approves
2212 work performed by an employee, subordinate, associate, or drafter under the direction of the
2213 licensee, and may be further defined by rule by the division in collaboration with the board.

2214 (17) "TAC/ABET" means the Technology Accreditation Commission/Accreditation
2215 Board for Engineering and Technology.

2216 (18) "Unlawful conduct" means the same as that term is defined in Sections [58-1-501](#)
2217 and [58-22-501](#).

2218 (19) "Unprofessional conduct" means the same as that term is defined in Sections
2219 [58-1-501](#) and [58-22-502.5](#).

2220 Section 35. Section **58-22-104** is amended to read:

2221 **58-22-104. Surcharge fee.**

2222 (1) In addition to any other fees authorized by this chapter or by the division in
2223 accordance with Section [63J-1-504](#), the division shall require each applicant for an initial
2224 license, renewal of a license, or reinstatement of a license under this chapter to pay a \$1
2225 surcharge fee.

2226 (2) The surcharge fee shall be deposited in the General Fund as a dedicated credit to be

2227 used by the division to provide each licensee under this chapter with access to an electronic
2228 reference library that provides web-based access to national, state, and local building codes and
2229 standards.

2230 Section 36. Section **58-22-302** is amended to read:

2231 **58-22-302. Qualifications for licensure.**

2232 (1) Each applicant for licensure as a professional engineer shall:

2233 (a) submit an application in a form prescribed by the division;

2234 (b) pay a fee determined by the department under Section [63J-1-504](#);

2235 [~~(c) provide satisfactory evidence of good moral character;~~]

2236 [~~(d)~~] (c) (i) have graduated and received a bachelors or masters degree from an
2237 engineering program meeting criteria established by rule by the division in collaboration with
2238 the board; or

2239 (ii) have completed the Transportation Engineering Technology and Fundamental
2240 Engineering College Program before July 1, 1998, under the direction of the Utah Department
2241 of Transportation and as certified by the Utah Department of Transportation;

2242 [~~(e)~~] (d) have successfully completed a program of qualifying experience established
2243 by rule by the division in collaboration with the board;

2244 [~~(f)~~] (e) have successfully passed examinations established by rule by the division in
2245 collaboration with the board; and

2246 [~~(g)~~] (f) meet with the board or representative of the division upon request for the
2247 purpose of evaluating the applicant's qualification for licensure.

2248 (2) Each applicant for licensure as a professional structural engineer shall:

2249 (a) submit an application in a form prescribed by the division;

2250 (b) pay a fee determined by the department under Section [63J-1-504](#);

2251 [~~(c) provide satisfactory evidence of good moral character;~~]

2252 [~~(d)~~] (c) have graduated and received an earned bachelors or masters degree from an
2253 engineering program meeting criteria established by rule by the division in collaboration with
2254 the board;

2255 [~~(e)~~] (d) have successfully completed three years of licensed professional engineering
2256 experience established by rule by the division in collaboration with the board, except that prior
2257 to January 1, 2009, an applicant for licensure may submit a signed affidavit in a form

2258 prescribed by the division stating that the applicant is currently engaged in the practice of
2259 structural engineering;

2260 [~~(f)~~] (e) have successfully passed examinations established by rule by the division in
2261 collaboration with the board, except that prior to January 1, 2009, an applicant for licensure
2262 may submit a signed affidavit in a form prescribed by the division stating that the applicant is
2263 currently engaged in the practice of structural engineering; and

2264 [~~(g)~~] (f) meet with the board or representative of the division upon request for the
2265 purpose of evaluating the applicant's qualification for licensure.

2266 (3) Each applicant for licensure as a professional land surveyor shall:

2267 (a) submit an application in a form prescribed by the division;

2268 (b) pay a fee determined by the department under Section 63J-1-504;

2269 [~~(c)~~ provide satisfactory evidence of good moral character;]

2270 [~~(d)~~] (c) (i) have graduated and received an associates, bachelors, or masters degree
2271 from a land surveying program, or an equivalent land surveying program, such as a program
2272 offered by a technical college described in Section 53B-2a-105, as approved by the State Board
2273 of Regents, established by rule by the division in collaboration with the board, and have
2274 successfully completed a program of qualifying experience in land surveying established by
2275 rule by the division in collaboration with the board; or

2276 (ii) have successfully completed a program of qualifying experience in land surveying
2277 prior to January 1, 2007, in accordance with rules established by the division in collaboration
2278 with the board;

2279 [~~(e)~~] (d) have successfully passed examinations established by rule by the division in
2280 collaboration with the board; and

2281 [~~(f)~~] (e) meet with the board or representative of the division upon request for the
2282 purpose of evaluating the applicant's qualification for licensure.

2283 (4) Each applicant for licensure by endorsement shall:

2284 (a) submit an application in a form prescribed by the division;

2285 (b) pay a fee determined by the department under Section 63J-1-504;

2286 [~~(c)~~ provide satisfactory evidence of good moral character;]

2287 [~~(d)~~] (c) submit satisfactory evidence of:

2288 (i) current licensure in good standing in a jurisdiction recognized by rule by the

2289 division in collaboration with the board;

2290 (ii) having successfully passed an examination established by rule by the division in
2291 collaboration with the board; and

2292 (iii) full-time employment as a principal for at least five of the last seven years
2293 immediately preceding the date of the application as a:

2294 (A) licensed professional engineer for licensure as a professional engineer;

2295 (B) licensed professional structural engineer for licensure as a structural engineer; or

2296 (C) licensed professional land surveyor for licensure as a professional land surveyor;

2297 and

2298 ~~[(e)]~~ (d) meet with the board or representative of the division upon request for the
2299 purpose of evaluating the applicant's qualifications for license.

2300 (5) The rules made to implement this section shall be in accordance with Title 63G,
2301 Chapter 3, Utah Administrative Rulemaking Act.

2302 Section 37. Section **58-22-305** is amended to read:

2303 **58-22-305. Exemption from licensure.**

2304 (1) In addition to the exemptions from licensure in Section **58-1-307**, the following
2305 may engage in the following acts or practices without being licensed under this chapter:

2306 (a) a person offering to render professional engineering, professional structural
2307 engineering, or professional land surveying services in this state when not licensed under this
2308 chapter if the person:

2309 (i) holds a current and valid professional engineer, professional structural engineer, or
2310 professional land surveyor license issued by a licensing authority recognized by rule by the
2311 division in collaboration with the board;

2312 (ii) discloses in writing to the potential client the fact that the professional engineer,
2313 professional structural engineer, or professional land surveyor:

2314 (A) is not licensed in the state;

2315 (B) may not provide professional engineering, professional structural engineering, or
2316 professional land surveying services in the state until licensed in the state; and

2317 (C) that such condition may cause a delay in the ability of the professional engineer,
2318 professional structural engineer, or professional land surveyor to provide licensed services in
2319 the state;

2320 (iii) notifies the division in writing of the person's intent to offer to render professional
2321 engineering, professional structural engineering, or professional land surveying services in the
2322 state; and

2323 (iv) does not provide professional engineering, professional structural engineering, or
2324 professional land surveying services, or engage in the practice of professional engineering,
2325 professional structural engineering, or professional land surveying in this state until licensed to
2326 do so;

2327 (b) a person preparing a plan and specification for a one or two-family residence not
2328 exceeding two stories in height;

2329 (c) a person licensed to practice architecture under Title 58, Chapter 3a, Architects
2330 Licensing Act, performing architecture acts or incidental engineering or structural engineering
2331 practices that do not exceed the scope of the education and training of the person performing
2332 engineering or structural engineering;

2333 (d) unlicensed employees, subordinates, associates, or drafters of a person licensed
2334 under this chapter while preparing plans, maps, sketches, drawings, documents, specifications,
2335 plats, and reports under the supervision of a professional engineer, professional structural
2336 engineer, or professional land surveyor;

2337 (e) a person preparing a plan or specification for, or supervising the alteration of or
2338 repair to, an existing building affecting an area not exceeding 3,000 square feet when structural
2339 elements of a building are not changed, such as foundations, beams, columns, and structural
2340 slabs, joists, bearing walls, and trusses;

2341 (f) an employee of a communications, utility, railroad, mining, petroleum, or
2342 manufacturing company, or an affiliate of such a company, if the professional engineering or
2343 professional structural engineering work is performed solely in connection with the products or
2344 systems of the company and is not offered directly to the public;

2345 (g) an organization engaged in the practice of professional engineering, structural
2346 engineering, or professional land surveying, provided that:

2347 (i) the organization employs a principal; and

2348 (ii) all individuals employed by the organization, who are engaged in the practice of
2349 professional engineering, structural engineering, or land surveying, are licensed or exempt from
2350 licensure under this chapter; and

2351 (h) a person licensed as a professional engineer, a professional structural engineer, or a
2352 professional land surveyor in a state other than Utah serving as an expert witness, provided the
2353 expert testimony meets one of the following:

2354 (i) oral testimony as an expert witness in an administrative, civil, or criminal
2355 proceeding; or

2356 (ii) written documentation included as part of the testimony in a proceeding, including
2357 designs, studies, plans, specifications, or similar documentation, provided that the purpose of
2358 the written documentation is not to establish specifications, plans, designs, processes, or
2359 standards to be used in the future in an industrial process, system, construction, design, or
2360 repair.

2361 (2) Nothing in this section shall be construed to restrict a ~~[draftsman]~~ person from
2362 preparing plans for a client under the exemption provided in Subsection (1)(b), or taking those
2363 plans to a professional engineer for the engineer's review, approval, and subsequent fixing of
2364 the engineer's seal to that set of plans~~[, if the plans meet the building code standards].~~

2365 Section 38. Section **58-22-503** is amended to read:

2366 **58-22-503. Penalties and administrative actions for unlawful or unprofessional**
2367 **conduct.**

2368 (1) (a) If upon inspection or investigation, the division concludes that a person has
2369 violated Section [58-1-501](#), [58-22-501](#), or [58-22-502.5](#), or any rule or order issued with respect
2370 to Section [58-22-501](#) or [58-22-502.5](#), and that disciplinary action is appropriate, the director or
2371 the director's designee from within the division for each alternative respectively, shall promptly
2372 issue a citation to the person according to this chapter and any pertinent rules, attempt to
2373 negotiate a stipulated settlement, or notify the person to appear before an adjudicative
2374 proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

2375 (i) A person who violates Section [58-1-501](#), [58-22-501](#), or [58-22-502.5](#), or any rule or
2376 order issued with respect to Section [58-22-501](#) or [58-22-502.5](#), as evidenced by an uncontested
2377 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may
2378 be assessed a fine pursuant to this Subsection (1) and may, in addition to or in lieu of, be
2379 ordered to cease and desist from violating Section [58-1-501](#), [58-22-501](#), or [58-22-502.5](#), or
2380 any rule or order issued with respect to this section.

2381 (ii) Except for a cease and desist order, the licensure sanctions cited in Section

2382 58-22-401 may not be assessed through a citation.

2383 (b) A citation shall:

2384 (i) be in writing;

2385 (ii) describe with particularity the nature of the violation, including a reference to the
2386 provision of the chapter, rule, or order alleged to have been violated;

2387 (iii) clearly state that the recipient must notify the division in writing within 20
2388 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing
2389 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

2390 (iv) clearly explain the consequences of failure to timely contest the citation or to make
2391 payment of any fines assessed by the citation within the time specified in the citation.

2392 (c) The division may issue a notice in lieu of a citation.

2393 (d) Each citation issued under this section, or a copy of each citation, may be served
2394 upon a person upon whom a summons may be served in accordance with the Utah Rules of
2395 Civil Procedure and may be made personally or upon the person's agent by a division
2396 investigator or by any person specially designated by the director or by mail.

2397 (e) If within 20 calendar days from the service of the citation, the person to whom the
2398 citation was issued fails to request a hearing to contest the citation, the citation becomes the
2399 final order of the division and is not subject to further agency review. The period to contest a
2400 citation may be extended by the division for cause.

2401 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation
2402 the license of a licensee who fails to comply with a citation after it becomes final.

2403 (g) The failure of an applicant for licensure to comply with a citation after it becomes
2404 final is a ground for denial of license.

2405 (h) No citation may be issued under this section after the expiration of ~~[six months~~
2406 ~~following the occurrence of any violation]~~ one year following the date on which the violation
2407 that is the subject of the citation is reported to the division.

2408 (i) The director or the director's designee shall assess fines according to the following:

2409 (i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to \$1,000;

2410 (ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000;

2411 and

2412 (iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to

2413 \$2,000 for each day of continued offense.

2414 (2) An action initiated for a first or second offense which has not yet resulted in a final
2415 order of the division shall not preclude initiation of any subsequent action for a second or
2416 subsequent offense during the pendency of any preceding action. The final order on a
2417 subsequent action shall be considered a second or subsequent offense, respectively, provided
2418 the preceding action resulted in a first or second offense, respectively.

2419 (3) (a) The director may collect a penalty that is not paid by:

2420 (i) referring the matter to a collection agency; or

2421 (ii) bringing an action in the district court of the county where the person against whom
2422 the penalty is imposed resides or in the county where the office of the director is located.

2423 (b) A county attorney or the attorney general of the state shall provide legal assistance
2424 and advice to the director in an action to collect a penalty.

2425 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an
2426 action brought by the division to collect a penalty.

2427 Section 39. Section **58-24b-302** is amended to read:

2428 **58-24b-302. Licensure.**

2429 (1) An applicant for a license as a physical therapist shall:

2430 ~~[(a) be of good moral character;]~~

2431 ~~[(b)]~~ (a) complete the application process, including payment of fees;

2432 ~~[(c)]~~ (b) submit proof of graduation from a professional physical therapist education
2433 program that is accredited by a recognized accreditation agency;

2434 ~~[(d)]~~ (c) pass a licensing examination:

2435 (i) after complying with Subsection ~~[(1)(c)]~~ (1)(b); or

2436 (ii) if the applicant is in the final term of a professional physical therapist education
2437 program that is accredited by a recognized accreditation agency;

2438 ~~[(e)]~~ (d) be able to read, write, speak, understand, and be understood in the English
2439 language and demonstrate proficiency to the satisfaction of the board if requested by the board;

2440 ~~[(f) if the applicant is applying to participate in the Physical Therapy Licensure
2441 Compact under Chapter 24c, Physical Therapy Licensure Compact,]~~

2442 (e) consent to a criminal background check in accordance with Section [58-24b-302.1](#)
2443 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah

2444 Administrative Rulemaking Act; and

2445 ~~[(g)]~~ (f) meet any other requirements established by the division, by rule made in
2446 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2447 (2) An applicant for a license as a physical therapist assistant shall:

2448 ~~[(a) be of good moral character;]~~

2449 ~~[(b)]~~ (a) complete the application process, including payment of fees set by the
2450 division, in accordance with Section 63J-1-504, to recover the costs of administering the
2451 licensing requirements relating to physical therapist assistants;

2452 ~~[(c)]~~ (b) submit proof of graduation from a physical therapist assistant education
2453 program that is accredited by a recognized accreditation agency;

2454 ~~[(d)]~~ (c) pass a licensing examination approved by division rule made in collaboration
2455 with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
2456 Act:

2457 (i) after the applicant complies with Subsection ~~[(2)(c)]~~ (2)(b); or

2458 (ii) if the applicant is in the final term of a physical therapist assistant education
2459 program that is accredited by a recognized accreditation agency;

2460 ~~[(e)]~~ (d) be able to read, write, speak, understand, and be understood in the English
2461 language and demonstrate proficiency to the satisfaction of the board if requested by the board;

2462 ~~[(f)]~~ (e) submit to, and pass, a criminal background check, in accordance with Section
2463 58-24b-302.1 and standards established by rule made in accordance with Title 63G, Chapter 3,
2464 Utah Administrative Rulemaking Act; and

2465 ~~[(g)]~~ (f) meet any other requirements established by the division, by rule made in
2466 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2467 (3) An applicant for a license as a physical therapist who is educated outside of the
2468 United States shall:

2469 ~~[(a) be of good moral character;]~~

2470 ~~[(b)]~~ (a) complete the application process, including payment of fees;

2471 ~~[(c)]~~ (b) (i) provide satisfactory evidence that the applicant graduated from a
2472 professional physical therapist education program that is accredited by a recognized
2473 accreditation agency; or

2474 (ii) (A) provide satisfactory evidence that the applicant graduated from a physical

2475 therapist education program that prepares the applicant to engage in the practice of physical
2476 therapy, without restriction;

2477 (B) provide satisfactory evidence that the education program described in Subsection
2478 ~~[(3)(c)(ii)(A)]~~ (3)(b)(ii)(A) is recognized by the government entity responsible for recognizing
2479 a physical therapist education program in the country where the program is located; and

2480 (C) pass a credential evaluation to ensure that the applicant has satisfied uniform
2481 educational requirements;

2482 ~~[(d)]~~ (c) after complying with Subsection ~~[(3)(c)]~~ (3)(b), pass a licensing examination;

2483 ~~[(e)]~~ (d) be able to read, write, speak, understand, and be understood in the English
2484 language and demonstrate proficiency to the satisfaction of the board if requested by the board;

2485 ~~[(f) if the applicant is applying to participate in the Physical Therapy Licensure
2486 Compact under Chapter 24c, Physical Therapy Licensure Compact;]~~

2487 (e) consent to a criminal background check in accordance with Section [58-24b-302.1](#)
2488 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah
2489 Administrative Rulemaking Act; and

2490 ~~[(g)]~~ (f) meet any other requirements established by the division, by rule made in
2491 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2492 (4) The division shall issue a license to a person who holds a current unrestricted
2493 license to practice physical therapy in a state, district, or territory of the United States of
2494 America, other than Utah, if the person:

2495 ~~[(a) is of good moral character;]~~

2496 ~~[(b)]~~ (a) completes the application process, including payment of fees;

2497 ~~[(c)]~~ (b) is able to read, write, speak, understand, and be understood in the English
2498 language and demonstrate proficiency to the satisfaction of the board if requested by the board;

2499 ~~[(d) if the applicant is applying to participate in the Physical Therapy Licensure
2500 Compact under Chapter 24c, Physical Therapy Licensure Compact;]~~

2501 (c) consents to a criminal background check in accordance with Section [58-24b-302.1](#)
2502 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah
2503 Administrative Rulemaking Act; and

2504 ~~[(e)]~~ (d) meets any other requirements established by the division, by rule made in
2505 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2506 (5) (a) Notwithstanding Subsection 58-1-307(1)(c), an individual may not engage in an
2507 internship in physical therapy, unless the person is:

2508 (i) certified by the division; or

2509 (ii) exempt from licensure under Section 58-24b-304.

2510 (b) The provisions of Subsection (5)(a) apply, regardless of whether the individual is
2511 participating in the supervised clinical training program for the purpose of becoming a physical
2512 therapist or a physical therapist assistant.

2513 Section 40. Section 58-26a-302 is amended to read:

2514 **58-26a-302. Qualifications for licensure and registration -- Licensure by**
2515 **endorsement.**

2516 (1) Each applicant for licensure under this chapter as a certified public accountant
2517 shall:

2518 (a) submit an application in a form prescribed by the division;

2519 (b) pay a fee determined by the department under Section 63J-1-504;

2520 [~~(c) show evidence of good moral character;~~]

2521 [~~(d)~~] (c) submit a certified transcript of credits from an accredited institution acceptable
2522 to the board showing:

2523 (i) successful completion of a total of 150 semester hours or 225 quarter hours of
2524 collegiate level education with a concentration in accounting, auditing, and business;

2525 (ii) a baccalaureate degree or its equivalent at a college or university approved by the
2526 board; and

2527 (iii) compliance with any other education requirements established by rule by the
2528 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah
2529 Administrative Rulemaking Act;

2530 [~~(e)~~] (d) submit evidence of one year of accounting experience in a form prescribed by
2531 the division;

2532 [~~(f)~~] (e) submit evidence of having successfully completed the qualifying examinations
2533 in accordance with Section 58-26a-306; and

2534 [~~(g)~~] (f) submit to an interview by the board, if requested, for the purpose of examining
2535 the applicant's competence and qualifications for licensure.

2536 (2) (a) The division may issue a license under this chapter to a person who holds a

2537 license as a certified public accountant issued by any other state of the United States of
2538 America if the applicant for licensure by endorsement:

2539 (i) submits an application in a form prescribed by the division;
2540 (ii) pays a fee determined by the department under Section 63J-1-504;
2541 [~~(iii) shows evidence of good moral character;~~]
2542 [~~(iv)~~] (iii) submits to an interview by the board, if requested, for the purpose of
2543 examining the applicant's competence and qualifications for licensure; and

2544 [~~(v)~~] (iv) (A) (I) shows evidence of having passed the qualifying examinations; and
2545 (II) (Aa) meets the requirements for licensure which were applicable in this state at the
2546 time of the issuance of the applicant's license by the state from which the original licensure by
2547 satisfactorily passing the AICPA Uniform CPA Examination was issued; or
2548 (Bb) had four years of professional experience after passing the AICPA Uniform CPA
2549 Examination upon which the original license was based, within the 10 years immediately
2550 preceding the application for licensure by endorsement; or

2551 (B) shows evidence that the applicant's education, examination record, and experience
2552 are substantially equivalent to the requirements of Subsection (1), as provided by rule.

2553 (b) This Subsection (2) applies only to a person seeking to obtain a license issued by
2554 this state and does not apply to a person practicing as a certified public accountant in the state
2555 under Subsection 58-26a-305(1).

2556 (3) (a) Each applicant for registration as a Certified Public Accountant firm shall:

2557 (i) submit an application in a form prescribed by the division;
2558 (ii) pay a fee determined by the department under Section 63J-1-504;
2559 (iii) have, notwithstanding any other provision of law, a simple majority of the
2560 ownership of the Certified Public Accountant firm, in terms of financial interests and voting
2561 rights of all partners, officers, shareholders, members, or managers, held by individuals who
2562 are certified public accountants, licensed under this chapter or another state of the United States
2563 of America, and the partners, officers, shareholders, members, or managers, whose principal
2564 place of business is in this state, and who perform professional services in this state hold a
2565 valid license issued under Subsection 58-26a-301(2) or the corresponding provisions of prior
2566 law; and

2567 (iv) meet any other requirements established by rule by the division in collaboration

2568 with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2569 (b) Each separate location of a qualified business entity within the state seeking
2570 registration as a Certified Public Accountant firm shall register separately.

2571 (c) A Certified Public Accountant firm may include owners who are not licensed under
2572 this chapter as outlined in Subsection (3)(a)(iii), provided that:

2573 (i) the firm designates a licensee of this state who is responsible for the proper
2574 registration of the Certified Public Accountant firm and identifies that individual to the
2575 division; and

2576 (ii) all nonlicensed owners are active individual participants in the CPA firm.

2577 Section 41. Section **58-26a-305** is amended to read:

2578 **58-26a-305. Exemptions from licensure.**

2579 (1) In addition to the exemptions from licensure in Section [58-1-307](#), the following
2580 may engage in acts included within the definition of the practice of public accountancy, subject
2581 to the stated circumstances and limitations, without being licensed under this chapter:

2582 (a) a person licensed by any other state, district, or territory of the United States as a
2583 certified public accountant or its equivalent under any other title while practicing in this state
2584 if:

2585 (i) the person's principal place of business is not in this state; and

2586 (A) the person's license as a certified public accountant is from any state which the
2587 National Association of State Boards of Accountancy (NASBA) National Qualification
2588 Appraisal Service has verified to be substantially equivalent to the CPA licensure requirements
2589 of the Uniform Accountancy Act; or

2590 (B) the person's license as a certified public accountant is from a state which the
2591 NASBA National Qualification Appraisal Service has not verified to be substantially
2592 equivalent to the CPA licensure requirements of the Uniform Accountancy Act and the person
2593 obtains from the NASBA National Qualification Appraisal Service verification that the
2594 person's CPA qualifications are substantially equivalent to the CPA licensure requirements of
2595 the Uniform Accountancy Act and Subsection [~~58-26a-302(1)(d)(i)~~] [58-26a-302\(1\)\(c\)\(i\)](#); and

2596 (ii) the person consents, as a condition of the grant of this privilege:

2597 (A) to personal and subject matter jurisdiction and disciplinary authority of the
2598 division;

2599 (B) to comply with this chapter and the rules made under this chapter;

2600 (C) that in the event the license from the state of the person's principal place of
2601 business becomes invalid, the person shall cease offering or rendering professional services in
2602 this state both individually and on behalf of the firm; and

2603 (D) to the appointment of the state board which issued the person's license as the
2604 person's agent upon whom process may be served in an action or proceeding brought by the
2605 division against the licensee;

2606 (b) through December 31, 2012, a person licensed by any other state, district, or
2607 territory of the United States as a certified public accountant or its equivalent under another
2608 title while practicing in this state if:

2609 (i) the person does not qualify for a practice privilege under Subsection (1)(a);
2610 (ii) the practice is incidental to the person's regular practice outside of this state; and
2611 (iii) the person's temporary practice within the state is in conformity with this chapter
2612 and the rules established under this chapter;

2613 (c) an officer, member, partner, or employee of any entity or organization who signs
2614 any statement or report in reference to the financial affairs of the entity or organization with a
2615 designation of that person's position within the entity or organization;

2616 (d) a public official or employee while performing his official duties;

2617 (e) a person using accounting or auditing skills, including the preparation of tax
2618 returns, management advisory services, and the preparation of financial statements without the
2619 issuance of reports; or

2620 (f) an employee of a CPA firm registered under this chapter or an assistant to a person
2621 licensed under this chapter, working under the supervision of a licensee, if:

2622 (i) neither the employee or assistant nor the licensed employer or registered CPA firm
2623 represents that the unlicensed person is a certified public accountant; and
2624 (ii) no accounting or financial statements are issued over the unlicensed person's name.

2625 (2) (a) Notwithstanding any other provision of law, a person who qualifies under
2626 Subsection (1)(a) has all the privileges of a licensee of this state and may engage in acts
2627 included within the definition of the practice of public accountancy, whether in person or by
2628 mail, telephone, or electronic means, based on a practice privilege in this state, and no notice,
2629 fee, or other submission shall be provided by that person.

2630 (b) The division may revoke, suspend, or restrict an exemption granted under
2631 Subsection (1)(a) or (b), or place on probation or issue a public or private reprimand to a
2632 person exempted under those subsections for the reasons set forth in Subsection 58-1-401(2).

2633 Section 42. Section 58-26a-306 is amended to read:

2634 **58-26a-306. Examination requirements.**

2635 (1) Before taking the qualifying examinations, an applicant shall:

2636 (a) submit an application in a form approved by the division;

2637 (b) pay a fee determined by the department under Section 63J-1-504;

2638 (c) demonstrate completion of at least 120 semester hours or 180 quarter hours of the
2639 education requirement described in Subsection ~~[58-26a-302(1)(d)]~~ 58-26a-302(1)(c); and

2640 (d) be approved by the board, or an organization designated by the board, to take the
2641 qualifying examinations.

2642 (2) A person must sit for and meet the conditioning requirements of the AICPA
2643 Uniform CPA Examination as established by the AICPA.

2644 Section 43. Section 58-28-301 is amended to read:

2645 **58-28-301. Licensure required.**

2646 (1) (a) A license is required to engage in the practice of veterinary medicine, except as
2647 specifically provided in Sections 58-1-307 and 58-28-307.

2648 (b) Notwithstanding the provisions of Subsection 58-1-307(1)(c) an individual shall be
2649 licensed under this chapter as a veterinary intern in order to engage in a program of indirectly
2650 supervised clinical training with a veterinarian licensed under this chapter, and as necessary to
2651 meet licensing requirements under Subsection ~~[58-28-302(1)(d)]~~ 58-28-302(1)(c).

2652 (2) The division shall issue to a person who qualifies under this chapter a license in the
2653 classification of:

2654 (a) veterinarian; or

2655 (b) veterinarian intern.

2656 Section 44. Section 58-28-302 is amended to read:

2657 **58-28-302. License qualifications.**

2658 (1) Every applicant for a license to practice veterinary medicine, surgery, and dentistry
2659 shall:

2660 ~~[(a) be of good moral character as it relates to the functions and duties of a licensed~~

2661 veterinarian;]

2662 ~~[(b)]~~ (a) pass an examination approved by the board on the theory and practice of the
2663 science of veterinary medicine, surgery, dentistry, and other subjects determined by the board,
2664 knowledge of which is generally required of veterinarians;

2665 ~~[(c)]~~ (b) (i) graduate from a veterinary college accredited by the AVMA; or

2666 (ii) obtain a certificate issued by the Educational Commission for Foreign Veterinary
2667 Graduates issued by the AVMA;

2668 ~~[(d)]~~ (c) (i) have practiced under the supervision of a veterinarian licensed to practice
2669 in this state for a period of at least six months;

2670 (ii) have participated in veterinary investigational, educational, or sanitary control work
2671 of a nature and duration as to be the equivalent of the experience of Subsection ~~[(1)(d)(i)]~~
2672 (1)(c)(i);

2673 (iii) have practiced as a licensed veterinarian outside Utah for a period of at least six
2674 months; or

2675 (iv) have practiced as a veterinarian while employed by the United States government,
2676 its agencies, or the state or its political subdivisions for a period of at least six months; and

2677 ~~[(e)]~~ (d) pay a fee to the Department of Commerce determined ~~[by it pursuant to]~~ in
2678 accordance with Section 63J-1-504 for the examination, for an initial license, and for a renewal
2679 license.

2680 (2) (a) An applicant for licensure as a veterinary intern shall comply with the
2681 provisions of ~~[Subsections (1)(a) and (c)]~~ Subsection (1)(b).

2682 (b) An applicant's license as a veterinary intern is limited to the period of time
2683 necessary to complete clinical training as described in Subsection ~~[(1)(d)]~~ (1)(c) and extends
2684 not more than one year from the date the minimum requirement for training is completed,
2685 unless the individual presents satisfactory evidence to the division and the board that the
2686 individual is making reasonable progress toward passing the qualifying examination or is
2687 otherwise on a course reasonably expected to lead to licensure as a veterinarian, but the period
2688 of time under this Subsection (2)(b) may not exceed two years past the date the minimum
2689 supervised clinical training has been completed.

2690 Section 45. Section **58-28-304** is amended to read:

2691 **58-28-304. Temporary license -- License reciprocity.**

2692 (1) The division may issue a temporary license to practice veterinary medicine, surgery,
2693 and dentistry to any person not qualified for licensure under Subsection (4) who meets all
2694 requirements of Section [58-28-302](#) with the exception of Subsections [~~58-28-302(1)(b) and (d)~~]
2695 [58-28-302\(1\)\(a\) and \(c\)](#), except that the temporary license shall by its terms expire at the date
2696 examination results are available for the examination next following the date of the issuance of
2697 the temporary license.

2698 (2) The temporary license shall permit the holder to practice under the indirect
2699 supervision of a veterinarian licensed to practice in this state.

2700 (3) The division may extend the expiration date of the temporary license until the
2701 following examination date if:

2702 (a) the applicant shows to the board good cause for failing to take or pass the
2703 examination; and

2704 (b) the majority of the board members recommend the extension.

2705 (4) Upon the recommendation of the board, the division may issue a license without
2706 examination to a person who:

2707 (a) has been licensed or registered to practice veterinary medicine, surgery, and
2708 dentistry in any state, district, or territory of the United States or in any foreign country, whose
2709 educational, examination, and experience requirements are or were at the time the license was
2710 issued equal to those of this state;

2711 (b) has engaged in the practice of veterinary medicine, dentistry, and surgery while
2712 licensed by another jurisdiction for at least two years;

2713 (c) obtained the license in another jurisdiction after passing an examination component
2714 acceptable to the division and the board;

2715 (d) produces satisfactory evidence of having practiced veterinary medicine competently
2716 and in accordance with the standards and ethics of the profession while practicing in another
2717 jurisdiction; and

2718 (e) produces satisfactory evidence of identity and good moral character as it relates to
2719 the applicant's functions and practice as a licensed veterinarian.

2720 Section 46. Section **58-31b-503** is amended to read:

2721 **58-31b-503. Penalties and administrative actions for unlawful conduct and**
2722 **unprofessional conduct.**

2723 (1) Any person who violates the unlawful conduct provision specifically defined in
2724 Subsection 58-1-501(1)(a) is guilty of a third degree felony.

2725 (2) Any person who violates any of the unlawful conduct provisions specifically
2726 defined in Subsections 58-1-501(1)(b) through (f) and 58-31b-501(1)(d) is guilty of a class A
2727 misdemeanor.

2728 (3) Any person who violates any of the unlawful conduct provisions specifically
2729 defined in this chapter and not set forth in Subsection (1) or (2) is guilty of a class B
2730 misdemeanor.

2731 (4) (a) Subject to Subsection (6) and in accordance with Section 58-31b-401, for acts
2732 of unprofessional or unlawful conduct, the division may:

2733 (i) assess administrative penalties; and

2734 (ii) take any other appropriate administrative action.

2735 (b) An administrative penalty imposed pursuant to this section shall be deposited in the
2736 "Nurse Education and Enforcement Account" as provided in Section 58-31b-103.

2737 (5) If a licensee has been convicted of violating Section 58-31b-501 prior to an
2738 administrative finding of a violation of the same section, the licensee may not be assessed an
2739 administrative fine under this chapter for the same offense for which the conviction was
2740 obtained.

2741 (6) (a) If upon inspection or investigation, the division concludes that a person has
2742 violated the provisions of Section 58-31b-401, 58-31b-501, or 58-31b-502, Chapter 1, Division
2743 of Occupational and Professional Licensing Act, Chapter 37, Utah Controlled Substances Act,
2744 or any rule or order issued with respect to these provisions, and that disciplinary action is
2745 appropriate, the director or the director's designee from within the division shall:

2746 (i) promptly issue a citation to the person according to this chapter and any pertinent
2747 administrative rules;

2748 (ii) attempt to negotiate a stipulated settlement; or

2749 (iii) notify the person to appear before an adjudicative proceeding conducted under
2750 Title 63G, Chapter 4, Administrative Procedures Act.

2751 (b) Any person who is in violation of a provision described in Subsection (6)(a), as
2752 evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an
2753 adjudicative proceeding may be assessed a fine:

2754 (i) pursuant to this Subsection (6) of up to \$10,000 per single violation or up to \$2,000
2755 per day of ongoing violation, whichever is greater, in accordance with a fine schedule
2756 established by rule; and

2757 (ii) in addition to or in lieu of the fine imposed under Subsection (6)(b)(i), be ordered
2758 to cease and desist from violating a provision of Sections 58-31b-501 and 58-31b-502, Chapter
2759 1, Division of Occupational and Professional Licensing Act, Chapter 37, Utah Controlled
2760 Substances Act, or any rule or order issued with respect to those provisions.

2761 (c) Except for an administrative fine and a cease and desist order, the licensure
2762 sanctions cited in Section 58-31b-401 may not be assessed through a citation.

2763 (d) Each citation issued under this section shall:

2764 (i) be in writing; and

2765 (ii) clearly describe or explain:

2766 (A) the nature of the violation, including a reference to the provision of the chapter,
2767 rule, or order alleged to have been violated;

2768 (B) that the recipient must notify the division in writing within 20 calendar days of
2769 service of the citation in order to contest the citation at a hearing conducted under Title 63G,
2770 Chapter 4, Administrative Procedures Act; and

2771 (C) the consequences of failure to timely contest the citation or to make payment of
2772 any fines assessed by the citation within the time specified in the citation; and

2773 (iii) be served upon any person upon whom a summons may be served:

2774 (A) in accordance with the Utah Rules of Civil Procedure;

2775 (B) personally or upon the person's agent by a division investigator or by any person
2776 specially designated by the director; or

2777 (C) by mail.

2778 (e) If within 20 calendar days from the service of a citation, the person to whom the
2779 citation was issued fails to request a hearing to contest the citation, the citation becomes the
2780 final order of the division and is not subject to further agency review. The period to contest the
2781 citation may be extended by the division for cause.

2782 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation
2783 the license of a licensee who fails to comply with the citation after it becomes final.

2784 (g) The failure of an applicant for licensure to comply with a citation after it becomes

2785 final is a ground for denial of license.

2786 (h) No citation may be issued under this section after the expiration of [~~six months~~
2787 ~~following the occurrence of any violation~~] one year following the date on which the violation
2788 that is the subject of the citation is reported to the division.

2789 (7) (a) The director may collect a penalty that is not paid by:

2790 (i) referring the matter to a collection agency; or

2791 (ii) bringing an action in the district court of the county where the person against whom
2792 the penalty is imposed resides or in the county where the office of the director is located.

2793 (b) A county attorney or the attorney general of the state shall provide legal assistance
2794 and advice to the director in an action to collect a penalty.

2795 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an
2796 action brought by the division to collect a penalty.

2797 Section 47. Section **58-31b-803** is amended to read:

2798 **58-31b-803. Limitations on prescriptive authority for advanced practice**
2799 **registered nurses.**

2800 (1) This section does not apply to an advanced practice registered nurse specializing as
2801 a certified registered nurse anesthetist under Subsection [58-31b-102\(14\)\(d\)](#).

2802 (2) Except as provided in Subsections (3) and [~~58-31b-502(1)(r)~~] [58-31b-502\(1\)\(q\)](#), an
2803 advanced practice registered nurse may prescribe or administer a Schedule II controlled
2804 substance without a consultation and referral plan.

2805 (3) An advanced practice registered nurse described in Subsection (4) may not
2806 prescribe or administer a Schedule II controlled substance unless the advanced practice
2807 registered nurse prescribes or administers Schedule II controlled substances in accordance with
2808 a consultation and referral plan.

2809 (4) Subsection (3) applies to an advanced practice registered nurse who:

2810 (a) (i) is engaged in independent solo practice; and

2811 (ii) (A) has been licensed as an advanced practice registered nurse for less than one
2812 year; or

2813 (B) has less than 2,000 hours of experience practicing as a licensed advanced practice
2814 registered nurse; or

2815 (b) owns or operates a pain clinic.

2816 (5) Notwithstanding Subsection 58-31b-102(5), an advanced practice registered nurse
2817 with at least three years of experience as a licensed advanced practice registered nurse may
2818 supervise a consultation and referral plan for an advanced practice registered nurse described in
2819 Subsection (4)(a).

2820 Section 48. Section 58-37f-203 is amended to read:

2821 **58-37f-203. Submission, collection, and maintenance of data.**

2822 (1) (a) The division shall implement on a statewide basis, including non-resident
2823 pharmacies as defined in Section 58-17b-102, the following two options for a pharmacist to
2824 submit information:

2825 (i) real-time submission of the information required to be submitted under this part to
2826 the controlled substance database; and

2827 (ii) 24-hour daily or next business day, whichever is later, batch submission of the
2828 information required to be submitted under this part to the controlled substance database.

2829 (b) ~~[(i) On and after January 1, 2016, a]~~ A pharmacist shall comply with either:

2830 ~~[(A)]~~ (i) the submission time requirements established by the division under
2831 Subsection (1)(a)(i); or

2832 ~~[(B)]~~ (ii) the submission time requirements established by the division under
2833 Subsection (1)(a)(ii).

2834 ~~[(ii) Prior to January 1, 2016, a pharmacist may submit information using either option~~
2835 ~~under this Subsection (1).]~~

2836 (c) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code.

2837 (2) (a) The pharmacist-in-charge and the pharmacist of the drug outlet where a
2838 controlled substance is dispensed shall submit the data described in this section to the division
2839 in accordance with:

2840 (i) the requirements of this section;

2841 (ii) the procedures established by the division;

2842 (iii) additional types of information or data fields established by the division; and

2843 (iv) the format established by the division.

2844 (b) A dispensing medical practitioner licensed under Chapter 17b, Part 8, Dispensing
2845 Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, shall comply with
2846 the provisions of this section and the dispensing medical practitioner shall assume the duties of

2847 the pharmacist under this chapter.

2848 (3) (a) The pharmacist-in-charge and the pharmacist described in Subsection (2)~~[(b)]~~(a)
2849 shall, for each controlled substance dispensed by a pharmacist under the pharmacist's
2850 supervision other than those dispensed for an inpatient at a health care facility, submit to the
2851 division any type of information or data field established by the division by rule in accordance
2852 with Subsection (6) regarding:

2853 (i) each controlled substance that is dispensed by the pharmacist or under the
2854 pharmacist's supervision; and

2855 (ii) each noncontrolled substance that is:

2856 (A) designated by the division under Subsection (8)(a); and

2857 (B) dispensed by the pharmacist or under the pharmacist's supervision.

2858 (b) Subsection (3)(a) does not apply to a drug that is dispensed for an inpatient at a
2859 health care facility.

2860 (4) An individual whose records are in the database may obtain those records upon
2861 submission of a written request to the division.

2862 (5) (a) A patient whose record is in the database may contact the division in writing to
2863 request correction of any of the patient's database information that is incorrect. ~~[The patient~~
2864 ~~shall provide a postal address for the division's response.]~~

2865 (b) The division shall grant or deny the request within 30 days from receipt of the
2866 request and shall advise the requesting patient of its decision ~~[by mail postmarked]~~ within 35
2867 days of receipt of the request.

2868 (c) If the division denies a request under this Subsection (5) or does not respond within
2869 35 days, the patient may submit an appeal to the Department of Commerce, within 60 days
2870 after the ~~[postmark date of the patient's letter making a]~~ patient's written request for a
2871 correction under this Subsection (5).

2872 (6) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
2873 Administrative Rulemaking Act, to establish submission requirements under this part,
2874 including:

2875 (a) electronic format;

2876 (b) submission procedures; and

2877 (c) required information and data fields.

2878 (7) The division shall ensure that the database system records and maintains for
2879 reference:

2880 (a) the identification of each individual who requests or receives information from the
2881 database;

2882 (b) the information provided to each individual; and

2883 (c) the date and time that the information is requested or provided.

2884 (8) (a) The division, in collaboration with the Utah Controlled Substance Advisory
2885 Committee created in Section 58-38a-201, shall designate a list of noncontrolled substances
2886 described in Subsection (8)(b) by rule made in accordance with Title 63G, Chapter 3, Utah
2887 Administrative Rulemaking Act.

2888 (b) To determine whether a prescription drug should be designated in the schedules of
2889 controlled substances under this chapter, the division may collect information about a
2890 prescription drug as defined in Section 58-17b-102 that is not designated in the schedules of
2891 controlled substances under this chapter.

2892 Section 49. Section 58-37f-301 is amended to read:

2893 **58-37f-301. Access to database.**

2894 (1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
2895 Administrative Rulemaking Act, to:

2896 (a) effectively enforce the limitations on access to the database as described in this
2897 part; and

2898 (b) establish standards and procedures to ensure accurate identification of individuals
2899 requesting information or receiving information without request from the database.

2900 (2) The division shall make information in the database and information obtained from
2901 other state or federal prescription monitoring programs by means of the database available only
2902 to the following individuals, in accordance with the requirements of this chapter and division
2903 rules:

2904 (a) (i) personnel of the division specifically assigned to conduct investigations related
2905 to controlled substance laws under the jurisdiction of the division; and

2906 (ii) the following law enforcement officers, but the division may only provide
2907 nonidentifying information, limited to gender, year of birth, and postal ZIP code, regarding
2908 individuals for whom a controlled substance has been prescribed or to whom a controlled

2909 substance has been dispensed:

2910 (A) a law enforcement agency officer who is engaged in a joint investigation with the
2911 division; and

2912 (B) a law enforcement agency officer to whom the division has referred a suspected
2913 criminal violation of controlled substance laws;

2914 (b) authorized division personnel engaged in analysis of controlled substance
2915 prescription information as a part of the assigned duties and responsibilities of their
2916 employment;

2917 (c) a board member if:

2918 (i) the board member is assigned to monitor a licensee on probation; and

2919 (ii) the board member is limited to obtaining information from the database regarding
2920 the specific licensee on probation;

2921 (d) a member of a diversion committee established in accordance with Subsection
2922 [58-1-404\(2\)](#) if:

2923 (i) the diversion committee member is limited to obtaining information from the
2924 database regarding the person whose conduct is the subject of the committee's consideration;
2925 and

2926 (ii) the conduct that is the subject of the committee's consideration includes a violation
2927 or a potential violation of Chapter 37, Utah Controlled Substances Act, or another relevant
2928 violation or potential violation under this title;

2929 (e) in accordance with a written agreement entered into with the department,
2930 employees of the Department of Health:

2931 (i) whom the director of the Department of Health assigns to conduct scientific studies
2932 regarding the use or abuse of controlled substances, if the identity of the individuals and
2933 pharmacies in the database are confidential and are not disclosed in any manner to any
2934 individual who is not directly involved in the scientific studies;

2935 (ii) when the information is requested by the Department of Health in relation to a
2936 person or provider whom the Department of Health suspects may be improperly obtaining or
2937 providing a controlled substance; or

2938 (iii) in the medical examiner's office;

2939 (f) in accordance with a written agreement entered into with the department, a designee

2940 of the director of the Department of Health, who is not an employee of the Department of
2941 Health, whom the director of the Department of Health assigns to conduct scientific studies
2942 regarding the use or abuse of controlled substances pursuant to an application process
2943 established in rule by the Department of Health, if:

2944 (i) the designee provides explicit information to the Department of Health regarding
2945 the purpose of the scientific studies;

2946 (ii) the scientific studies to be conducted by the designee:

2947 (A) fit within the responsibilities of the Department of Health for health and welfare;

2948 (B) are reviewed and approved by an Institutional Review Board that is approved for
2949 human subject research by the United States Department of Health and Human Services; and

2950 (C) are not conducted for profit or commercial gain; and

2951 (D) are conducted in a research facility, as defined by division rule, that is associated
2952 with a university or college accredited by one or more regional or national accrediting agencies
2953 recognized by the United States Department of Education;

2954 (iii) the designee protects the information as a business associate of the Department of
2955 Health; and

2956 (iv) the identity of the prescribers, patients, and pharmacies in the database are
2957 de-identified, confidential, not disclosed in any manner to the designee or to any individual
2958 who is not directly involved in the scientific studies;

2959 (g) in accordance with the written agreement entered into with the department and the
2960 Department of Health, authorized employees of a managed care organization, as defined in 42
2961 C.F.R. Sec. 438, if:

2962 (i) the managed care organization contracts with the Department of Health under the
2963 provisions of Section [26-18-405](#) and the contract includes provisions that:

2964 (A) require a managed care organization employee who will have access to information
2965 from the database to submit to a criminal background check; and

2966 (B) limit the authorized employee of the managed care organization to requesting
2967 either the division or the Department of Health to conduct a search of the database regarding a
2968 specific Medicaid enrollee and to report the results of the search to the authorized employee;
2969 and

2970 (ii) the information is requested by an authorized employee of the managed care

2971 organization in relation to a person who is enrolled in the Medicaid program with the managed
2972 care organization, and the managed care organization suspects the person may be improperly
2973 obtaining or providing a controlled substance;

2974 (h) a licensed practitioner having authority to prescribe controlled substances, to the
2975 extent the information:

2976 (i) (A) relates specifically to a current or prospective patient of the practitioner; and
2977 (B) is provided to or sought by the practitioner for the purpose of:

2978 (I) prescribing or considering prescribing any controlled substance to the current or
2979 prospective patient;

2980 (II) diagnosing the current or prospective patient;

2981 (III) providing medical treatment or medical advice to the current or prospective
2982 patient; or

2983 (IV) determining whether the current or prospective patient:

2984 (Aa) is attempting to fraudulently obtain a controlled substance from the practitioner;

2985 or

2986 (Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled
2987 substance from the practitioner;

2988 (ii) (A) relates specifically to a former patient of the practitioner; and

2989 (B) is provided to or sought by the practitioner for the purpose of determining whether
2990 the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a
2991 controlled substance from the practitioner;

2992 (iii) relates specifically to an individual who has access to the practitioner's Drug
2993 Enforcement Administration identification number, and the practitioner suspects that the
2994 individual may have used the practitioner's Drug Enforcement Administration identification
2995 number to fraudulently acquire or prescribe a controlled substance;

2996 (iv) relates to the practitioner's own prescribing practices, except when specifically
2997 prohibited by the division by administrative rule;

2998 (v) relates to the use of the controlled substance database by an employee of the
2999 practitioner, described in Subsection (2)(i); or

3000 (vi) relates to any use of the practitioner's Drug Enforcement Administration
3001 identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a

3002 controlled substance;

3003 (i) in accordance with Subsection (3)(a), an employee of a practitioner described in

3004 Subsection (2)(h), for a purpose described in Subsection (2)(h)(i) or (ii), if:

3005 (i) the employee is designated by the practitioner as an individual authorized to access

3006 the information on behalf of the practitioner;

3007 (ii) the practitioner provides written notice to the division of the identity of the

3008 employee; and

3009 (iii) the division:

3010 (A) grants the employee access to the database; and

3011 (B) provides the employee with a password that is unique to that employee to access

3012 the database in order to permit the division to comply with the requirements of Subsection

3013 [58-37f-203\(5\)](#) with respect to the employee;

3014 (j) an employee of the same business that employs a licensed practitioner under

3015 Subsection (2)(h) if:

3016 (i) the employee is designated by the practitioner as an individual authorized to access

3017 the information on behalf of the practitioner;

3018 (ii) the practitioner and the employing business provide written notice to the division of

3019 the identity of the designated employee; and

3020 (iii) the division:

3021 (A) grants the employee access to the database; and

3022 (B) provides the employee with a password that is unique to that employee to access

3023 the database in order to permit the division to comply with the requirements of Subsection

3024 [58-37f-203\(5\)](#) with respect to the employee;

3025 (k) a licensed pharmacist having authority to dispense a controlled substance to the

3026 extent the information is provided or sought for the purpose of:

3027 (i) dispensing or considering dispensing any controlled substance; or

3028 (ii) determining whether a person:

3029 (A) is attempting to fraudulently obtain a controlled substance from the pharmacist; or

3030 (B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled

3031 substance from the pharmacist;

3032 (l) in accordance with Subsection (3)(a), a licensed pharmacy technician and pharmacy

3033 intern who is an employee of a pharmacy as defined in Section 58-17b-102, for the purposes
3034 described in Subsection ~~[(2)(j)]~~ (2)(k)(i) or (ii), if:

3035 (i) the employee is designated by the pharmacist-in-charge as an individual authorized
3036 to access the information on behalf of a licensed pharmacist employed by the pharmacy;

3037 (ii) the pharmacist-in-charge provides written notice to the division of the identity of
3038 the employee; and

3039 (iii) the division:

3040 (A) grants the employee access to the database; and

3041 (B) provides the employee with a password that is unique to that employee to access
3042 the database in order to permit the division to comply with the requirements of Subsection
3043 58-37f-203(5) with respect to the employee;

3044 (m) pursuant to a valid search warrant, federal, state, and local law enforcement
3045 officers and state and local prosecutors who are engaged in an investigation related to:

3046 (i) one or more controlled substances; and

3047 (ii) a specific person who is a subject of the investigation;

3048 (n) subject to Subsection (7), a probation or parole officer, employed by the
3049 Department of Corrections or by a political subdivision, to gain access to database information
3050 necessary for the officer's supervision of a specific probationer or parolee who is under the
3051 officer's direct supervision;

3052 (o) employees of the Office of Internal Audit and Program Integrity within the
3053 Department of Health who are engaged in their specified duty of ensuring Medicaid program
3054 integrity under Section 26-18-2.3;

3055 (p) a mental health therapist, if:

3056 (i) the information relates to a patient who is:

3057 (A) enrolled in a licensed substance abuse treatment program; and

3058 (B) receiving treatment from, or under the direction of, the mental health therapist as
3059 part of the patient's participation in the licensed substance abuse treatment program described
3060 in Subsection (2)(p)(i)(A);

3061 (ii) the information is sought for the purpose of determining whether the patient is
3062 using a controlled substance while the patient is enrolled in the licensed substance abuse
3063 treatment program described in Subsection (2)(p)(i)(A); and

3064 (iii) the licensed substance abuse treatment program described in Subsection
3065 (2)(p)(i)(A) is associated with a practitioner who:
3066 (A) is a physician, a physician assistant, an advance practice registered nurse, or a
3067 pharmacist; and
3068 (B) is available to consult with the mental health therapist regarding the information
3069 obtained by the mental health therapist, under this Subsection (2)(p), from the database;
3070 (q) an individual who is the recipient of a controlled substance prescription entered into
3071 the database, upon providing evidence satisfactory to the division that the individual requesting
3072 the information is in fact the individual about whom the data entry was made;
3073 (r) an individual under Subsection (2)(q) for the purpose of obtaining a list of the
3074 persons and entities that have requested or received any information from the database
3075 regarding the individual, except if the individual's record is subject to a pending or current
3076 investigation as authorized under this Subsection (2);
3077 (s) the inspector general, or a designee of the inspector general, of the Office of
3078 Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in
3079 Title 63A, Chapter 13, Part 2, Office and Powers;
3080 (t) the following licensed physicians for the purpose of reviewing and offering an
3081 opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter
3082 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:
3083 (i) a member of the medical panel described in Section [34A-2-601](#);
3084 (ii) a physician employed as medical director for a licensed workers' compensation
3085 insurer or an approved self-insured employer; or
3086 (iii) a physician offering a second opinion regarding treatment; and
3087 (u) members of Utah's Opioid Fatality Review Committee, for the purpose of
3088 reviewing a specific fatality due to opioid use and recommending policies to reduce the
3089 frequency of opioid use fatalities.
3090 (3) (a) (i) A practitioner described in Subsection (2)(h) may designate one or more
3091 employees to access information from the database under Subsection (2)(i), (2)(j), or (4)(c).
3092 (ii) A pharmacist described in Subsection (2)(k) who is a pharmacist-in-charge may
3093 designate up to five employees to access information from the database under Subsection (2)(l).
3094 (b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah

3095 Administrative Rulemaking Act, to:

3096 (i) establish background check procedures to determine whether an employee
3097 designated under Subsection (2)(i), (2)(j), or (4)(c) should be granted access to the database;
3098 and

3099 (ii) establish the information to be provided by an emergency department employee
3100 under Subsection (4); and

3101 (iii) facilitate providing controlled substance prescription information to a third party
3102 under Subsection (5).

3103 (c) The division shall grant an employee designated under Subsection (2)(i), (2)(j), or
3104 (4)(c) access to the database, unless the division determines, based on a background check, that
3105 the employee poses a security risk to the information contained in the database.

3106 (4) (a) An individual who is employed in the emergency department of a hospital may
3107 exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if
3108 the individual is designated under Subsection (4)(c) and the licensed practitioner:

3109 (i) is employed in the emergency department;

3110 (ii) is treating an emergency department patient for an emergency medical condition;

3111 and

3112 (iii) requests that an individual employed in the emergency department and designated
3113 under Subsection (4)(c) obtain information regarding the patient from the database as needed in
3114 the course of treatment.

3115 (b) The emergency department employee obtaining information from the database
3116 shall, when gaining access to the database, provide to the database the name and any additional
3117 identifiers regarding the requesting practitioner as required by division administrative rule
3118 established under Subsection (3)(b).

3119 (c) An individual employed in the emergency department under this Subsection (4)
3120 may obtain information from the database as provided in Subsection (4)(a) if:

3121 (i) the employee is designated by the practitioner as an individual authorized to access
3122 the information on behalf of the practitioner;

3123 (ii) the practitioner and the hospital operating the emergency department provide
3124 written notice to the division of the identity of the designated employee; and

3125 (iii) the division:

3126 (A) grants the employee access to the database; and

3127 (B) provides the employee with a password that is unique to that employee to access
3128 the database in order to permit the division to comply with the requirements of Subsection
3129 58-37f-203(5) with respect to the employee.

3130 (d) The division may impose a fee, in accordance with Section 63J-1-504, on a
3131 practitioner who designates an employee under Subsection (2)(i), (2)(j), or (4)(c) to pay for the
3132 costs incurred by the division to conduct the background check and make the determination
3133 described in Subsection (3)(b).

3134 (5) (a) (i) An individual may request that the division provide the information under
3135 Subsection (5)(b) to a third party who is designated by the individual each time a controlled
3136 substance prescription for the individual is dispensed.

3137 (ii) The division shall upon receipt of the request under this Subsection (5)(a) advise
3138 the individual in writing that the individual may direct the division to discontinue providing the
3139 information to a third party and that notice of the individual's direction to discontinue will be
3140 provided to the third party.

3141 (b) The information the division shall provide under Subsection (5)(a) is:

3142 (i) the fact a controlled substance has been dispensed to the individual, but without
3143 identifying the controlled substance; and

3144 (ii) the date the controlled substance was dispensed.

3145 (c) (i) An individual who has made a request under Subsection (5)(a) may direct that
3146 the division discontinue providing information to the third party.

3147 (ii) The division shall:

3148 (A) notify the third party that the individual has directed the division to no longer
3149 provide information to the third party; and

3150 (B) discontinue providing information to the third party.

3151 (6) (a) An individual who is granted access to the database based on the fact that the
3152 individual is a licensed practitioner or a mental health therapist shall be denied access to the
3153 database when the individual is no longer licensed.

3154 (b) An individual who is granted access to the database based on the fact that the
3155 individual is a designated employee of a licensed practitioner shall be denied access to the
3156 database when the practitioner is no longer licensed.

3157 (7) A probation or parole officer is not required to obtain a search warrant to access the
3158 database in accordance with Subsection (2)(n).

3159 (8) The division shall review and adjust the database programming which
3160 automatically logs off an individual who is granted access to the database under Subsections
3161 (2)(h), (2)(i), (2)(j), and (4)(c) to maximize the following objectives:

3162 (a) to protect patient privacy;

3163 (b) to reduce inappropriate access; and

3164 (c) to make the database more useful and helpful to a person accessing the database
3165 under Subsections (2)(h), (2)(i), (2)(j), and (4)(c), especially in high usage locations such as an
3166 emergency department.

3167 Section 50. Section **58-37f-302** is amended to read:

3168 **58-37f-302. Other restrictions on access to database.**

3169 (1) A person who is a relative of a deceased individual is not entitled to access
3170 information from the database relating to the deceased individual based on the fact or claim
3171 that the person is:

3172 (a) related to the deceased individual; or

3173 (b) subrogated to the rights of the deceased individual.

3174 (2) Except as provided in [~~Subsection~~] Subsections (3) and (4), data provided to,
3175 maintained in, or accessed from the database that may be identified to, or with, a particular
3176 person is not subject to discovery, subpoena, or similar compulsory process in any civil,
3177 judicial, administrative, or legislative proceeding, nor shall any individual or organization with
3178 lawful access to the data be compelled to testify with regard to the data.

3179 (3) The restrictions described in Subsection (2) do not apply to a civil, judicial, or
3180 administrative action brought to enforce the provisions of this chapter.

3181 (4) (a) Subject to the requirements of this Subsection (4), in a state criminal proceeding
3182 a court may:

3183 (i) order the release of information contained in the database if the court determines
3184 good cause has been shown in accordance with Rule 16, Utah Rules of Criminal Procedure;

3185 and

3186 (ii) at any time order that information released under this Subsection (4) be restricted,
3187 limited, or restrained from further dissemination as the court determines is appropriate.

3188 (b) Upon the motion of a defendant, a court may only issue an order compelling the
3189 production of database information under this Subsection (4) that pertains to a victim if the
3190 court finds upon notice as provided in Subsection (4)(c), and after a hearing, that the defendant
3191 is entitled to production of the information under applicable state and federal law.

3192 (c) A motion by a defendant for database information pertaining to a victim shall be
3193 served by the defendant on:

3194 (i) the prosecutor and on counsel for the victim or victim's representative; or

3195 (ii) the prosecutor if the victim is unrepresented by counsel.

3196 (d) Upon a defendant's motion for database information pertaining to a victim, if the
3197 court determines that good cause exists to order release of database information pertaining to
3198 the victim, the court shall conduct an in camera review of the database information and may
3199 only disclose to the defense and prosecution those portions of database information that are
3200 relevant to the state criminal proceeding.

3201 Section 51. Section **58-37f-303** is amended to read:

3202 **58-37f-303. Access to opioid prescription information via an electronic data**
3203 **system.**

3204 (1) As used in this section:

3205 (a) "Dispense" means the same as that term is defined in Section [58-17b-102](#).

3206 (b) "EDS user":

3207 (i) means:

3208 (A) a prescriber;

3209 (B) a pharmacist; or

3210 (C) an individual granted access to the database under Subsection [58-37f-301\(3\)\(c\)](#);

3211 and

3212 (ii) does not mean an individual whose access to the database has been revoked by the
3213 division pursuant to Subsection [58-37f-301\(5\)\(~~b~~\)\(c\)](#).

3214 (c) "Electronic data system" means a software product or an electronic service used by:

3215 (i) a prescriber to manage electronic health records; or

3216 (ii) a pharmacist to manage the dispensing of prescription drugs.

3217 (d) "Opioid" means any substance listed in Subsection [58-37-4\(2\)\(b\)\(i\)](#) or [\(2\)\(b\)\(ii\)](#).

3218 (e) "Pharmacist" means the same as that term is defined in Section [58-17b-102](#).

3219 (f) "Prescriber" means a practitioner, as that term is defined in Section 58-37-2, who is
3220 licensed under Section 58-37-6 to prescribe an opioid.

3221 (g) "Prescription drug" means the same as that term is defined in Section 58-17b-102.

3222 (2) Subject to Subsections (3) through (6), no later than January 1, 2017, the division
3223 shall make opioid prescription information in the database available to an EDS user via the
3224 user's electronic data system.

3225 (3) An electronic data system may be used to make opioid prescription information in
3226 the database available to an EDS user only if the electronic data system complies with rules
3227 established by the division under Subsection (4).

3228 (4) (a) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
3229 Administrative Rulemaking Act, specifying:

3230 (i) an electronic data system's:

3231 (A) allowable access to and use of opioid prescription information in the database; and

3232 (B) minimum actions that must be taken to ensure that opioid prescription information
3233 accessed from the database is protected from inappropriate disclosure or use; and

3234 (ii) an EDS user's:

3235 (A) allowable access to opioid prescription information in the database via an
3236 electronic data system; and

3237 (B) allowable use of the information.

3238 (b) The rules shall establish:

3239 (i) minimum user identification requirements that in substance are the same as the
3240 database identification requirements in Section 58-37f-301;

3241 (ii) user access restrictions that in substance are the same as the database identification
3242 requirements in Section 58-37f-301; and

3243 (iii) any other requirements necessary to ensure that in substance the provisions of
3244 Sections 58-37f-301 and 58-37f-302 apply to opioid prescription information in the database
3245 that has been made available to an EDS user via an electronic data system.

3246 (5) The division may not make opioid prescription information in the database
3247 available to an EDS user via the user's electronic data system if:

3248 (a) the electronic data system does not comply with the rules established by the
3249 division under Subsection (4); or

3250 (b) the EDS user does not comply with the rules established by the division under
3251 Subsection (4).

3252 (6) (a) The division shall periodically audit the use of opioid prescription information
3253 made available to an EDS user via the user's electronic data system.

3254 (b) The audit shall review compliance by:

3255 (i) the electronic data system with rules established by the division under Subsection
3256 (4); and

3257 (ii) the EDS user with rules established by the division under Subsection (4).

3258 (c) (i) If the division determines by audit or other means that an electronic data system
3259 is not in compliance with rules established by the division under Subsection (4), the division
3260 shall immediately suspend or revoke the electronic data system's access to opioid prescription
3261 information in the database.

3262 (ii) If the division determines by audit or other means that an EDS user is not in
3263 compliance with rules established by the division under Subsection (4), the division shall
3264 immediately suspend or revoke the EDS user's access to opioid prescription information in the
3265 database via an electronic data system.

3266 (iii) If the division suspends or revokes access to opioid prescription information in the
3267 database under Subsection (6)(c)(i) or (6)(c)(ii), the division shall also take any other
3268 appropriate corrective or disciplinary action authorized by this chapter or title.

3269 Section 52. Section **58-40-302** is amended to read:

3270 **58-40-302. Qualifications for licensure.**

3271 (1) An applicant for licensure under this chapter shall:

3272 (a) submit an application in a form prescribed by the division; and

3273 (b) pay a fee determined by the department under Section [63J-1-504](#)~~;~~ and.

3274 ~~[(c) be of good moral character.]~~

3275 (2) In addition to the requirements of Subsection (1), an applicant for licensure as a
3276 master therapeutic recreation specialist under this chapter shall as defined by division rule:

3277 (a) complete an approved graduate degree;

3278 (b) complete 4,000 qualifying hours of paid experience as:

3279 (i) a licensed therapeutic recreation specialist if completed in the state; or

3280 (ii) a certified therapeutic recreation specialist certified by the National Council for

3281 Therapeutic Recreation Certification if completed outside of the state; and

3282 (c) pass an approved examination.

3283 (3) In addition to the requirements of Subsection (1), an applicant for licensure as a
3284 therapeutic recreation specialist under this chapter shall, as defined by division rule:

3285 (a) complete an approved:

3286 (i) bachelor's degree in therapeutic recreation or recreational therapy;

3287 (ii) bachelor's degree with an approved emphasis, option, or concentration in
3288 therapeutic recreation or recreational therapy; or

3289 (iii) graduate degree;

3290 (b) complete an approved practicum; and

3291 (c) pass an approved examination.

3292 (4) In addition to the requirements of Subsection (1), an applicant for licensure as a
3293 therapeutic recreation technician under this chapter shall, as defined by division rule:

3294 (a) have a high school diploma or GED equivalent;

3295 (b) complete an approved:

3296 (i) educational course in therapeutic recreation taught by a licensed master therapeutic
3297 recreation specialist; or

3298 (ii) six semester hours or nine quarter hours in therapeutic recreation or recreational
3299 therapy from an accredited college or university;

3300 (c) complete an approved practicum under the supervision of:

3301 (i) a licensed master therapeutic recreation specialist; or

3302 (ii) an on-site, full-time, employed therapeutic recreation specialist;

3303 (d) pass an approved examination; and

3304 (e) complete a minimum of two hours of training in suicide prevention via a course that
3305 the division designates as approved.

3306 Section 53. Section **58-40-501** is amended to read:

3307 **58-40-501. Unlawful conduct.**

3308 "Unlawful conduct" includes:

3309 (1) providing, leading, facilitating, teaching, or offering to provide or teach recreational
3310 therapy services unless licensed under this chapter or exempted from licensure under Section

3311 [58-1-307](#) or [58-40-305](#); and

3312 (2) using the initials MTRS, TRS, or TRT, or other abbreviation, term, title, or sign
3313 relating to the practice of recreational therapy services unless licensed under this chapter~~[-and].~~

3314 [~~(3) employing or aiding and abetting the employment of an unqualified or unlicensed~~
3315 ~~person to:~~

3316 [~~(a) practice as a recreational therapist; or~~

3317 [~~(b) provide recreational therapy services.]~~

3318 Section 54. Section ~~58-41-5~~ is amended to read:

3319 **58-41-5. Licensure requirements.**

3320 (1) To obtain and maintain a license as an audiologist beginning July 1, 2010, an
3321 applicant must:

3322 (a) submit a completed application in the form and content prescribed by the division
3323 and pay a fee to the department in accordance with Section [63J-1-504](#);

3324 [~~(b) be of good moral character;~~

3325 [~~(c)~~] (b) provide the committee with verification that the applicant is the legal holder of
3326 a clinical doctor's degree or AuD, in audiology, from an accredited university or college, based
3327 on a program of studies primarily in the field of audiology;

3328 [~~(d)~~] (c) be in compliance with the regulations of conduct and codes of ethics for the
3329 profession of audiology;

3330 [~~(e)~~] (d) submit to the board certified evidence of having completed at least one year of
3331 professional experience, at least 30 hours per week for an academic year, of direct clinical
3332 experience in treatment and management of patients, supervised and attested to by one holding
3333 an audiologist license under this chapter, the CCC, or their full equivalent; and

3334 [~~(f)~~] (e) pass a nationally standardized examination in audiology which is the same as
3335 or equivalent to the examination required for the CCC and with pass-fail criteria equivalent to
3336 current ASHA standards, and the board may require the applicant to pass an acceptable
3337 practical demonstration of clinical skills to an examining committee of licensed audiologists
3338 appointed by the board.

3339 (2) To obtain and maintain a license as an audiologist prior to July 1, 2010, an
3340 applicant shall:

3341 (a) comply with Subsections (1)(a), [~~(b), (d), (e), and (f)~~] (c), (d), and (e); and

3342 (b) provide the committee with verification that the applicant has received at least a

3343 master's degree in the area of audiology from an accredited university or college, based on a
 3344 program of studies primarily in the field of audiology, and holds the CCC or its full equivalent.

3345 (3) An individual who, prior to July 1, 2010, is licensed as an audiologist under this
 3346 chapter is, on or after July 1, 2010, considered to hold a current license under this chapter as an
 3347 audiologist and is subject to this chapter.

3348 (4) To obtain and maintain a license as a speech-language pathologist, an applicant
 3349 must:

3350 (a) comply with ~~[Subsections (1)(a) and (b)]~~ Subsection (1)(a);

3351 (b) provide the committee with verification that the applicant has received at least a
 3352 master's degree in speech-language pathology from an accredited university or college, based
 3353 on a program of studies primarily in the field of speech-language pathology;

3354 (c) be in compliance with the regulations of conduct and code of ethics for the
 3355 profession of speech-language pathology;

3356 (d) comply with Subsection ~~[(1)(c)]~~ (1)(b), except that the supervision and attestation
 3357 requirement shall be from a licensed speech-language pathologist rather than a licensed
 3358 audiologist; and

3359 (e) pass a nationally standardized examination in speech-language pathology which is
 3360 the same as or equivalent to the examination required for the CCC and with pass-fail criteria
 3361 equivalent to current ASHA standards, and the board may require the applicant to pass an
 3362 acceptable practical demonstration of clinical skills to an examining committee of licensed
 3363 speech-language pathologists appointed by the board.

3364 Section 55. Section **58-42a-302** is amended to read:

3365 **58-42a-302. Qualifications for licensure.**

3366 (1) An applicant for licensure as an occupational therapist shall:

3367 (a) submit an application in a form as prescribed by the division;

3368 (b) pay a fee as determined by the department under Section [63J-1-504](#);

3369 ~~[(c) be of good moral character as it relates to the functions and responsibilities of the
 3370 practice of occupational therapy;]~~

3371 ~~[(d)]~~ (c) graduate with a bachelor's or graduate degree for the practice of occupational
 3372 therapy from an education program accredited by the American Occupational Therapy
 3373 Association's Accreditation Council for Occupational Therapy Education, a predecessor

3374 organization, or an equivalent organization as determined by division rule;

3375 ~~[(e)]~~ (d) if applying for licensure on or after July 1, 2015, complete a minimum of 24
3376 weeks of supervised fieldwork experience; and

3377 ~~[(f)]~~ (e) pass an examination approved by the division in consultation with the board
3378 and administered by the National Board for Certification in Occupational Therapy, or by
3379 another nationally recognized credentialing body as approved by division rule, to demonstrate
3380 knowledge of the practice, skills, theory, and professional ethics related to occupational
3381 therapy.

3382 (2) All applicants for licensure as an occupational therapy assistant shall:

3383 (a) submit an application in a form as prescribed by the division;

3384 (b) pay a fee as determined by the department under Section 63J-1-504;

3385 ~~[(c) be of good moral character as it relates to the functions and responsibilities of the
3386 practice of occupational therapy;]~~

3387 ~~[(d)]~~ (c) graduate from an educational program for the practice of occupational therapy
3388 as an occupational therapy assistant that is accredited by the American Occupational Therapy
3389 Association's Accreditation Council for Occupational Therapy Education, a predecessor
3390 organization, or an equivalent organization as determined by division rule;

3391 ~~[(e)]~~ (d) if applying for licensure on or after July 1, 2015, complete a minimum of 16
3392 weeks of supervised fieldwork experience; and

3393 ~~[(f)]~~ (e) pass an examination approved by the division in consultation with the board
3394 and administered by the National Board for Certification in Occupational Therapy, or by
3395 another nationally recognized credentialing body as approved by division rule, to demonstrate
3396 knowledge of the practice, skills, theory, and professional ethics related to occupational
3397 therapy.

3398 (3) Notwithstanding the other requirements of this section, the division may issue a
3399 license as an occupational therapist or as an occupational therapy assistant to an applicant who:

3400 (a) meets the requirements of receiving a license by endorsement under Section
3401 58-1-302; or

3402 (b) has been licensed in a state, district, or territory of the United States, or in a foreign
3403 country, where the education, experience, or examination requirements are not substantially
3404 equal to the requirements of this state, if the applicant passes the applicable examination

3405 described in Subsection ~~[(1)(f) or (2)(f)]~~ (1)(e) or (2)(e).

3406 Section 56. Section **58-42a-501** is amended to read:

3407 **58-42a-501. Unlawful conduct.**

3408 "Unlawful conduct," as defined in Section **58-1-501** and as may be further defined by
3409 division rule, includes:

3410 (1) engaging or offering to engage in the practice of occupational therapy unless
3411 licensed under this chapter or exempted from licensure under Section **58-1-307** or **58-42a-304**;

3412 (2) using the title occupational therapist or occupational therapy assistant unless
3413 licensed under this chapter; and

3414 ~~[(3) employing or aiding and abetting an unqualified or unlicensed person to engage or
3415 offer to engage in the practice of occupational therapy unless the person is exempted from
3416 licensure under Section **58-1-307** or **58-42a-304**; and]~~

3417 ~~[(4)]~~ (3) obtaining a license under this chapter by means of fraud, misrepresentation, or
3418 concealment of a material fact.

3419 Section 57. Section **58-46a-302** is amended to read:

3420 **58-46a-302. Qualifications for licensure.**

3421 (1) Each applicant for licensure as a hearing instrument specialist shall:

3422 (a) submit to the division an application in a form prescribed by the division;

3423 (b) pay a fee as determined by the division pursuant to Section **63J-1-504**;

3424 ~~[(c) be of good moral character;]~~

3425 ~~[(d)]~~ (c) have qualified for and currently hold board certification by the National Board
3426 for Certification - Hearing Instrument Sciences, or an equivalent certification approved by the
3427 division in collaboration with the board;

3428 ~~[(e)]~~ (d) have passed the Utah Law and Rules Examination for Hearing Instrument
3429 Specialists; and

3430 ~~[(f)]~~ (e) if the applicant holds a hearing instrument intern license, surrender the hearing
3431 instrument intern license at the time of licensure as a hearing instrument specialist.

3432 (2) Each applicant for licensure as a hearing instrument intern shall:

3433 (a) submit to the division an application in a form prescribed by the division;

3434 (b) pay a fee as determined by the division pursuant to Section **63J-1-504**;

3435 ~~[(c) be of good moral character;]~~

3436 ~~[(d)]~~ (c) have passed the Utah Law and Rules Examination for Hearing Instrument
3437 Specialists; and

3438 ~~[(e)]~~ (d) present evidence acceptable to the division and the board that the applicant,
3439 when licensed, will practice as a hearing instrument intern only under the supervision of a
3440 supervising hearing instrument specialist in accordance with:

3441 (i) Section [58-46a-302.5](#); and

3442 (ii) the supervision requirements for obtaining board certification by the National
3443 Board for Certification - Hearing Instrument Sciences, or an equivalent certification approved
3444 by the division in collaboration with the board.

3445 Section 58. Section **58-47b-302** is amended to read:

3446 **58-47b-302. License classifications -- Qualifications for licensure.**

3447 (1) The division shall issue licenses under this chapter in the classifications of:

3448 (a) massage therapist; and

3449 (b) massage apprentice.

3450 (2) Each applicant for licensure as a massage therapist shall:

3451 (a) submit an application in a form prescribed by the division;

3452 (b) pay a fee determined by the department under Section [63J-1-504](#);

3453 ~~[(e) be of good moral character;]~~

3454 ~~[(d)]~~ (c) be 18 years of age or older;

3455 ~~[(e)]~~ (d) have either:

3456 (i) (A) graduated from a school of massage having a curriculum which meets standards
3457 established by division rule made in collaboration with the board; or

3458 (B) completed equivalent education and training in compliance with division rule; or

3459 (ii) completed a massage apprenticeship program consisting of a minimum of 1,000
3460 hours of supervised training over a minimum of 12 months and in accordance with standards
3461 established by the division by rule made in collaboration with the board; and

3462 ~~[(f)]~~ (e) pass examinations established by rule by the division in collaboration with the
3463 board.

3464 (3) Each applicant for licensure as a massage apprentice shall:

3465 (a) submit an application in a form prescribed by the division;

3466 (b) pay a fee determined by the department under Section [63J-1-504](#);

3467 [~~(c)~~ be of good moral character;]
3468 [~~(d)~~] (c) be 18 years of age or older;
3469 [~~(e)~~] (d) provide satisfactory evidence to the division that the individual will practice as
3470 a massage apprentice only under the direct supervision of a licensed massage therapist in good
3471 standing and who has engaged in the lawful practice of massage therapy as a licensed massage
3472 therapist for not less than 6,000 hours; and

3473 [~~(f)~~] (e) successfully complete an examination as required by division rule.

3474 (4) (a) Any new massage therapist or massage apprentice applicant shall submit
3475 fingerprint cards in a form acceptable to the division at the time the license application is filed
3476 and shall consent to a fingerprint background check by the Utah Bureau of Criminal
3477 Identification and the Federal Bureau of Investigation regarding the application.

3478 (b) The division shall request the Department of Public Safety to complete a Federal
3479 Bureau of Investigation criminal background check for each new massage therapist or
3480 apprentice applicant through the national criminal history system (NCIC) or any successor
3481 system.

3482 (c) The cost of the background check and the fingerprinting shall be borne by the
3483 applicant.

3484 (5) (a) Any new massage therapist or massage apprentice license issued under this
3485 section shall be conditional, pending completion of the criminal background check. If the
3486 criminal background check discloses the applicant has failed to accurately disclose a criminal
3487 history, the license shall be immediately and automatically revoked.

3488 (b) Any person whose conditional license has been revoked under Subsection (5)(a)
3489 shall be entitled to a post-revocation hearing to challenge the revocation. The hearing shall be
3490 conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

3491 (6) An applicant who successfully completes a fingerprint background check under
3492 Subsection (4) may not be required by any other state or local government body to submit to a
3493 second fingerprint background check as a condition of lawfully practicing massage therapy in
3494 this state.

3495 Section 59. Section ~~58-49-4~~ is amended to read:

3496 **~~58-49-4. Qualifications for certification -- Fee.~~**

3497 Each applicant for certification under this chapter shall provide proof satisfactory to the

3498 division that the applicant:

3499 ~~[(1) is of good moral character as it relates to the practice of dietetics;]~~

3500 ~~[(2)]~~ (1) holds a baccalaureate or post-baccalaureate degree conferred by a college or
3501 university approved by the division at the time the degree was conferred with a major course of
3502 study in the sciences of food, dietetics, food systems management, or an equivalent major
3503 course of study;

3504 ~~[(3)]~~ (2) has completed an internship or preplanned professional baccalaureate or
3505 post-baccalaureate experience in a dietetic program under the supervision of a certified
3506 dietitian who is certified under this chapter or certified, registered, or licensed under the laws of
3507 another state or territory of the United States;

3508 ~~[(4)]~~ (3) has satisfactorily passed a competency examination, approved by or given at
3509 the direction of the board in collaboration with the division; and

3510 ~~[(5)]~~ (4) has paid the appropriate fees determined by the Department of Commerce.
3511 The fee assessed by the Department of Commerce shall be fair and reasonable and shall reflect
3512 the cost of services provided.

3513 Section 60. Section ~~58-49-5~~ is amended to read:

3514 **~~58-49-5. Certification of persons currently qualified.~~**

3515 The requirements of Subsections ~~[58-49-4(2), (3), and (4)]~~ 58-49-4(1), (2), and (3) are
3516 waived and a certificate shall be issued by the division upon application and payment of the
3517 appropriate fees by any person who, ~~[prior to]~~ before December 31, 1986, has provided to the
3518 division proof that on May 1, 1985, ~~[he]~~ the person was and is currently registered by the
3519 Commission on Dietetic Registration.

3520 Section 61. Section ~~58-49-9~~ is amended to read:

3521 **~~58-49-9. Use of titles by uncertified person.~~**

3522 No person, without first being certified under this chapter may:

3523 (1) assume or use the title or designation "dietitian," ~~["dietician,"]~~ "certified dietitian,"
3524 "registered dietitian," "registered dietitian nutritionist," the letters "C.D.," the letter "D.," or any
3525 other title, words, letters, abbreviations, or insignia indicating or implying that the person is a
3526 certified dietitian, including by using any of the preceding terms with the alternative spelling
3527 "dietician"; or

3528 (2) represent in any way, whether orally, in writing, in print, or by signature, directly or

3529 by implication, that [he] the person is a certified dietitian.

3530 Section 62. Section **58-53-502** is amended to read:

3531 **58-53-502. Citations -- Penalty for unlawful conduct.**

3532 (1) (a) If upon inspection or investigation, the division concludes that a person has
3533 violated Subsections **58-1-501**(1)(a) through (d), Section **58-53-501**, or Section **58-53-603** or
3534 any rule or order issued with respect to Section **58-53-501**, and that disciplinary action is
3535 appropriate, the director or the director's designee from within the division for each alternative
3536 respectively, shall promptly issue a citation to the person according to this chapter and any
3537 pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear
3538 before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative
3539 Procedures Act.

3540 (i) A person who violates Subsections **58-1-501**(1)(a) through (d) or Section **58-53-501**
3541 or any rule or order issued with respect to Section **58-53-501**, as evidenced by an uncontested
3542 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may
3543 be assessed a fine pursuant to Subsection (1)(i) and may, in addition to or in lieu of, be ordered
3544 to cease and desist from violating Subsections **58-1-501**(1)(a) through (d) or Section **58-53-501**
3545 or any rule or order issued with respect to Section **58-53-501**.

3546 (ii) Except for a cease and desist order, the licensure sanctions cited in Section
3547 **58-53-401** may not be assessed through a citation.

3548 (b) A citation shall:

3549 (i) be in writing;

3550 (ii) describe with particularity the nature of the violation, including a reference to the
3551 provision of the chapter, rule, or order alleged to have been violated;

3552 (iii) clearly state that the recipient must notify the division in writing within 20
3553 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing
3554 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

3555 (iv) clearly explain the consequences of failure to timely contest the citation or to make
3556 payment of any fines assessed by the citation within the time specified in the citation.

3557 (c) The division may issue a notice in lieu of a citation.

3558 (d) Each citation issued under this section, or a copy of each citation, may be served
3559 upon any person whom a summons may be served in accordance with the Utah Rules of Civil

3560 Procedure and may be made personally or upon the person's agent by a division investigator or
3561 by any person specially designated by the director or by mail.

3562 (e) If within 20 calendar days from the service of the citation, the person to whom the
3563 citation was issued fails to request a hearing to contest the citation, the citation becomes the
3564 final order of the division and is not subject to further agency review. The period to contest a
3565 citation may be extended by the division for cause.

3566 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation
3567 the license of a licensee who fails to comply with a citation after it becomes final.

3568 (g) The failure of an applicant for licensure to comply with a citation after it becomes
3569 final is a ground for denial of license.

3570 (h) No citation may be issued under this section after the expiration of [~~six months~~
3571 ~~following the occurrence of any violation~~] one year following the date on which the violation
3572 that is the subject of the citation is reported to the division.

3573 (i) The director or the director's designee shall assess fines according to the following:

3574 (i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to \$1,000;

3575 (ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000;

3576 and

3577 (iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to
3578 \$2,000 for each day of continued offense.

3579 (2) An action initiated for a first or second offense which has not yet resulted in a final
3580 order of the division does not preclude initiation of any subsequent action for a second or
3581 subsequent offense during the pendency of any preceding action. The final order on a
3582 subsequent action shall be considered a second or subsequent offense, respectively, provided
3583 the preceding action resulted in a first or second offense, respectively.

3584 (3) (a) The director may collect a penalty that is not paid by:

3585 (i) referring the matter to a collection agency; or

3586 (ii) bringing an action in the district court of the county where the person against whom
3587 the penalty is imposed resides or in the county where the office of the director is located.

3588 (b) A county attorney or the attorney general of the state shall provide legal assistance
3589 and advice to the director in an action to collect a penalty.

3590 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an

3591 action brought by the division to collect a penalty.

3592 Section 63. Section **58-54-302** is amended to read:

3593 **58-54-302. Requirements for licensure.**

3594 (1) Each applicant for licensure as a radiologic technologist, radiology assistant, or
3595 radiology practical technician shall:

3596 (a) submit an application in a form prescribed by the division in collaboration with the
3597 board; and

3598 (b) pay a fee as determined by the department pursuant to Section ~~63J-1-504~~ [; and].

3599 ~~[(c) be of good moral character.]~~

3600 (2) Each applicant for licensure as a radiologic technologist shall, in addition to the
3601 requirements of Subsection (1):

3602 (a) be a graduate of an accredited educational program in radiologic technology or
3603 certified by the American Registry of Radiologic Technologists or any equivalent educational
3604 program approved by the division in collaboration with the board; and

3605 (b) have passed an examination approved by the division in collaboration with the
3606 board.

3607 (3) Each applicant for licensure as a radiology practical technician shall, in addition to
3608 the requirements of Subsection (1), have passed a basic examination and one or more specialty
3609 examinations that are competency based, using a task analysis of the scope of practice of
3610 radiology practical technicians in the state. The basic examination and the specialty
3611 examination shall be approved by the division in collaboration with the board and the licensing
3612 board of the profession within which the radiology practical technician will be practicing.

3613 (4) The division shall provide for administration of the radiology practical technician
3614 examination not less than monthly at offices designated by the division and located:

3615 (a) in Salt Lake City; and

3616 (b) within each local health department jurisdictional area.

3617 (5) (a) Except as provided in Subsection (5)(b), each applicant for licensure as a
3618 radiologist assistant shall:

3619 (i) meet the requirements of Subsections (1) and (2);

3620 (ii) have a Bachelor of Science degree; and

3621 (iii) be certified as:

3622 (A) a radiologist assistant by the American Registry of Radiologic Technologists; or
3623 (B) a radiology practitioner assistant by the Certification Board of Radiology
3624 Practitioner Assistants.

3625 (b) An individual who meets the requirements of Subsections (5)(a)(i) and (iii), but not
3626 Subsection (5)(a)(ii), may be licensed as a radiologist assistant under this chapter until May 31,
3627 2013, at which time, the individual must have completed the Bachelor of Science degree in
3628 order to retain the license of radiologist assistant.

3629 Section 64. Section **58-55-103** is amended to read:

3630 **58-55-103. Construction Services Commission created -- Functions --**

3631 **Appointment -- Qualifications and terms of members -- Vacancies -- Expenses -- Meetings**
3632 **-- Concurrence.**

3633 (1) (a) There is created within the division the Construction Services Commission.

3634 (b) The commission shall:

3635 (i) with the concurrence of the director, make reasonable rules under Title 63G,
3636 Chapter 3, Utah Administrative Rulemaking Act, to administer and enforce this chapter which
3637 are consistent with this chapter including:

3638 (A) licensing of various licensees;

3639 (B) examination requirements and administration of the examinations, to include
3640 approving and establishing a passing score for applicant examinations;

3641 (C) standards of supervision for students or persons in training to become qualified to
3642 obtain a license in the trade they represent; and

3643 (D) standards of conduct for various licensees;

3644 (ii) approve or disapprove fees adopted by the division under Section [63J-1-504](#);

3645 (iii) except where the boards conduct them, conduct all administrative hearings not
3646 delegated to an administrative law judge relating to the licensing of any applicant;

3647 (iv) except as otherwise provided in Sections [38-11-207](#) and [58-55-503](#), with the
3648 concurrence of the director, impose sanctions against licensees and certificate holders with the
3649 same authority as the division under Section [58-1-401](#);

3650 (v) advise the director on the administration and enforcement of any matters affecting
3651 the division and the construction industry;

3652 (vi) advise the director on matters affecting the division budget;

3653 (vii) advise and assist trade associations in conducting construction trade seminars and
3654 industry education and promotion; and

3655 (viii) perform other duties as provided by this chapter.

3656 (2) (a) Initially the commission shall be comprised of the five members of the
3657 Contractors Licensing Board and two of the three chair persons from the Plumbers Licensing
3658 Board, the Alarm System Security and Licensing Board, and the Electricians Licensing Board.

3659 (b) The terms of office of the commission members who are serving on the Contractors
3660 Licensing Board shall continue as they serve on the commission.

3661 (c) Beginning July 1, 2004, the commission shall be comprised of nine members
3662 appointed by the executive director with the approval of the governor from the following
3663 groups:

3664 (i) one member shall be a licensed general engineering contractor;

3665 (ii) one member shall be a licensed general building contractor;

3666 (iii) two members shall be licensed residential and small commercial contractors;

3667 (iv) three members shall be the three chair persons from the Plumbers Licensing Board,
3668 the Alarm System Security and Licensing Board, and the Electricians Licensing Board; and

3669 (v) two members shall be from the general public~~[- provided, however that the certified
3670 public accountant on the Contractors Licensing Board will continue to serve until the current
3671 term expires, after which both members under this Subsection (2)(c)(v) shall be appointed from
3672 the general public].~~

3673 (3) (a) Except as required by Subsection (3)(b), as terms of current commission
3674 members expire, the executive director with the approval of the governor shall appoint each
3675 new member or reappointed member to a four-year term ending June 30.

3676 (b) Notwithstanding the requirements of Subsection (3)(a), the executive director with
3677 the approval of the governor shall, at the time of appointment or reappointment, adjust the
3678 length of terms to stagger the terms of commission members so that approximately 1/2 of the
3679 commission members are appointed every two years.

3680 (c) A commission member may not serve more than two consecutive terms.

3681 (4) The commission shall elect annually one of its members as chair, for a term of one
3682 year.

3683 (5) When a vacancy occurs in the membership for any reason, the replacement shall be

3684 appointed for the unexpired term.

3685 (6) A member may not receive compensation or benefits for the member's service, but
3686 may receive per diem and travel expenses in accordance with:

3687 (a) Section 63A-3-106;

3688 (b) Section 63A-3-107; and

3689 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
3690 63A-3-107.

3691 (7) (a) The commission shall meet at least monthly unless the director determines
3692 otherwise.

3693 (b) The director may call additional meetings at the director's discretion, upon the
3694 request of the chair, or upon the written request of four or more commission members.

3695 (8) (a) Five members constitute a quorum for the transaction of business.

3696 (b) If a quorum is present when a vote is taken, the affirmative vote of commission
3697 members present is the act of the commission.

3698 (9) The commission shall comply with the procedures and requirements of Title 13,
3699 Chapter 1, Department of Commerce, and Title 63G, Chapter 4, Administrative Procedures
3700 Act, in all of its adjudicative proceedings.

3701 (10) (a) For purposes of this Subsection (10), "concurrence" means the entities given a
3702 concurring role must jointly agree for the action to be taken.

3703 (b) If a provision of this chapter requires concurrence between the director or division
3704 and the commission and no concurrence can be reached, the director or division has final
3705 authority.

3706 (c) When this chapter requires concurrence between the director or division and the
3707 commission:

3708 (i) the director or division shall report to and update the commission on a regular basis
3709 related to matters requiring concurrence; and

3710 (ii) the commission shall review the report submitted by the director or division under
3711 this Subsection (10)(c) and concur with the report, or:

3712 (A) provide a reason for not concurring with the report; and

3713 (B) provide recommendations to the director or division.

3714 Section 65. Section 58-55-106 is amended to read:

3715 **58-55-106. Surcharge fee.**

3716 (1) In addition to any other fees authorized by this chapter or by the division in
3717 accordance with Section 63J-1-504, the division shall require each applicant for an initial
3718 license, renewal of a license, or reinstatement of a license under this chapter to pay a \$1
3719 surcharge fee.

3720 (2) The surcharge fee shall be deposited in the General Fund as a dedicated credit to be
3721 used by the division to provide each licensee under this chapter with access to an electronic
3722 reference library that provides web-based access to national, state, and local building codes and
3723 standards.

3724 Section 66. Section 58-55-302 is amended to read:

3725 **58-55-302. Qualifications for licensure.**

3726 (1) Each applicant for a license under this chapter shall:

3727 (a) submit an application prescribed by the division;

3728 (b) pay a fee as determined by the department under Section 63J-1-504;

3729 (c) meet the examination requirements established by this section and by rule by the
3730 commission with the concurrence of the director, which requirements include:

3731 (i) for licensure as an apprentice electrician, apprentice plumber, or specialty
3732 contractor, no division-administered examination is required;

3733 (ii) for licensure as a general building contractor, general engineering contractor,
3734 residential and small commercial contractor, general plumbing contractor, residential plumbing
3735 contractor, general electrical contractor, or residential electrical contractor, the only required
3736 division-administered examination is a division-administered examination that covers
3737 information from the 25-hour course described in Subsection (1)(e)(iii), which course may
3738 have been previously completed as part of applying for any other license under this chapter,
3739 and, if the 25-hour course was completed on or after July 1, 2019, the five-hour business law
3740 course described in Subsection (1)(e)(iv); and

3741 (iii) if required in Section 58-55-304, an individual qualifier must pass the required
3742 division-administered examination if the applicant is a business entity;

3743 (d) if an apprentice, identify the proposed supervisor of the apprenticeship;

3744 (e) if an applicant for a contractor's license:

3745 (i) produce satisfactory evidence of financial responsibility, except for a construction

3746 trades instructor for whom evidence of financial responsibility is not required;

3747 (ii) produce satisfactory evidence of:

3748 (A) except as provided in Subsection (2)(a), and except that no employment experience

3749 is required for licensure as a specialty contractor, two years full-time paid employment

3750 experience in the construction industry, which employment experience, unless more

3751 specifically described in this section, may be related to any contracting classification and does

3752 not have to include supervisory experience; and

3753 (B) knowledge of the principles of the conduct of business as a contractor, reasonably

3754 necessary for the protection of the public health, safety, and welfare;

3755 (iii) except as otherwise provided by rule by the commission with the concurrence of

3756 the director, complete a 25-hour course established by rule by the commission with the

3757 concurrence of the director, which is taught by an approved prelicensure course provider, and

3758 which course may include:

3759 (A) construction business practices;

3760 (B) bookkeeping fundamentals;

3761 (C) mechanics lien fundamentals;

3762 (D) other aspects of business and construction principles considered important by the

3763 commission with the concurrence of the director; and

3764 (E) for no additional fee, a provider-administered examination at the end of the

3765 25-hour course;

3766 (iv) complete a five-hour business and law course established by rule by the

3767 commission with the concurrence of the director, which is taught by an approved prelicensure

3768 course provider, if an applicant for licensure as a general building contractor, general

3769 engineering contractor, residential and small commercial contractor, general plumbing

3770 contractor, residential plumbing contractor, general electrical contractor, or residential

3771 electrical contractor, except that if the 25-hour course described in Subsection (1)(e)(iii) was

3772 completed before July 1, 2019, the applicant does not need to take the business and law course;

3773 (v) (A) be a licensed master electrician if an applicant for an electrical contractor's

3774 license or a licensed master residential electrician if an applicant for a residential electrical

3775 contractor's license;

3776 (B) be a licensed master plumber if an applicant for a plumbing contractor's license or

3777 a licensed master residential plumber if an applicant for a residential plumbing contractor's
3778 license; or

3779 (C) be a licensed elevator mechanic and produce satisfactory evidence of three years
3780 experience as an elevator mechanic if an applicant for an elevator contractor's license; and

3781 (vi) when the applicant is an unincorporated entity, provide a list of the one or more
3782 individuals who hold an ownership interest in the applicant as of the day on which the
3783 application is filed that includes for each individual:

3784 (A) the individual's name, address, birth date, and social security number; and

3785 (B) whether the individual will engage in a construction trade; and

3786 (f) if an applicant for a construction trades instructor license, satisfy any additional
3787 requirements established by rule.

3788 (2) (a) If the applicant for a contractor's license described in Subsection (1) is a
3789 building inspector, the applicant may satisfy Subsection (1)(e)(ii)(A) by producing satisfactory
3790 evidence of two years full-time paid employment experience as a building inspector, which
3791 shall include at least one year full-time experience as a licensed combination inspector.

3792 (b) ~~[After approval of an applicant for a contractor's license by the applicable board~~
3793 ~~and the division, the] The applicant shall file the following with the division before the division~~
3794 issues the license:

3795 (i) proof of workers' compensation insurance which covers employees of the applicant
3796 in accordance with applicable Utah law;

3797 (ii) proof of public liability insurance in coverage amounts and form established by rule
3798 except for a construction trades instructor for whom public liability insurance is not required;
3799 and

3800 (iii) proof of registration as required by applicable law with the:

3801 (A) Department of Commerce;

3802 (B) Division of Corporations and Commercial Code;

3803 (C) Unemployment Insurance Division in the Department of Workforce Services, for
3804 purposes of Title 35A, Chapter 4, Employment Security Act;

3805 (D) State Tax Commission; and

3806 (E) Internal Revenue Service.

3807 (3) In addition to the general requirements for each applicant in Subsection (1),

3808 applicants shall comply with the following requirements to be licensed in the following
3809 classifications:

3810 (a) (i) A master plumber shall produce satisfactory evidence that the applicant:

3811 (A) has been a licensed journeyman plumber for at least two years and had two years of
3812 supervisory experience as a licensed journeyman plumber in accordance with division rule;

3813 (B) has received at least an associate of applied science degree or similar degree
3814 following the completion of a course of study approved by the division and had one year of

3815 supervisory experience as a licensed journeyman plumber in accordance with division rule; or

3816 (C) meets the qualifications for expedited licensure as established by rules made by the
3817 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
3818 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
3819 and skills to be a licensed master plumber.

3820 (ii) An individual holding a valid Utah license as a journeyman plumber, based on at
3821 least four years of practical experience as a licensed apprentice under the supervision of a
3822 licensed journeyman plumber and four years as a licensed journeyman plumber, in effect
3823 immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current
3824 master plumber license under this chapter, and satisfies the requirements of this Subsection
3825 (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

3826 (iii) An individual holding a valid plumbing contractor's license or residential
3827 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,
3828 2008:

3829 (A) considered to hold a current master plumber license under this chapter if licensed
3830 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this
3831 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section
3832 58-55-303; and

3833 (B) considered to hold a current residential master plumber license under this chapter if
3834 licensed as a residential plumbing contractor and a residential journeyman plumber, and
3835 satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of
3836 that license under Section 58-55-303.

3837 (b) A master residential plumber applicant shall produce satisfactory evidence that the
3838 applicant:

3839 (i) has been a licensed residential journeyman plumber for at least two years and had
3840 two years of supervisory experience as a licensed residential journeyman plumber in
3841 accordance with division rule; or

3842 (ii) meets the qualifications for expedited licensure as established by rules made by the
3843 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
3844 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
3845 and skills to be a licensed master residential plumber.

3846 (c) A journeyman plumber applicant shall produce satisfactory evidence of:

3847 (i) successful completion of the equivalent of at least four years of full-time training
3848 and instruction as a licensed apprentice plumber under supervision of a licensed master
3849 plumber or journeyman plumber and in accordance with a planned program of training
3850 approved by the division;

3851 (ii) at least eight years of full-time experience approved by the division in collaboration
3852 with the Plumbers Licensing Board; or

3853 (iii) meeting the qualifications for expedited licensure as established by rules made by
3854 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
3855 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
3856 and skills to be a licensed journeyman plumber.

3857 (d) A residential journeyman plumber shall produce satisfactory evidence of:

3858 (i) completion of the equivalent of at least three years of full-time training and
3859 instruction as a licensed apprentice plumber under the supervision of a licensed residential
3860 master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in
3861 accordance with a planned program of training approved by the division;

3862 (ii) completion of at least six years of full-time experience in a maintenance or repair
3863 trade involving substantial plumbing work; or

3864 (iii) meeting the qualifications for expedited licensure as established by rules made by
3865 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
3866 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
3867 and skills to be a licensed residential journeyman plumber.

3868 (e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be
3869 in accordance with the following:

3870 (i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be
3871 under the immediate supervision of a licensed master plumber, licensed residential master
3872 plumber, licensed journeyman plumber, or licensed residential journeyman plumber;

3873 (ii) beginning in a licensed apprentice plumber's fourth year of training, a licensed
3874 apprentice plumber may work without supervision for a period not to exceed eight hours in any
3875 24-hour period; and

3876 (iii) rules made by the commission, with the concurrence of the director, in accordance
3877 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of
3878 apprentices allowed under the immediate supervision of a licensed supervisor, including the
3879 ratio of apprentices in their fourth year of training or later that are allowed to be under the
3880 immediate supervision of a licensed supervisor.

3881 (f) A master electrician applicant shall produce satisfactory evidence that the applicant:

3882 (i) is a graduate electrical engineer of an accredited college or university approved by
3883 the division and has one year of practical electrical experience as a licensed apprentice
3884 electrician;

3885 (ii) is a graduate of an electrical trade school, having received an associate of applied
3886 sciences degree following successful completion of a course of study approved by the division,
3887 and has two years of practical experience as a licensed journeyman electrician;

3888 (iii) has four years of practical experience as a journeyman electrician; or

3889 (iv) meets the qualifications for expedited licensure as established by rules made by the
3890 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
3891 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
3892 and skills to be a licensed master electrician.

3893 (g) A master residential electrician applicant shall produce satisfactory evidence that
3894 the applicant:

3895 (i) has at least two years of practical experience as a residential journeyman electrician;
3896 or

3897 (ii) meets the qualifications for expedited licensure as established by rules made by the
3898 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
3899 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
3900 and skills to be a master residential electrician.

3901 (h) A journeyman electrician applicant shall produce satisfactory evidence that the
3902 applicant:

3903 (i) has successfully completed at least four years of full-time training and instruction as
3904 a licensed apprentice electrician under the supervision of a master electrician or journeyman
3905 electrician and in accordance with a planned training program approved by the division;

3906 (ii) has at least eight years of full-time experience approved by the division in
3907 collaboration with the Electricians Licensing Board; or

3908 (iii) meets the qualifications for expedited licensure as established by rules made by the
3909 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
3910 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
3911 and skills to be a licensed journeyman electrician.

3912 (i) A residential journeyman electrician applicant shall produce satisfactory evidence
3913 that the applicant:

3914 (i) has successfully completed two years of training in an electrical training program
3915 approved by the division;

3916 (ii) has four years of practical experience in wiring, installing, and repairing electrical
3917 apparatus and equipment for light, heat, and power under the supervision of a licensed master,
3918 journeyman, residential master, or residential journeyman electrician; or

3919 (iii) meets the qualifications for expedited licensure as established by rules made by the
3920 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
3921 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
3922 and skills to be a licensed residential journeyman electrician.

3923 (j) The conduct of licensed apprentice electricians and their licensed supervisors shall
3924 be in accordance with the following:

3925 (i) A licensed apprentice electrician shall be under the immediate supervision of a
3926 licensed master, journeyman, residential master, or residential journeyman electrician;

3927 (ii) beginning in a licensed apprentice electrician's fourth year of training, a licensed
3928 apprentice electrician may work without supervision for a period not to exceed eight hours in
3929 any 24-hour period;

3930 (iii) rules made by the commission, with the concurrence of the director, in accordance
3931 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of

3932 apprentices allowed under the immediate supervision of a licensed supervisor, including the
3933 ratio of apprentices in their fourth year of training or later that are allowed to be under the
3934 immediate supervision of a licensed supervisor; and

3935 (iv) a licensed supervisor may have up to three licensed apprentice electricians on a
3936 residential project, or more if established by rules made by the commission, in concurrence
3937 with the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
3938 Act.

3939 (k) An alarm company applicant shall:

3940 (i) have a qualifying agent who is an officer, director, partner, proprietor, or manager of
3941 the applicant who:

3942 (A) demonstrates 6,000 hours of experience in the alarm company business;

3943 (B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm
3944 company business or in a construction business; and

3945 (C) passes an examination component established by rule by the commission with the
3946 concurrence of the director;

3947 (ii) if a corporation, provide:

3948 (A) the names, addresses, dates of birth, social security numbers, and fingerprint cards
3949 of all corporate officers, directors, and those responsible management personnel employed
3950 within the state or having direct responsibility for managing operations of the applicant within
3951 the state; and

3952 (B) the names, addresses, dates of birth, social security numbers, and fingerprint cards
3953 of all shareholders owning 5% or more of the outstanding shares of the corporation, except this
3954 shall not be required if the stock is publicly listed and traded;

3955 (iii) if a limited liability company, provide:

3956 (A) the names, addresses, dates of birth, social security numbers, and fingerprint cards
3957 of all company officers, and those responsible management personnel employed within the
3958 state or having direct responsibility for managing operations of the applicant within the state;
3959 and

3960 (B) the names, addresses, dates of birth, social security numbers, and fingerprint cards
3961 of all individuals owning 5% or more of the equity of the company;

3962 (iv) if a partnership, provide the names, addresses, dates of birth, social security

3963 numbers, and fingerprint cards of all general partners, and those responsible management
3964 personnel employed within the state or having direct responsibility for managing operations of
3965 the applicant within the state;

3966 (v) if a proprietorship, provide the names, addresses, dates of birth, social security
3967 numbers, and fingerprint cards of the proprietor, and those responsible management personnel
3968 employed within the state or having direct responsibility for managing operations of the
3969 applicant within the state;

3970 (vi) if a trust, provide the names, addresses, dates of birth, social security numbers, and
3971 fingerprint cards of the trustee, and those responsible management personnel employed within
3972 the state or having direct responsibility for managing operations of the applicant within the
3973 state;

3974 (vii) be of good moral character in that officers, directors, shareholders described in
3975 Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel
3976 have not been convicted of a felony, a misdemeanor involving moral turpitude, or any other
3977 crime that when considered with the duties and responsibilities of an alarm company is
3978 considered by the board to indicate that the best interests of the public are served by granting
3979 the applicant a license;

3980 (viii) document that none of the applicant's officers, directors, shareholders described
3981 in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management
3982 personnel have been declared by any court of competent jurisdiction incompetent by reason of
3983 mental defect or disease and not been restored;

3984 (ix) document that none of the applicant's officers, directors, shareholders described in
3985 Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel are
3986 currently suffering from habitual drunkenness or from drug addiction or dependence;

3987 (x) file and maintain with the division evidence of:

3988 (A) comprehensive general liability insurance in form and in amounts to be established
3989 by rule by the commission with the concurrence of the director;

3990 (B) workers' compensation insurance that covers employees of the applicant in
3991 accordance with applicable Utah law; and

3992 (C) registration as is required by applicable law with the:

3993 (I) Division of Corporations and Commercial Code;

3994 (II) Unemployment Insurance Division in the Department of Workforce Services, for
3995 purposes of Title 35A, Chapter 4, Employment Security Act;

3996 (III) State Tax Commission; and

3997 (IV) Internal Revenue Service; and

3998 (xi) meet with the division and board.

3999 (l) Each applicant for licensure as an alarm company agent shall:

4000 (i) submit an application in a form prescribed by the division accompanied by
4001 fingerprint cards;

4002 (ii) pay a fee determined by the department under Section [63J-1-504](#);

4003 (iii) be of good moral character in that the applicant has not been convicted of a felony,
4004 a misdemeanor involving moral turpitude, or any other crime that when considered with the
4005 duties and responsibilities of an alarm company agent is considered by the board to indicate
4006 that the best interests of the public are served by granting the applicant a license;

4007 (iv) not have been declared by any court of competent jurisdiction incompetent by
4008 reason of mental defect or disease and not been restored;

4009 (v) not be currently suffering from habitual drunkenness or from drug addiction or
4010 dependence; and

4011 (vi) meet with the division and board if requested by the division or the board.

4012 (m) (i) Each applicant for licensure as an elevator mechanic shall:

4013 (A) provide documentation of experience and education credits of not less than three
4014 years work experience in the elevator industry, in construction, maintenance, or service and
4015 repair; and

4016 (B) satisfactorily complete a written examination administered by the division
4017 established by rule under Section [58-1-203](#); or

4018 (C) provide certificates of completion of an apprenticeship program for elevator
4019 mechanics, having standards substantially equal to those of this chapter and registered with the
4020 United States Department of Labor Bureau Apprenticeship and Training or a state
4021 apprenticeship council.

4022 (ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed
4023 elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing,
4024 repairing, or maintaining an elevator, the contractor may:

- 4025 (I) notify the division of the unavailability of licensed personnel; and
- 4026 (II) request the division issue a temporary elevator mechanic license to an individual
- 4027 certified by the contractor as having an acceptable combination of documented experience and
- 4028 education to perform the work described in this Subsection (3)(m)(ii)(A).
- 4029 (B) (I) The division may issue a temporary elevator mechanic license to an individual
- 4030 certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by
- 4031 the appropriate fee as determined by the department under Section [63J-1-504](#).
- 4032 (II) The division shall specify the time period for which the license is valid and may
- 4033 renew the license for an additional time period upon its determination that a shortage of
- 4034 licensed elevator mechanics continues to exist.
- 4035 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4036 division may make rules establishing when Federal Bureau of Investigation records shall be
- 4037 checked for applicants as an alarm company or alarm company agent.
- 4038 (5) To determine if an applicant meets the qualifications of Subsections (3)(k)(vii) and
- 4039 (3)(l)(iii), the division shall provide an appropriate number of copies of fingerprint cards to the
- 4040 Department of Public Safety with the division's request to:
- 4041 (a) conduct a search of records of the Department of Public Safety for criminal history
- 4042 information relating to each applicant for licensure as an alarm company or alarm company
- 4043 agent and each applicant's officers, directors, shareholders described in Subsection
- 4044 (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and
- 4045 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
- 4046 requiring a check of records of the Federal Bureau of Investigation for criminal history
- 4047 information under this section.
- 4048 (6) The Department of Public Safety shall send to the division:
- 4049 (a) a written record of criminal history, or certification of no criminal history record, as
- 4050 contained in the records of the Department of Public Safety in a timely manner after receipt of
- 4051 a fingerprint card from the division and a request for review of Department of Public Safety
- 4052 records; and
- 4053 (b) the results of the Federal Bureau of Investigation review concerning an applicant in
- 4054 a timely manner after receipt of information from the Federal Bureau of Investigation.
- 4055 (7) (a) The division shall charge each applicant for licensure as an alarm company or

4056 alarm company agent a fee, in accordance with Section 63J-1-504, equal to the cost of
4057 performing the records reviews under this section.

4058 (b) The division shall pay the Department of Public Safety the costs of all records
4059 reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the
4060 costs of records reviews under this section.

4061 (8) Information obtained by the division from the reviews of criminal history records of
4062 the Department of Public Safety and the Federal Bureau of Investigation shall be used or
4063 disseminated by the division only for the purpose of determining if an applicant for licensure as
4064 an alarm company or alarm company agent is qualified for licensure.

4065 (9) (a) An application for licensure under this chapter shall be denied if:

4066 (i) the applicant has had a previous license, which was issued under this chapter,
4067 suspended or revoked within two years before the date of the applicant's application;

4068 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

4069 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
4070 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
4071 status, performing similar functions, or directly or indirectly controlling the applicant has
4072 served in any similar capacity with any person or entity which has had a previous license,
4073 which was issued under this chapter, suspended or revoked within two years before the date of
4074 the applicant's application;

4075 (iii) (A) the applicant is an individual or sole proprietorship; and

4076 (B) any owner or agent acting as a qualifier has served in any capacity listed in
4077 Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under
4078 this chapter, suspended or revoked within two years before the date of the applicant's
4079 application; or

4080 (iv) (A) the applicant includes an individual who was an owner, director, or officer of
4081 an unincorporated entity at the time the entity's license under this chapter was revoked; and

4082 (B) the application for licensure is filed within 60 months after the revocation of the
4083 unincorporated entity's license.

4084 (b) An application for licensure under this chapter shall be reviewed by the appropriate
4085 licensing board prior to approval if:

4086 (i) the applicant has had a previous license, which was issued under this chapter,

- 4087 suspended or revoked more than two years before the date of the applicant's application;
- 4088 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and
- 4089 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
- 4090 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
- 4091 status, performing similar functions, or directly or indirectly controlling the applicant has
- 4092 served in any similar capacity with any person or entity which has had a previous license,
- 4093 which was issued under this chapter, suspended or revoked more than two years before the date
- 4094 of the applicant's application; or
- 4095 (iii) (A) the applicant is an individual or sole proprietorship; and
- 4096 (B) any owner or agent acting as a qualifier has served in any capacity listed in
- 4097 Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under
- 4098 this chapter, suspended or revoked more than two years before the date of the applicant's
- 4099 application.
- 4100 (10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status
- 4101 report with the division every 30 days after the day on which the license is issued if the licensee
- 4102 has more than five owners who are individuals who:
- 4103 (A) own an interest in the contractor that is an unincorporated entity;
- 4104 (B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the
- 4105 division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the
- 4106 unincorporated entity; and
- 4107 (C) engage, or will engage, in a construction trade in the state as owners of the
- 4108 contractor described in Subsection (10)(a)(i)(A).
- 4109 (ii) If the licensee has five or fewer owners described in Subsection (10)(a)(i), the
- 4110 licensee shall provide the ownership status report with an application for renewal of licensure.
- 4111 (b) An ownership status report required under this Subsection (10) shall:
- 4112 (i) specify each addition or deletion of an owner:
- 4113 (A) for the first ownership status report, after the day on which the unincorporated
- 4114 entity is licensed under this chapter; and
- 4115 (B) for a subsequent ownership status report, after the day on which the previous
- 4116 ownership status report is filed;
- 4117 (ii) be in a format prescribed by the division that includes for each owner, regardless of

4118 the owner's percentage ownership in the unincorporated entity, the information described in
4119 Subsection(1)(e)(vi);

4120 (iii) list the name of:

4121 (A) each officer or manager of the unincorporated entity; and

4122 (B) each other individual involved in the operation, supervision, or management of the
4123 unincorporated entity; and

4124 (iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504
4125 if the ownership status report indicates there is a change described in Subsection (10)(b)(i).

4126 (c) The division may, at any time, audit an ownership status report under this
4127 Subsection (10):

4128 (i) to determine if financial responsibility has been demonstrated or maintained as
4129 required under Section 58-55-306; and

4130 (ii) to determine compliance with Subsection 58-55-501(23), (24), [~~(25)~~, or (27)] or
4131 (26) or Subsection 58-55-502(8) or (9).

4132 (11) (a) An unincorporated entity that provides labor to an entity licensed under this
4133 chapter by providing an individual who owns an interest in the unincorporated entity to engage
4134 in a construction trade in Utah shall file with the division:

4135 (i) before the individual who owns an interest in the unincorporated entity engages in a
4136 construction trade in Utah, a current list of the one or more individuals who hold an ownership
4137 interest in the unincorporated entity that includes for each individual:

4138 (A) the individual's name, address, birth date, and social security number; and

4139 (B) whether the individual will engage in a construction trade; and

4140 (ii) every 30 days after the day on which the unincorporated entity provides the list
4141 described in Subsection (11)(a)(i), an ownership status report containing the information that
4142 would be required under Subsection (10) if the unincorporated entity were a licensed
4143 contractor.

4144 (b) When filing an ownership list described in Subsection (11)(a)(i) or an ownership
4145 status report described in Subsection (11)(a)(ii), an unincorporated entity shall pay a fee set by
4146 the division in accordance with Section 63J-1-504.

4147 (12) This chapter may not be interpreted to create or support an express or implied
4148 independent contractor relationship between an unincorporated entity described in Subsection

4149 (10) or (11) and the owners of the unincorporated entity for any purpose, including income tax
4150 withholding.

4151 (13) A social security number provided under Subsection (1)(e)(vi) is a private record
4152 under Subsection 63G-2-302(1)(i).

4153 Section 67. Section 58-55-305 is amended to read:

4154 **58-55-305. Exemptions from licensure.**

4155 (1) In addition to the exemptions from licensure in Section 58-1-307, the following
4156 persons may engage in acts or practices included within the practice of construction trades,
4157 subject to the stated circumstances and limitations, without being licensed under this chapter:

4158 (a) an authorized representative of the United States government or an authorized
4159 employee of the state or any of its political subdivisions when working on construction work of
4160 the state or the subdivision, and when acting within the terms of the person's trust, office, or
4161 employment;

4162 (b) a person engaged in construction or operation incidental to the construction and
4163 repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation
4164 districts, and drainage districts or construction and repair relating to farming, dairying,
4165 agriculture, livestock or poultry raising, metal and coal mining, quarries, sand and gravel
4166 excavations, well drilling, as defined in Section 73-3-25, hauling to and from construction
4167 sites, and lumbering;

4168 (c) public utilities operating under the rules of the Public Service Commission on work
4169 incidental to their own business;

4170 (d) a sole [owners] owner of property engaged in building:

4171 (i) no more than one residential structure per year on the sole owner's property and no
4172 more than three residential structures per five years on [their] the sole owner's property for
4173 [their own] the sole owner's noncommercial, nonpublic use[; -except], except that a person
4174 other than the property owner or [individuals] a person described in Subsection (1)(e), who
4175 engages in building [the] a residential structure must be licensed under this chapter if the
4176 person is otherwise required to be licensed under this chapter; or

4177 (ii) structures on [their] the sole owner's property for [their own] the sole owner's
4178 noncommercial, nonpublic use [which] that are incidental to a residential structure on the
4179 property, including [sheds, carports, or detached garages] a shed, carport, or detached garage;

4180 (e) (i) a person engaged in construction or renovation of a residential building for
4181 noncommercial, nonpublic use if that person:

4182 (A) works without compensation other than token compensation that is not considered
4183 salary or wages; and

4184 (B) works under the direction of the property owner who engages in building the
4185 structure; and

4186 (ii) as used in this Subsection (1)(e), "token compensation" means compensation paid
4187 by a sole owner of property exempted from licensure under Subsection (1)(d) to a person
4188 exempted from licensure under this Subsection (1)(e), that is:

4189 (A) minimal in value when compared with the fair market value of the services
4190 provided by the person;

4191 (B) not related to the fair market value of the services provided by the person; and

4192 (C) is incidental to the providing of services by the person including paying for or
4193 providing meals or refreshment while services are being provided, or paying reasonable
4194 transportation costs incurred by the person in travel to the site of construction;

4195 (f) a person engaged in the sale or merchandising of personal property that by its design
4196 or manufacture may be attached, installed, or otherwise affixed to real property who has
4197 contracted with a person, firm, or corporation licensed under this chapter to install, affix, or
4198 attach that property;

4199 (g) a contractor submitting a bid on a federal aid highway project, if, before
4200 undertaking construction under that bid, the contractor is licensed under this chapter;

4201 (h) (i) subject to Subsection 58-1-401(2) and Sections 58-55-501 and 58-55-502, a
4202 person engaged in the alteration, repair, remodeling, or addition to or improvement of a
4203 building with a contracted or agreed value of less than \$3,000, including both labor and
4204 materials, and including all changes or additions to the contracted or agreed upon work; and

4205 (ii) notwithstanding Subsection (1)(h)(i) and except as otherwise provided in this
4206 section:

4207 (A) work in the plumbing and electrical trades on a Subsection (1)(h)(i) project within
4208 any six month period of time:

4209 (I) must be performed by a licensed electrical or plumbing contractor, if the project
4210 involves an electrical or plumbing system; and

4211 (II) may be performed by a licensed journeyman electrician or plumber or an individual
4212 referred to in Subsection (1)(h)(ii)(A)(I), if the project involves a component of the system
4213 such as a faucet, toilet, fixture, device, outlet, or electrical switch;

4214 (B) installation, repair, or replacement of a residential or commercial gas appliance or a
4215 combustion system on a Subsection (1)(h)(i) project must be performed by a person who has
4216 received certification under Subsection 58-55-308(2) except as otherwise provided in
4217 Subsection 58-55-308(2)(d) or 58-55-308(3);

4218 (C) installation, repair, or replacement of water-based fire protection systems on a
4219 Subsection (1)(h)(i) project must be performed by a licensed fire suppression systems
4220 contractor or a licensed journeyman plumber;

4221 (D) work as an alarm business or company or as an alarm company agent shall be
4222 performed by a licensed alarm business or company or a licensed alarm company agent, except
4223 as otherwise provided in this chapter;

4224 (E) installation, repair, or replacement of an alarm system on a Subsection (1)(h)(i)
4225 project must be performed by a licensed alarm business or company or a licensed alarm
4226 company agent;

4227 (F) installation, repair, or replacement of a heating, ventilation, or air conditioning
4228 system (HVAC) on a Subsection (1)(h)(i) project must be performed by an HVAC contractor
4229 licensed by the division;

4230 (G) installation, repair, or replacement of a radon mitigation system or a soil
4231 depressurization system must be performed by a licensed contractor; and

4232 (H) if the total value of the project is greater than \$1,000, the person shall file with the
4233 division a one-time affirmation, subject to periodic reaffirmation as established by division
4234 rule, that the person has:

4235 (I) public liability insurance in coverage amounts and form established by division
4236 rule; and

4237 (II) if applicable, workers compensation insurance which would cover an employee of
4238 the person if that employee worked on the construction project;

4239 (i) a person practicing a specialty contractor classification or construction trade which
4240 the director does not classify by administrative rule as significantly impacting the public's
4241 health, safety, and welfare;

4242 (j) owners and lessees of property and persons regularly employed for wages by owners
4243 or lessees of property or their agents for the purpose of maintaining the property, are exempt
4244 from this chapter when doing work upon the property;

4245 (k) (i) a person engaged in minor plumbing work that is incidental, as defined by the
4246 division by rule, to the replacement or repair of a fixture or an appliance in a residential or
4247 small commercial building, or structure used for agricultural use, as defined in Section
4248 [15A-1-202](#), provided that no modification is made to:

4249 (A) existing culinary water, soil, waste, or vent piping; or

4250 (B) a gas appliance or combustion system; and

4251 (ii) except as provided in Subsection (1)(e), installation for the first time of a fixture or
4252 an appliance is not included in the exemption provided under Subsection (1)(k)(i);

4253 (l) a person who ordinarily would be subject to the plumber licensure requirements
4254 under this chapter when installing or repairing a water conditioner or other water treatment
4255 apparatus if the conditioner or apparatus:

4256 (i) meets the appropriate state construction codes or local plumbing standards; and

4257 (ii) is installed or repaired under the direction of a person authorized to do the work
4258 under an appropriate specialty contractor license;

4259 (m) a person who ordinarily would be subject to the electrician licensure requirements
4260 under this chapter when employed by:

4261 (i) railroad corporations, telephone corporations or their corporate affiliates, elevator
4262 contractors or constructors, or street railway systems; or

4263 (ii) public service corporations, rural electrification associations, or municipal utilities
4264 who generate, distribute, or sell electrical energy for light, heat, or power;

4265 (n) a person involved in minor electrical work incidental to a mechanical or service
4266 installation, including the outdoor installation of an above-ground, prebuilt hot tub;

4267 (o) a person who ordinarily would be subject to the electrician licensure requirements
4268 under this chapter but who during calendar years 2009, 2010, or 2011 was issued a specialty
4269 contractor license for the electrical work associated with the installation, repair, or maintenance
4270 of solar energy panels, may continue the limited electrical work for solar energy panels under a
4271 specialty contractor license;

4272 (p) a student participating in construction trade education and training programs

4273 approved by the commission with the concurrence of the director under the condition that:

4274 (i) all work intended as a part of a finished product on which there would normally be
4275 an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed
4276 building inspector; and

4277 (ii) a licensed contractor obtains the necessary building permits;

4278 (q) a delivery person when replacing any of the following existing equipment with a
4279 new gas appliance, provided there is an existing gas shutoff valve at the appliance:

4280 (i) gas range;

4281 (ii) gas dryer;

4282 (iii) outdoor gas barbeque; or

4283 (iv) outdoor gas patio heater;

4284 (r) a person performing maintenance on an elevator as defined in Section 58-55-102, if
4285 the maintenance is not related to the operating integrity of the elevator; and

4286 (s) an apprentice or helper of an elevator mechanic licensed under this chapter when
4287 working under the general direction of the licensed elevator mechanic.

4288 (2) A compliance agency as defined in Section 15A-1-202 that issues a building permit
4289 to a person requesting a permit as a sole owner of property referred to in Subsection (1)(d) shall
4290 notify the division, in writing or through electronic transmission, of the issuance of the permit.

4291 Section 68. Section 58-55-308 is amended to read:

4292 **58-55-308. Scope of practice -- Installation, repair, maintenance, or replacement**
4293 **of gas appliance, combustion system, or automatic five sprinkler system -- Rules.**

4294 (1) (a) The commission, with the concurrence of the director, may adopt reasonable
4295 rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define and
4296 limit the scope of practice and operating standards of the classifications and subclassifications
4297 licensed under this chapter in a manner consistent with established practice in the relevant
4298 industry.

4299 (b) The commission and the director may limit the field and scope of operations of a
4300 licensee under this chapter in accordance with the rules and the public health, safety, and
4301 welfare, based on the licensee's education, training, experience, knowledge, and financial
4302 responsibility.

4303 (2) (a) The work and scope of practice covered by this Subsection (2) and Subsection

4304 (3) is the installation, repair, maintenance, cleaning, or replacement of a residential or
4305 commercial gas appliance or combustion system.

4306 (b) The provisions of this Subsection (2) apply to any:

4307 (i) licensee under this chapter whose license authorizes the licensee to perform the
4308 work described in Subsection (2)(a); and

4309 (ii) person exempt from licensure under Subsection 58-55-305~~[(1)(b)]~~.

4310 (c) Any person described in Subsection (2)(b) that performs work described in
4311 Subsection (2)(a):

4312 (i) must first receive training and certification as specified in rules adopted by the
4313 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
4314 Utah Administrative Rulemaking Act; and

4315 (ii) shall ensure that any employee authorized under other provisions of this chapter to
4316 perform work described in Subsection (2)(a) has first received training and certification as
4317 specified in rules adopted by the division.

4318 (d) The division may exempt from the training requirements adopted under Subsection
4319 (2)(c) a person that has adequate experience, as determined by the division.

4320 (3) The division may exempt the following individuals from the certification
4321 requirements adopted under Subsection (2)(c):

4322 (a) a person who has passed a test equivalent to the level of testing required by the
4323 division for certification, or has completed an apprenticeship program that teaches the
4324 installation of gas line appliances and is approved by the Federal Bureau of Apprenticeship
4325 Training; and

4326 (b) a person working under the immediate one-to-one supervision of a certified natural
4327 gas technician or a person exempt from certification.

4328 (4) (a) The work and scope of practice covered by this Subsection (4) is the
4329 installation, repair, maintenance, or replacement of an automatic fire sprinkler system.

4330 (b) The provisions of this Subsection (4) apply to an individual acting as a qualifier for
4331 a business entity in accordance with Section 58-55-304, where the business entity seeks to
4332 perform the work described in Subsection (4)(a).

4333 (c) Before a business entity described in Subsection (4)(b) may perform the work
4334 described in Subsection (4)(a), the qualifier for the business entity shall:

4335 (i) be a licensed general building contractor; or

4336 (ii) obtain a certification in fire sprinkler fitting from the division by providing

4337 evidence to the division that the qualifier has met the following requirements:

4338 (A) completing a Department of Labor federally approved apprentice training program

4339 or completing two-years experience under the immediate supervision of a licensee who has

4340 obtained a certification in fire sprinkler fitting; and

4341 (B) passing the Star fire sprinklerfitting mastery examination offered by the National

4342 Inspection Testing and Certification Corporation or an equivalent examination approved by the

4343 division.

4344 (d) The division may also issue a certification in fire sprinkler fitting to a qualifier for a

4345 business entity who has received training and experience equivalent to the requirements of

4346 Subsection (4)(c), as specified in rules adopted by the commission, with the concurrence of the

4347 director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

4348 (5) This section does not prohibit a licensed specialty contractor from accepting and

4349 entering into a contract involving the use of two or more crafts or trades if the performance of

4350 the work in the crafts or trades, other than that in which the contractor is licensed, is incidental

4351 and supplemental to the work for which the contractor is licensed.

4352 Section 69. Section **58-55-401** is amended to read:

4353 **58-55-401. Grounds for denial of license and disciplinary proceedings.**

4354 (1) In accordance with Section **58-1-401**, the division may:

4355 (a) refuse to issue a license to an applicant;

4356 (b) refuse to renew the license of a licensee;

4357 (c) revoke the right of a licensee to recover from the Residence Lien Recovery Fund

4358 created by Section **38-11-201**;

4359 (d) revoke, suspend, restrict, or place on probation the license of a licensee;

4360 (e) issue a public or private reprimand to a licensee; and

4361 (f) issue a cease and desist order.

4362 (2) In addition to an action taken under Subsection (1), the division may take an action

4363 described in Subsection **58-1-401**(2) in relation to a license as a contractor, if:

4364 (a) the applicant or licensee is an unincorporated entity; and

4365 (b) an individual who holds an ownership interest in or is the qualifier under Section

4366 [58-55-304](#) of the applicant or licensee engages in:

4367 (i) unlawful conduct as described in Section [58-55-501](#); or

4368 (ii) unprofessional conduct as described in Section [58-55-502](#).

4369 Section 70. Section **58-55-501** is amended to read:

4370 **58-55-501. Unlawful conduct.**

4371 Unlawful conduct includes:

4372 (1) engaging in a construction trade, acting as a contractor, an alarm business or
4373 company, or an alarm company agent, or representing oneself to be engaged in a construction
4374 trade or to be acting as a contractor in a construction trade requiring licensure, unless the
4375 person doing any of these is appropriately licensed or exempted from licensure under this
4376 chapter;

4377 (2) acting in a construction trade, as an alarm business or company, or as an alarm
4378 company agent beyond the scope of the license held;

4379 (3) hiring or employing a person who is not licensed under this chapter to perform
4380 work on a project, unless the person:

4381 (a) is an employee of a person licensed under this chapter for wages; and

4382 (b) is not required to be licensed under this chapter;

4383 (4) applying for or obtaining a building permit either for oneself or another when not
4384 licensed or exempted from licensure as a contractor under this chapter;

4385 (5) issuing a building permit to any person for whom there is no evidence of a current
4386 license or exemption from licensure as a contractor under this chapter;

4387 (6) applying for or obtaining a building permit for the benefit of or on behalf of any
4388 other person who is required to be licensed under this chapter but who is not licensed or is
4389 otherwise not entitled to obtain or receive the benefit of the building permit;

4390 (7) failing to obtain a building permit when required by law or rule;

4391 (8) submitting a bid for any work for which a license is required under this chapter by a
4392 person not licensed or exempted from licensure as a contractor under this chapter;

4393 (9) willfully or deliberately misrepresenting or omitting a material fact in connection
4394 with an application to obtain or renew a license under this chapter;

4395 (10) allowing one's license to be used by another except as provided by statute or rule;

4396 (11) doing business under a name other than the name appearing on the license, except

4397 as permitted by statute or rule;

4398 (12) if licensed as a contractor in the electrical trade or plumbing trade, journeyman
4399 plumber, residential journeyman plumber, journeyman electrician, master electrician, or
4400 residential electrician, failing to directly supervise an apprentice under one's supervision or
4401 exceeding the number of apprentices one is allowed to have under the contractor's supervision;

4402 (13) if licensed as a contractor or representing oneself to be a contractor, receiving any
4403 funds in payment for a specific project from an owner or any other person, which funds are to
4404 pay for work performed or materials and services furnished for that specific project, and after
4405 receiving the funds to exercise unauthorized control over the funds by failing to pay the full
4406 amounts due and payable to persons who performed work or furnished materials or services
4407 within a reasonable period of time;

4408 (14) employing an unlicensed alarm business or company or an unlicensed individual
4409 as an alarm company agent, except as permitted under the exemption from licensure provisions
4410 under Section [58-1-307](#);

4411 (15) if licensed as an alarm company or alarm company agent, filing with the division
4412 fingerprint cards for an applicant which are not those of the applicant, or are in any other way
4413 false or fraudulent and intended to mislead the division in its consideration of the applicant for
4414 licensure;

4415 (16) if licensed under this chapter, willfully or deliberately disregarding or violating:

4416 (a) the building or construction laws of this state or any political subdivision;

4417 (b) the safety and labor laws applicable to a project;

4418 (c) any provision of the health laws applicable to a project;

4419 (d) the workers' compensation insurance laws of the state applicable to a project;

4420 (e) the laws governing withholdings for employee state and federal income taxes,
4421 unemployment taxes, Social Security payroll taxes, or other required withholdings; or

4422 (f) reporting, notification, and filing laws of this state or the federal government;

4423 ~~[(17) aiding or abetting any person in evading the provisions of this chapter or rules
4424 established under the authority of the division to govern this chapter;]~~

4425 ~~[(18)]~~ (17) engaging in the construction trade or as a contractor for the construction of
4426 residences of up to two units when not currently registered or exempt from registration as a
4427 qualified beneficiary under Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery

4428 Fund Act;

4429 ~~[(19)]~~ (18) failing, as an original contractor, as defined in Section 38-11-102, to

4430 include in a written contract the notification required in Section 38-11-108;

4431 ~~[(20)]~~ (19) wrongfully filing a preconstruction or construction lien in violation of

4432 Section 38-1a-308;

4433 ~~[(21)]~~ (20) if licensed as a contractor, not completing the approved continuing

4434 education required under Section 58-55-302.5;

4435 ~~[(22)]~~ (21) an alarm company allowing an employee with a temporary license under

4436 Section 58-55-312 to engage in conduct on behalf of the company outside the scope of the

4437 temporary license, as provided in Subsection 58-55-312(3)(a)(ii);

4438 ~~[(23)]~~ (22) an alarm company agent under a temporary license under Section 58-55-312

4439 engaging in conduct outside the scope of the temporary license, as provided in Subsection

4440 58-55-312(3)(a)(ii);

4441 ~~[(24)]~~ (23) (a) an unincorporated entity licensed under this chapter having an individual

4442 who owns an interest in the unincorporated entity engage in a construction trade in Utah while

4443 not lawfully present in the United States; or

4444 (b) an unincorporated entity providing labor to an entity licensed under this chapter by

4445 providing an individual who owns an interest in the unincorporated entity to engage in a

4446 construction trade in Utah while not lawfully present in the United States;

4447 ~~[(25)]~~ (24) an unincorporated entity failing to provide the following for an individual

4448 who engages, or will engage, in a construction trade in Utah for the unincorporated entity, or

4449 for an individual who engages, or will engage, in a construction trade in Utah for a separate

4450 entity for which the unincorporated entity provides the individual as labor:

4451 (a) workers' compensation coverage:

4452 (i) to the extent required by Title 34A, Chapter 2, Workers' Compensation Act, and

4453 Title 34A, Chapter 3, Utah Occupational Disease Act; or

4454 (ii) that would be required under the chapters listed in Subsection ~~[(25)]~~ (24)(a)(i) if

4455 the unincorporated entity were licensed under this chapter; and

4456 (b) unemployment compensation in accordance with Title 35A, Chapter 4,

4457 Employment Security Act, for an individual who owns, directly or indirectly, less than an 8%

4458 interest in the unincorporated entity, as defined by rule made by the division in accordance with

4459 Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

4460 [~~(26)~~] (25) the failure of a sign installation contractor or nonelectrical outdoor
4461 advertising sign contractor, as classified and defined in division rules, to:

4462 (a) display the contractor's license number prominently on a vehicle that:

4463 (i) the contractor uses; and

4464 (ii) displays the contractor's business name; or

4465 (b) carry a copy of the contractor's license in any other vehicle that the contractor uses
4466 at a job site, whether or not the vehicle is owned by the contractor;

4467 [~~(27)~~] (26) (a) an unincorporated entity licensed under this chapter having an individual
4468 who owns an interest in the unincorporated entity engage in a construction trade in the state
4469 while the individual is using a Social Security number that does not belong to that individual;
4470 or

4471 (b) an unincorporated entity providing labor to an entity licensed under this chapter by
4472 providing an individual, who owns an interest in the unincorporated entity, to engage in a
4473 construction trade in the state while the individual is using a Social Security number that does
4474 not belong to that individual;

4475 [~~(28)~~] (27) a contractor failing to comply with a requirement imposed by a political
4476 subdivision, state agency, or board of education under Section 58-55-310; or

4477 [~~(29)~~] (28) failing to timely comply with the requirements described in Section
4478 58-55-605.

4479 Section 71. Section 58-55-503 is amended to read:

4480 **58-55-503. Penalty for unlawful conduct -- Citations.**

4481 (1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1),
4482 (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (21), (22), (23), (24), (25), (26), (27), or
4483 (28), [~~or (29);~~] or Subsection 58-55-504(2), or who fails to comply with a citation issued under
4484 this section after it is final, is guilty of a class A misdemeanor.

4485 (ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an
4486 individual and does not include a sole proprietorship, joint venture, corporation, limited
4487 liability company, association, or organization of any type.

4488 (b) A person who violates the provisions of Subsection 58-55-501(8) may not be
4489 awarded and may not accept a contract for the performance of the work.

4490 (2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an
4491 infraction unless the violator did so with the intent to deprive the person to whom money is to
4492 be paid of the money received, in which case the violator is guilty of theft, as classified in
4493 Section 76-6-412.

4494 (3) Grounds for immediate suspension of a licensee's license by the division and the
4495 commission include:

4496 (a) the issuance of a citation for violation of Subsection 58-55-308(2), Section
4497 58-55-501, or Subsection 58-55-504(2); and

4498 (b) the failure by a licensee to make application to, report to, or notify the division with
4499 respect to any matter for which application, notification, or reporting is required under this
4500 chapter or rules adopted under this chapter, including:

4501 (i) applying to the division for a new license to engage in a new specialty classification
4502 or to do business under a new form of organization or business structure;

4503 (ii) filing a current financial statement with the division; and

4504 (iii) notifying the division concerning loss of insurance coverage or change in qualifier.

4505 (4) (a) If upon inspection or investigation, the division concludes that a person has
4506 violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),
4507 (10), (12), (14), ~~[(19)]~~ (18), (20), (21), (22), (23), (24), (25), (26), (27), or (28), ~~[or (29)];~~
4508 Subsection 58-55-504(2), or any rule or order issued with respect to these subsections, and that
4509 disciplinary action is appropriate, the director or the director's designee from within the
4510 division shall promptly issue a citation to the person according to this chapter and any pertinent
4511 rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an
4512 adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

4513 (i) A person who is in violation of the provisions of Subsection 58-55-308(2),
4514 Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), ~~[(19)]~~ (18), (20), (21), (22), (23), (24),
4515 (25), (26), (27), or (28), ~~[or (29)];~~ or Subsection 58-55-504(2), as evidenced by an uncontested
4516 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may
4517 be assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be
4518 ordered to cease and desist from violating Subsection 58-55-308(2), Subsection 58-55-501(1),
4519 (2), (3), (9), (10), (12), (14), (19), (21), (24), (25), (26), (27), (28), or (29), or Subsection
4520 58-55-504(2).

4521 (ii) Except for a cease and desist order, the licensure sanctions cited in Section
4522 58-55-401 may not be assessed through a citation.

4523 (b) (i) A citation shall be in writing and describe with particularity the nature of the
4524 violation, including a reference to the provision of the chapter, rule, or order alleged to have
4525 been violated.

4526 (ii) A citation shall clearly state that the recipient must notify the division in writing
4527 within 20 calendar days of service of the citation if the recipient wishes to contest the citation
4528 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

4529 (iii) A citation shall clearly explain the consequences of failure to timely contest the
4530 citation or to make payment of any fines assessed by the citation within the time specified in
4531 the citation.

4532 (c) A citation issued under this section, or a copy of a citation, may be served upon a
4533 person upon whom a summons may be served:

4534 (i) in accordance with the Utah Rules of Civil Procedure;

4535 (ii) personally or upon the person's agent by a division investigator or by a person
4536 specially designated by the director; or

4537 (iii) by mail.

4538 (d) (i) If within 20 calendar days after the day on which a citation is served, the person
4539 to whom the citation was issued fails to request a hearing to contest the citation, the citation
4540 becomes the final order of the division and is not subject to further agency review.

4541 (ii) The period to contest a citation may be extended by the division for cause.

4542 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation
4543 the license of a licensee who fails to comply with a citation after it becomes final.

4544 (f) The failure of an applicant for licensure to comply with a citation after it becomes
4545 final is a ground for denial of license.

4546 (g) A citation may not be issued under this section after the expiration of [~~six months~~
4547 ~~following the occurrence of a violation~~] one year following the date on which the violation that
4548 is the subject of the citation is reported to the division.

4549 (h) Except as provided in Subsection (5), the director or the director's designee shall
4550 assess a fine in accordance with the following:

4551 (i) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;

4552 (ii) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000;
4553 and

4554 (iii) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to
4555 \$2,000 for each day of continued offense.

4556 (i) (i) For purposes of issuing a final order under this section and assessing a fine under
4557 Subsection (4)(h), an offense constitutes a second or subsequent offense if:

4558 (A) the division previously issued a final order determining that a person committed a
4559 first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2),
4560 (3), (9), (10), (12), (14), [~~(19)~~] (18), (23), (24), (25), (26), (27), or (28), [~~or (29)~~]; or Subsection
4561 58-55-504(2); or

4562 (B) (I) the division initiated an action for a first or second offense;

4563 (II) a final order has not been issued by the division in the action initiated under
4564 Subsection (4)(i)(i)(B)(I);

4565 (III) the division determines during an investigation that occurred after the initiation of
4566 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent
4567 violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),
4568 (10), (12), (14), [~~(19)~~] (18), (23), (24), (25), (26), (27), or (28), [~~or (29)~~]; or Subsection
4569 58-55-504(2); and

4570 (IV) after determining that the person committed a second or subsequent offense under
4571 Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under
4572 Subsection (4)(i)(i)(B)(I).

4573 (ii) In issuing a final order for a second or subsequent offense under Subsection
4574 (4)(i)(i), the division shall comply with the requirements of this section.

4575 (j) In addition to any other licensure sanction or fine imposed under this section, the
4576 division shall revoke the license of a licensee that violates Subsection 58-55-501(23) or (24)
4577 [~~or (25)~~] two or more times within a 12-month period, unless, with respect to a violation of
4578 Subsection 58-55-501[~~(24)~~](23), the licensee can demonstrate that the licensee successfully
4579 verified the federal legal working status of the individual who was the subject of the violation
4580 using a status verification system, as defined in Section 13-47-102.

4581 (k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24)
4582 [~~or (25)~~] for each individual is considered a separate violation.

4583 (5) If a person violates Section 58-55-501, the division may not treat the violation as a
4584 subsequent violation of a previous violation if the violation occurs five years or more after the
4585 day on which the person committed the previous violation.

4586 (6) If, after an investigation, the division determines that a person has committed
4587 multiple of the same type of violation of Section 58-55-501, the division may treat each
4588 violation as a separate violation of Section 58-55-501 and apply a penalty under this section to
4589 each violation.

4590 (7) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited
4591 into the Commerce Service Account created by Section 13-1-2.

4592 (b) A penalty that is not paid may be collected by the director by either referring the
4593 matter to a collection agency or bringing an action in the district court of the county in which
4594 the person against whom the penalty is imposed resides or in the county where the office of the
4595 director is located.

4596 (c) A county attorney or the attorney general of the state shall provide legal assistance
4597 and advice to the director in an action to collect a penalty.

4598 (d) In an action brought to collect a penalty, the court shall award reasonable attorney
4599 fees and costs to the prevailing party.

4600 Section 72. Section 58-56-9.5 is amended to read:

4601 **58-56-9.5. Penalty for unlawful conduct -- Citations.**

4602 (1) A person who violates a provision of Section 58-56-9.1 or who fails to comply with
4603 a citation issued under this section after it is final is guilty of a class A misdemeanor.

4604 (2) Grounds for immediate suspension of a licensee's license by the division under this
4605 chapter include:

4606 (a) the issuance of a citation for violation of a provision of Section 58-56-9.1 or
4607 58-56-9.3; and

4608 (b) failure by a licensee to make application to, report to, or notify the division with
4609 respect to a matter for which application, notification, or reporting is required under this
4610 chapter or rules made under this chapter by the division.

4611 (3) (a) If upon inspection or investigation, the division concludes that a person has
4612 violated a provision of Section 58-56-9.1 or 58-56-9.3, or a rule or order issued with respect to
4613 that section, and that disciplinary action is appropriate, the director or the director's designee

4614 from within the division shall:

4615 (i) promptly issue a citation to the person according to this chapter and any pertinent
4616 rules;

4617 (ii) attempt to negotiate a stipulated settlement; or

4618 (iii) notify the person to appear before an adjudicative proceeding conducted under
4619 Title 63G, Chapter 4, Administrative Procedures Act.

4620 (b) (i) A person who violates a provision of Section 58-56-9.1 or 58-56-9.3, as
4621 evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an
4622 adjudicative proceeding, may be assessed a fine under this Subsection (3)(b) and may, in
4623 addition to or instead of the fine, be ordered by the division to cease from violating the
4624 provision.

4625 (ii) Except as otherwise provided in Subsection (2)(a), the division may not assess
4626 licensure sanctions referred to in Subsection 58-56-9(1)(c) through a citation.

4627 (c) (i) Each citation shall be in writing and describe with particularity the nature of the
4628 violation, including a reference to the provision of the chapter, rule, or order alleged to have
4629 been violated.

4630 (ii) The citation shall clearly state that the recipient must notify the division in writing
4631 within 20 calendar days of service of the citation if the recipient wishes to contest the citation
4632 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

4633 (iii) The citation shall clearly explain the consequences of failure to timely contest the
4634 citation or to make payment of any fines assessed by the citation within the time specified in
4635 the citation.

4636 (d) Each citation issued under this section, or a copy of each citation, may be served
4637 upon any person upon whom a summons may be served:

4638 (i) in accordance with the Utah Rules of Civil Procedure;

4639 (ii) personally or upon the person's agent by a division investigator or by any person
4640 specially designated by the director; or

4641 (iii) by mail.

4642 (e) (i) If within 20 calendar days from the service of a citation, the person to whom the
4643 citation was issued fails to request a hearing to contest the citation, the citation becomes the
4644 final order of the division and is not subject to further agency review.

- 4645 (ii) The period to contest a citation may be extended by the division for cause.
- 4646 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation
4647 the license of a licensee who fails to comply with a citation after it becomes final.
- 4648 (g) The failure of an applicant for licensure to comply with a citation after it becomes
4649 final is a ground for denial of a license.
- 4650 (h) No citation may be issued under this section after the expiration of [~~six months~~
4651 ~~following the occurrence of the violation~~] one year following the date on which the violation
4652 that is the subject of the citation is reported to the division.
- 4653 (i) The director or the director's designee may assess fines for violations of Section
4654 [58-56-9.1](#) or [58-56-9.3](#) as follows:
- 4655 (i) for a first offense determined under this Subsection (3), a fine of up to \$1,000;
- 4656 (ii) for a second offense, a fine of up to \$2,000; and
- 4657 (iii) for any subsequent offense, a fine of up to \$2,000 for each day of continued
4658 offense.
- 4659 (j) For the purposes of issuing a final order under this section and assessing a fine
4660 under Subsection (3)(i), an offense constitutes a second or subsequent offense if:
- 4661 (i) the division previously issued a final order determining that a person committed a
4662 first or second offense in violation of a provision of Section [58-56-9.1](#); or
- 4663 (ii) (A) the division initiated an action for a first or second offense;
- 4664 (B) no final order has been issued by the division in the action initiated under
4665 Subsection (3)(j)(ii)(A);
- 4666 (C) the division determines during an investigation that occurred after the initiation of
4667 the action under Subsection (3)(j)(ii)(A) that the person committed a second or subsequent
4668 violation of a provision of Section [58-56-9.1](#); and
- 4669 (D) after determining that the person committed a second or subsequent offense under
4670 Subsection (3)(j)(ii)(C), the division issues a final order on the action initiated under
4671 Subsection (3)(j)(ii)(A).
- 4672 (k) In issuing a final order for a second or subsequent offense under Subsection (3)(j),
4673 the division shall comply with the requirements of this section.
- 4674 (4) (a) Proceeds from a fine imposed under Subsection (3)(i) shall be deposited in the
4675 Commerce Service Account created by Section [13-1-2](#).

4676 (b) The director may collect a fine that is not paid by:
4677 (i) referring the matter to a collection agency; or
4678 (ii) bringing an action in the district court of the county where the person against whom
4679 the penalty is imposed resides or in the county where the office of the director is located.

4680 (c) A county attorney or the attorney general of the state shall provide legal assistance
4681 and advice to the director in an action to collect a penalty.

4682 (d) A court shall award reasonable attorney fees and costs to the prevailing party in an
4683 action brought by the division to collect a penalty.

4684 Section 73. Section **58-57-4** is amended to read:

4685 **58-57-4. Qualifications for a license.**

4686 (1) The division shall issue a respiratory care practitioner license to an applicant who
4687 meets the requirements specified in this section.

4688 (2) An applicant seeking licensure as a respiratory care practitioner shall:

4689 (a) submit an application on a form prescribed by the division;

4690 (b) pay a fee as determined by the department pursuant to Section [63J-1-504](#);

4691 [~~(c) show evidence of good moral character;~~]

4692 [~~(d)~~] (c) possess a high school education or its equivalent, as determined by the
4693 division in collaboration with the board;

4694 [~~(e)~~] (d) have completed a respiratory care practitioner educational program that is
4695 accredited by a nationally accredited organization acceptable to the division as defined by rule;
4696 and

4697 [~~(f)~~] (e) pass an examination approved by the division in collaboration with the board.

4698 Section 74. Section **58-60-109** is amended to read:

4699 **58-60-109. Unlawful conduct.**

4700 As used in this chapter, "unlawful conduct" includes:

4701 (1) practice of the following unless licensed in the appropriate classification or
4702 exempted from licensure under this title:

4703 (a) mental health therapy;

4704 (b) clinical social work;

4705 (c) certified social work;

4706 (d) marriage and family therapy;

- 4707 (e) clinical mental health counselor;
- 4708 (f) practice as a social service worker; or
- 4709 (g) substance use disorder counselor;
- 4710 (2) practice of mental health therapy by a licensed psychologist who has not acceptably
- 4711 documented to the division the licensed psychologist's completion of the supervised training in
- 4712 mental health therapy required under Subsection 58-61-304(1)(~~f~~)(e); or
- 4713 (3) representing oneself as, or using the title of, the following:
- 4714 (a) unless currently licensed in a license classification under this title:
- 4715 (i) psychiatrist;
- 4716 (ii) psychologist;
- 4717 (iii) registered psychiatric mental health nurse specialist;
- 4718 (iv) mental health therapist;
- 4719 (v) clinical social worker;
- 4720 (vi) certified social worker;
- 4721 (vii) marriage and family therapist;
- 4722 (viii) clinical mental health counselor;
- 4723 (ix) social service worker;
- 4724 (x) substance use disorder counselor;
- 4725 (xi) associate clinical mental health counselor; or
- 4726 (xii) associate marriage and family therapist; or
- 4727 (b) unless currently in possession of the credentials described in Subsection (4), social
- 4728 worker.
- 4729 (4) An individual may represent oneself as a, or use the title of, social worker if the
- 4730 individual possesses certified transcripts from an accredited institution of higher education,
- 4731 recognized by the division in collaboration with the Social Work Licensing Board, verifying
- 4732 satisfactory completion of an education and an earned degree as follows:
- 4733 (a) a bachelor's or master's degree in a social work program accredited by the Council
- 4734 on Social Work Education or by the Canadian Association of Schools of Social Work; or
- 4735 (b) a doctoral degree that contains a clinical social work concentration and practicum
- 4736 approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah
- 4737 Administrative Rulemaking Act, that is consistent with Section 58-1-203.

4738 Section 75. Section **58-60-115** is amended to read:

4739 **58-60-115. License by endorsement.**

4740 The division shall issue a license by endorsement under this chapter to a person who:

4741 (1) submits an application on a form provided by the division;

4742 (2) pays a fee determined by the department under Section [63J-1-504](#);

4743 (3) provides documentation of current licensure in good standing in a state, district, or
4744 territory of the United States to practice in the profession for which licensure is being sought;

4745 (4) except as provided in Subsection (5), provides documentation that the person has
4746 engaged in the lawful practice of the profession for which licensure is sought for at least 4,000
4747 hours, of which 1,000 hours are in mental health therapy;

4748 (5) if applying for a license to practice as a licensed substance use disorder counselor,
4749 provides documentation that the person:

4750 (a) has engaged in the lawful practice of the profession for at least 4,000 hours; and

4751 (b) has passed an examination approved by the division, by rule, to establish
4752 proficiency in the profession;

4753 (6) has passed the profession specific jurisprudence examination if required of a new
4754 applicant; and

4755 (7) is of good [~~moral character and~~] professional standing, and has no disciplinary
4756 action pending or in effect against the applicant's license in any jurisdiction.

4757 Section 76. Section **58-60-117** is amended to read:

4758 **58-60-117. Externship licenses.**

4759 (1) The division shall issue a temporary license under Part 2, Social Worker Licensing
4760 Act, Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Clinical Mental Health
4761 Counselor Licensing Act, of this chapter to a person who:

4762 (a) submits an application for licensure under Part 2, Social Worker Licensing Act,
4763 Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Clinical Mental Health
4764 Counselor Licensing Act;

4765 (b) pays a fee determined by the department under Section [63J-1-504](#);

4766 (c) holds an earned doctoral degree or master's degree in a discipline that is a
4767 prerequisite for practice as a mental health therapist;

4768 (d) has a deficiency, as defined by division rule, in course work;

4769 (e) provides mental health therapy as an employee of a public or private organization,
4770 which provides mental health therapy, while under the supervision of a person licensed under
4771 this chapter; and

4772 (f) ~~[is of good moral character and]~~ has no disciplinary action pending or in effect
4773 against the applicant in connection with the practice of mental health therapy, in any
4774 jurisdiction.

4775 (2) A temporary license issued under this section shall expire upon the earlier of:

4776 (a) issuance of the license applied for; or

4777 (b) unless the deadline is extended for good cause as determined by the division, three
4778 years from the date the temporary license was issued.

4779 (3) The temporary license issued under this section is an externship license.

4780 Section 77. Section **58-60-205** is amended to read:

4781 **58-60-205. Qualifications for licensure or certification as a clinical social worker,**
4782 **certified social worker, and social service worker.**

4783 (1) An applicant for licensure as a clinical social worker shall:

4784 (a) submit an application on a form provided by the division;

4785 (b) pay a fee determined by the department under Section [63J-1-504](#);

4786 ~~[(c) be of good moral character;]~~

4787 ~~[(d)]~~ (c) produce certified transcripts from an accredited institution of higher education
4788 recognized by the division in collaboration with the board verifying satisfactory completion of
4789 an education and an earned degree as follows:

4790 (i) a master's degree in a social work program accredited by the Council on Social
4791 Work Education or by the Canadian Association of Schools of Social Work; or

4792 (ii) a doctoral degree that contains a clinical social work concentration and practicum
4793 approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah
4794 Administrative Rulemaking Act, that is consistent with Section [58-1-203](#);

4795 ~~[(e)]~~ (d) have completed a minimum of 4,000 hours of clinical social work training as
4796 defined by division rule under Section [58-1-203](#):

4797 (i) in not less than two years;

4798 (ii) under the supervision of a supervisor approved by the division in collaboration with
4799 the board who is a:

- 4800 (A) clinical mental health counselor;
- 4801 (B) psychiatrist;
- 4802 (C) psychologist;
- 4803 (D) registered psychiatric mental health nurse practitioner;
- 4804 (E) marriage and family therapist; or
- 4805 (F) clinical social worker; and
- 4806 (iii) including a minimum of two hours of training in suicide prevention via a course
- 4807 that the division designates as approved;
- 4808 ~~[(f)]~~ (e) document successful completion of not less than 1,000 hours of supervised
- 4809 training in mental health therapy obtained after completion of the education requirement in
- 4810 Subsection ~~[(1)(d)]~~ (1)(c), which training may be included as part of the 4,000 hours of training
- 4811 in Subsection ~~[(1)(e)]~~ (1)(d), and of which documented evidence demonstrates not less than
- 4812 100 of the hours were obtained under the direct supervision, as defined by rule, of a supervisor
- 4813 described in Subsection ~~[(1)(e)(ii)]~~ (1)(d)(ii);
- 4814 ~~[(g)]~~ (f) have completed a case work, group work, or family treatment course sequence
- 4815 with a clinical practicum in content as defined by rule under Section 58-1-203; and
- 4816 ~~[(h)]~~ (g) pass the examination requirement established by rule under Section 58-1-203.
- 4817 (2) An applicant for licensure as a certified social worker shall:
- 4818 (a) submit an application on a form provided by the division;
- 4819 (b) pay a fee determined by the department under Section 63J-1-504;
- 4820 ~~[(e) be of good moral character;]~~
- 4821 ~~[(d)]~~ (c) produce certified transcripts from an accredited institution of higher education
- 4822 recognized by the division in collaboration with the board verifying satisfactory completion of
- 4823 an education and an earned degree as follows:
- 4824 (i) a master's degree in a social work program accredited by the Council on Social
- 4825 Work Education or by the Canadian Association of Schools of Social Work; or
- 4826 (ii) a doctoral degree that contains a clinical social work concentration and practicum
- 4827 approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah
- 4828 Administrative Rulemaking Act, that is consistent with Section 58-1-203; and
- 4829 ~~[(e)]~~ (d) pass the examination requirement established by rule under Section 58-1-203.
- 4830 (3) (a) An applicant for certification as a certified social worker intern shall meet the

4831 requirements of Subsections (2)(a), (b), [~~(c)~~, and ~~(d)~~] and (c).

4832 (b) Certification under Subsection (3)(a) is limited to the time necessary to pass the
4833 examination required under Subsection [~~(2)(c)~~] (2)(d) or six months, whichever occurs first.

4834 (c) A certified social worker intern may provide mental health therapy under the
4835 general supervision, as defined by rule, of a supervisor described in Subsection [~~(1)(c)(ii)~~]
4836 (1)(d)(ii).

4837 (4) An applicant for licensure as a social service worker shall:

4838 (a) submit an application on a form provided by the division;

4839 (b) pay a fee determined by the department under Section [63J-1-504](#);

4840 [~~(c) be of good moral character;~~]

4841 [~~(d)~~] (c) produce certified transcripts from an accredited institution of higher education
4842 recognized by the division in collaboration with the board verifying satisfactory completion of
4843 an education and an earned degree as follows:

4844 (i) a bachelor's degree in a social work program accredited by the Council on Social
4845 Work Education or by the Canadian Association of Schools of Social Work;

4846 (ii) a master's degree in a field approved by the division in collaboration with the
4847 board;

4848 (iii) a bachelor's degree in any field if the applicant:

4849 (A) has completed at least three semester hours, or the equivalent, in each of the
4850 following areas:

4851 (I) social welfare policy;

4852 (II) human growth and development; and

4853 (III) social work practice methods, as defined by rule; and

4854 (B) provides documentation that the applicant has completed at least 2,000 hours of
4855 qualifying experience under the supervision of a mental health therapist, which experience is
4856 approved by the division in collaboration with the board, and which is performed after
4857 completion of the requirements to obtain the bachelor's degree required under this Subsection
4858 (4); or

4859 (iv) successful completion of the first academic year of a Council on Social Work
4860 Education approved master's of social work curriculum and practicum; and

4861 [~~(e)~~] (d) pass the examination requirement established by rule under Section [58-1-203](#).

4862 (5) The division shall ensure that the rules for an examination described under
4863 Subsections [~~(1)(h), (2)(e), and (4)(e)~~] (1)(g), (2)(d), and (4)(d) allow additional time to
4864 complete the examination if requested by an applicant who is:

- 4865 (a) a foreign born legal resident of the United States for whom English is a second
4866 language; or
- 4867 (b) an enrolled member of a federally recognized Native American tribe.

4868 Section 78. Section **58-60-207** is amended to read:

4869 **58-60-207. Scope of practice -- Limitations.**

4870 (1) (a) A clinical social worker may engage in all acts and practices defined as the
4871 practice of clinical social work without supervision, in private and independent practice, or as
4872 an employee of another person, limited only by the licensee's education, training, and
4873 competence.

4874 (b) A clinical social worker may not supervise more than six individuals who are
4875 lawfully engaged in training for the practice of mental health therapy, unless granted an
4876 exception in writing from the division in collaboration with the board.

4877 (2) To the extent an individual is professionally prepared by the education and training
4878 track completed while earning a master's or doctor of social work degree, a licensed certified
4879 social worker may engage in all acts and practices defined as the practice of certified social
4880 work consistent with the licensee's education, clinical training, experience, and competence:

4881 (a) under supervision of an individual described in Subsection **58-60-205(1)**~~(e)~~(d)(ii)
4882 and as an employee of another person when engaged in the practice of mental health therapy;

4883 (b) without supervision and in private and independent practice or as an employee of
4884 another person, if not engaged in the practice of mental health therapy;

4885 (c) including engaging in the private, independent, unsupervised practice of social
4886 work as a self-employed individual, in partnership with other mental health therapists, as a
4887 professional corporation, or in any other capacity or business entity, so long as he does not
4888 practice unsupervised psychotherapy; and

4889 (d) supervising social service workers as provided by division rule.

4890 Section 79. Section **58-60-305** is amended to read:

4891 **58-60-305. Qualifications for licensure.**

4892 (1) All applicants for licensure as marriage and family therapists shall:

- 4893 (a) submit an application on a form provided by the division;
- 4894 (b) pay a fee determined by the department under Section 63J-1-504;
- 4895 [~~(c) be of good moral character;~~]
- 4896 [~~(d)~~] (c) produce certified transcripts evidencing completion of a masters or doctorate
- 4897 degree in marriage and family therapy from:
- 4898 (i) a program accredited by the Commission on Accreditation for Marriage and Family
- 4899 Therapy Education; or
- 4900 (ii) an accredited institution meeting criteria for approval established by rule under
- 4901 Section 58-1-203;
- 4902 [~~(e)~~] (d) have completed a minimum of 4,000 hours of marriage and family therapy
- 4903 training as defined by division rule under Section 58-1-203:
- 4904 (i) in not less than two years;
- 4905 (ii) under the supervision of a mental health therapist supervisor who meets the
- 4906 requirements of Section 58-60-307;
- 4907 (iii) obtained after completion of the education requirement in Subsection [~~(1)(d)~~]
- 4908 (1)(c); and
- 4909 (iv) including a minimum of two hours of training in suicide prevention via a course
- 4910 that the division designates as approved;
- 4911 [~~(f)~~] (e) document successful completion of not less than 1,000 hours of supervised
- 4912 training in mental health therapy obtained after completion of the education requirement
- 4913 described in Subsection [~~(1)(d)(i) or (1)(d)(ii)~~] (1)(c)(i) or (1)(c)(ii), which training may be
- 4914 included as part of the 4,000 hours of training described in Subsection [~~(1)(e)~~] (1)(d), and of
- 4915 which documented evidence demonstrates not less than 100 of the supervised hours were
- 4916 obtained during direct, personal supervision, as defined by rule, by a mental health therapist
- 4917 supervisor qualified under Section 58-60-307; and
- 4918 [~~(g)~~] (f) pass the examination requirement established by division rule under Section
- 4919 58-1-203.
- 4920 (2) (a) All applicants for licensure as an associate marriage and family therapist shall
- 4921 comply with the provisions of Subsections [~~(1)(a), (b), (c), and (d)~~] (1)(a), (b), and (c).
- 4922 (b) An individual's license as an associate marriage and family therapist is limited to
- 4923 the period of time necessary to complete clinical training as described in Subsections [~~(1)(e)~~]

4924 ~~and (f)] (1)(d) and (e)~~ and extends not more than one year from the date the minimum
4925 requirement for training is completed, unless the individual presents satisfactory evidence to
4926 the division and the appropriate board that the individual is making reasonable progress toward
4927 passing of the qualifying examination for that profession or is otherwise on a course reasonably
4928 expected to lead to licensure, but the period of time under this Subsection (2)(b) may not
4929 exceed two years past the date the minimum supervised clinical training requirement has been
4930 completed.

4931 Section 80. Section **58-60-305.5** is amended to read:

4932 **58-60-305.5. Qualification for licensure before May 1, 2000.**

4933 (1) A person who was licensed under this chapter as of May 1, 2000, may apply for
4934 renewal of licensure without being required to fulfill the educational requirements described in
4935 Subsection **58-60-305(1)(~~f~~)(c)**.

4936 (2) A person who seeks licensure under this chapter before July 1, 2002, need comply
4937 only with the licensure requirements in effect before May 1, 2000.

4938 Section 81. Section **58-60-308** is amended to read:

4939 **58-60-308. Scope of practice -- Limitations.**

4940 (1) A licensed marriage and family therapist may engage in all acts and practices
4941 defined as the practice of marriage and family therapy without supervision, in private and
4942 independent practice, or as an employee of another person, limited only by the licensee's
4943 education, training, and competence.

4944 (2) (a) To the extent an individual has completed the educational requirements of
4945 Subsection **58-60-305(1)(~~f~~)(c)**, a licensed associate marriage and family therapist may engage
4946 in all acts and practices defined as the practice of marriage and family therapy if the practice is:

4947 (i) within the scope of employment as a licensed associate marriage and family
4948 therapist with a public agency or a private clinic as defined by division rule; and

4949 (ii) under the supervision of a licensed mental health therapist who is qualified as a
4950 supervisor under Section **58-60-307**.

4951 (b) A licensed associate marriage and family therapist may not engage in the
4952 independent practice of marriage and family therapy.

4953 Section 82. Section **58-60-405** is amended to read:

4954 **58-60-405. Qualifications for licensure.**

- 4955 (1) An applicant for licensure as a clinical mental health counselor shall:
- 4956 (a) submit an application on a form provided by the division;
- 4957 (b) pay a fee determined by the department under Section [63J-1-504](#);
- 4958 [~~(c)~~ be of good moral character;]
- 4959 [~~(d)~~] (c) produce certified transcripts from an accredited institution of higher education
- 4960 recognized by the division in collaboration with the board verifying satisfactory completion of:
- 4961 (i) an education and degree in an education program in counseling with a core
- 4962 curriculum defined by division rule under Section [58-1-203](#) preparing one to competently
- 4963 engage in mental health therapy; and
- 4964 (ii) an earned doctoral or master's degree resulting from that education program;
- 4965 [~~(e)~~] (d) have completed a minimum of 4,000 hours of clinical mental health counselor
- 4966 training as defined by division rule under Section [58-1-203](#):
- 4967 (i) in not less than two years;
- 4968 (ii) under the supervision of a clinical mental health counselor, psychiatrist,
- 4969 psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or
- 4970 marriage and family therapist supervisor approved by the division in collaboration with the
- 4971 board;
- 4972 (iii) obtained after completion of the education requirement in Subsection (1)[~~(d)~~](c);
- 4973 and
- 4974 (iv) including a minimum of two hours of training in suicide prevention via a course
- 4975 that the division designates as approved;
- 4976 [~~(f)~~] (e) document successful completion of not less than 1,000 hours of supervised
- 4977 training in mental health therapy obtained after completion of the education requirement in
- 4978 Subsection [~~(1)~~](d), which training may be included as part of the 4,000 hours of training
- 4979 in Subsection [~~(1)~~](d), and of which documented evidence demonstrates not less than
- 4980 100 of the hours were obtained under the direct supervision of a mental health therapist, as
- 4981 defined by rule; and
- 4982 [~~(g)~~] (f) pass the examination requirement established by division rule under Section
- 4983 [58-1-203](#).
- 4984 (2) (a) An applicant for licensure as an associate clinical mental health counselor shall
- 4985 comply with the provisions of Subsections [~~(1)~~](a), (b), and (c).

4986 (b) Except as provided under Subsection (2)(c), an individual's licensure as an
4987 associate clinical mental health counselor is limited to the period of time necessary to complete
4988 clinical training as described in Subsections ~~[(1)(e) and (f)]~~ (1)(d) and (e) and extends not more
4989 than one year from the date the minimum requirement for training is completed.

4990 (c) The time period under Subsection (2)(b) may be extended to a maximum of two
4991 years past the date the minimum supervised clinical training requirement has been completed,
4992 if the applicant presents satisfactory evidence to the division and the appropriate board that the
4993 individual is:

4994 (i) making reasonable progress toward passing of the qualifying examination for that
4995 profession; or

4996 (ii) otherwise on a course reasonably expected to lead to licensure.

4997 Section 83. Section ~~58-60-407~~ is amended to read:

4998 **58-60-407. Scope of practice -- Limitations.**

4999 (1) (a) A licensed clinical mental health counselor may engage in all acts and practices
5000 defined as the practice of clinical mental health counseling without supervision, in private and
5001 independent practice, or as an employee of another person, limited only by the licensee's
5002 education, training, and competence.

5003 (b) A licensed clinical mental health counselor may not supervise more than six
5004 individuals who are lawfully engaged in training for the practice of mental health therapy,
5005 unless granted an exception in writing from the division in collaboration with the board.

5006 (2) (a) To the extent an individual has completed the educational requirements of
5007 Subsection ~~58-60-305(1)(c)]~~ 58-60-305(1)(c), a licensed associate clinical mental health counselor may
5008 engage in all acts and practices defined as the practice of clinical mental health counseling if
5009 the practice is:

5010 (i) within the scope of employment as a licensed clinical mental health counselor with
5011 a public agency or private clinic as defined by division rule; and

5012 (ii) under supervision of a qualified licensed mental health therapist as defined in
5013 Section ~~58-60-102~~.

5014 (b) A licensed associate clinical mental health counselor may not engage in the
5015 independent practice of clinical mental health counseling.

5016 Section 84. Section ~~58-60-506~~ is amended to read:

5017 **58-60-506. Qualifications for licensure.**

5018 (1) An applicant for licensure under this part on and after July 1, 2012, must meet the
5019 following qualifications:

5020 (a) submit an application in a form prescribed by the division;

5021 (b) pay a fee determined by the department under Section 63J-1-504;

5022 [~~(c) be of good moral character;~~]

5023 [~~(d)~~] (c) satisfy the requirements of Subsection (2), (3), (4), (5), (6), or (7) respectively;

5024 and

5025 [~~(e)~~] (d) except for licensure as a certified substance use disorder counselor intern and a
5026 certified advanced substance use disorder counselor intern, satisfy the examination requirement
5027 established by division rule under Section 58-1-203.

5028 (2) In accordance with division rules, an applicant for licensure as an advanced
5029 substance use disorder counselor shall produce:

5030 (a) certified transcripts from an accredited institution of higher education that:

5031 (i) meet division standards;

5032 (ii) verify the satisfactory completion of a baccalaureate or graduate degree; and

5033 (iii) verify the completion of prerequisite courses established by division rules;

5034 (b) documentation of the applicant's completion of a substance use disorder education
5035 program that includes:

5036 (i) at least 300 hours of substance use disorder related education, of which 200 hours
5037 may have been obtained while qualifying for a substance use disorder counselor license; and

5038 (ii) a supervised practicum of at least 350 hours, of which 200 hours may have been
5039 obtained while qualifying for a substance use disorder counselor license; and

5040 (c) documentation of the applicant's completion of at least 4,000 hours of supervised
5041 experience in substance use disorder treatment, of which 2,000 hours may have been obtained
5042 while qualifying for a substance use disorder counselor license, that:

5043 (i) meets division standards; and

5044 (ii) is performed within a four-year period after the applicant's completion of the
5045 substance use disorder education program described in Subsection (2)(b), unless, as determined
5046 by the division after consultation with the board, the time for performance is extended due to
5047 an extenuating circumstance.

5048 (3) An applicant for licensure as a certified advanced substance use disorder counselor
5049 shall meet the requirements in Subsections (2)(a) and (b).

5050 (4) (a) An applicant for licensure as a certified advanced substance use disorder
5051 counselor intern shall meet the requirements in Subsections (2)(a) and (b).

5052 (b) A certified advanced substance use disorder counselor intern license expires at the
5053 earlier of:

5054 (i) the licensee passing the examination required for licensure as a certified advanced
5055 substance use disorder counselor; or

5056 (ii) six months after the certified advanced substance use disorder counselor intern
5057 license is issued.

5058 (5) In accordance with division rules, an applicant for licensure as a substance use
5059 disorder counselor shall produce:

5060 (a) certified transcripts from an accredited institution that:

5061 (i) meet division standards;

5062 (ii) verify satisfactory completion of an associate's degree or equivalent as defined by
5063 the division in rule; and

5064 (iii) verify the completion of prerequisite courses established by division rules;

5065 (b) documentation of the applicant's completion of a substance use disorder education
5066 program that includes:

5067 (i) completion of at least 200 hours of substance use disorder related education;

5068 (ii) included in the 200 hours described in Subsection (5)(b)(i), a minimum of two
5069 hours of training in suicide prevention via a course that the division designates as approved;
5070 and

5071 (iii) completion of a supervised practicum of at least 200 hours; and

5072 (c) documentation of the applicant's completion of at least 2,000 hours of supervised
5073 experience in substance use disorder treatment that:

5074 (i) meets division standards; and

5075 (ii) is performed within a two-year period after the applicant's completion of the
5076 substance use disorder education program described in Subsection (5)(b), unless, as determined
5077 by the division after consultation with the board, the time for performance is extended due to
5078 an extenuating circumstance.

5079 (6) An applicant for licensure as a certified substance use disorder counselor shall meet
5080 the requirements of Subsections (5)(a) and (b).

5081 (7) (a) An applicant for licensure as a certified substance use disorder counselor intern
5082 shall meet the requirements of Subsections (5)(a) and (b).

5083 (b) A certified substance use disorder counselor intern license expires at the earlier of:

5084 (i) the licensee passing the examination required for licensure as a certified substance
5085 use disorder counselor; or

5086 (ii) six months after the certified substance use disorder counselor intern license is
5087 issued.

5088 Section 85. Section **58-61-304** is amended to read:

5089 **58-61-304. Qualifications for licensure by examination or endorsement.**

5090 (1) An applicant for licensure as a psychologist based upon education, clinical training,
5091 and examination shall:

5092 (a) submit an application on a form provided by the division;

5093 (b) pay a fee determined by the department under Section [63J-1-504](#);

5094 [~~(c)~~ be of good moral character;]

5095 [~~(d)~~ (c) produce certified transcripts of credit verifying satisfactory completion of a
5096 doctoral degree in psychology that includes specific core course work established by division
5097 rule under Section [58-1-203](#), from an institution of higher education whose doctoral program,
5098 at the time the applicant received the doctoral degree, met approval criteria established by
5099 division rule made in consultation with the board;

5100 [~~(e)~~ (d) have completed a minimum of 4,000 hours of psychology training as defined
5101 by division rule under Section [58-1-203](#) in not less than two years and under the supervision of
5102 a psychologist supervisor approved by the division in collaboration with the board;

5103 [~~(f)~~ (e) to be qualified to engage in mental health therapy, document successful
5104 completion of not less than 1,000 hours of supervised training in mental health therapy
5105 obtained after completion of a master's level of education in psychology, which training may be
5106 included as part of the 4,000 hours of training required in Subsection (1)[~~(e)~~](d), and for which
5107 documented evidence demonstrates not less than one hour of supervision for each 40 hours of
5108 supervised training was obtained under the direct supervision of a psychologist, as defined by
5109 rule;

5110 [(g)] (f) pass the examination requirement established by division rule under Section
5111 58-1-203; [and]

5112 (g) consent to a criminal background check in accordance with Section 58-61-304.1
5113 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah
5114 Administrative Rulemaking Act; and

5115 (h) meet with the board, upon request for good cause, for the purpose of evaluating the
5116 applicant's qualifications for licensure.

5117 (2) An applicant for licensure as a psychologist by endorsement based upon licensure
5118 in another jurisdiction shall:

5119 (a) submit an application on a form provided by the division;

5120 (b) pay a fee determined by the department under Section 63J-1-504;

5121 (c) [~~be of good moral character and professional standing, and~~] not have any
5122 disciplinary action pending or in effect against the applicant's psychologist license in any
5123 jurisdiction;

5124 (d) have passed the Utah Psychologist Law and Ethics Examination established by
5125 division rule;

5126 (e) provide satisfactory evidence the applicant is currently licensed in another state,
5127 district, or territory of the United States, or in any other jurisdiction approved by the division in
5128 collaboration with the board;

5129 (f) provide satisfactory evidence the applicant has actively practiced psychology in that
5130 jurisdiction for not less than 2,000 hours or one year, whichever is greater;

5131 (g) provide satisfactory evidence that:

5132 (i) the education, supervised experience, examination, and all other requirements for
5133 licensure in that jurisdiction at the time the applicant obtained licensure were substantially
5134 equivalent to the licensure requirements for a psychologist in Utah at the time the applicant
5135 obtained licensure in the other jurisdiction; or

5136 (ii) the applicant is:

5137 (A) a current holder of Board Certified Specialist status in good standing from the
5138 American Board of Professional Psychology;

5139 (B) currently credentialed as a health service provider in psychology by the National
5140 Register of Health Service Providers in Psychology; or

5141 (C) currently holds a Certificate of Professional Qualification (CPQ) granted by the
5142 Association of State and Provincial Psychology Boards; ~~and~~

5143 (h) consent to a criminal background check in accordance with Section 58-61-304.1
5144 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah
5145 Administrative Rulemaking Act; and

5146 ~~(h)~~ (i) meet with the board, upon request for good cause, for the purpose of
5147 evaluating the applicant's qualifications for licensure.

5148 (3) (a) An applicant for certification as a psychology resident shall comply with the
5149 provisions of Subsections (1)(a), (b), (c), ~~(d)~~ (g), and (h).

5150 (b) (i) An individual's certification as a psychology resident is limited to the period of
5151 time necessary to complete clinical training as described in Subsections ~~(1)(e) and (f)~~ (1)(d)
5152 and (e) and extends not more than one year from the date the minimum requirement for
5153 training is completed, unless the individual presents satisfactory evidence to the division and
5154 the Psychologist Licensing Board that the individual is making reasonable progress toward
5155 passing the qualifying examination or is otherwise on a course reasonably expected to lead to
5156 licensure as a psychologist.

5157 (ii) The period of time under Subsection (3)(b)(i) may not exceed two years past the
5158 date the minimum supervised clinical training requirement has been completed.

5159 Section 86. Section **58-61-304.1** is enacted to read:

5160 **58-61-304.1. Criminal background check.**

5161 (1) An applicant for licensure under this chapter who requires a criminal background
5162 check shall:

5163 (a) submit fingerprint cards in a form acceptable to the division at the time the license
5164 application is filed; and

5165 (b) consent to a fingerprint background check conducted by the Bureau of Criminal
5166 Identification and the Federal Bureau of Investigation regarding the application.

5167 (2) The division shall:

5168 (a) in addition to other fees authorized by this chapter, collect from each applicant
5169 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal
5170 Identification is authorized to collect for the services provided under Section 53-10-108 and the
5171 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of

5172 obtaining federal criminal history record information;

5173 (b) submit from each applicant the fingerprint card and the fees described in

5174 Subsection (2)(a) to the Bureau of Criminal Identification; and

5175 (c) obtain and retain in division records a signed waiver approved by the Bureau of

5176 Criminal Identification in accordance with Section [53-10-108](#) for each applicant.

5177 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of

5178 Section [53-10-108](#):

5179 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state

5180 and regional criminal records databases;

5181 (b) forward the fingerprints to the Federal Bureau of Investigation for a national

5182 criminal history background check; and

5183 (c) provide the results from the state, regional, and nationwide criminal history

5184 background checks to the division.

5185 (4) For purposes of conducting a criminal background check required under this

5186 section, the division shall have direct access to criminal background information maintained

5187 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

5188 (5) The division may not disseminate outside of the division any criminal history

5189 record information that the division obtains from the Bureau of Criminal Identification or the

5190 Federal Bureau of Investigation under the criminal background check requirements of this

5191 section.

5192 Section 87. Section **58-61-501** is amended to read:

5193 **58-61-501. Unlawful conduct.**

5194 As used in this chapter, "unlawful conduct" includes:

5195 (1) practice of psychology unless licensed as a psychologist or certified psychology

5196 resident under this chapter or exempted from licensure under this title;

5197 (2) practice of mental health therapy by a licensed psychologist who has not acceptably

5198 documented to the division his completion of the supervised training in psychotherapy required

5199 under Subsection [58-61-304\(1\)\(~~f~~\)\(e\)](#); or

5200 (3) representing oneself as or using the title of psychologist, or certified psychology

5201 resident unless currently licensed under this chapter.

5202 Section 88. Section **58-61-704** is amended to read:

5203 **58-61-704. Term of license or registration.**

5204 (1) (a) The division shall issue each license under this part with a two-year renewal
5205 cycle established by division rule.

5206 (b) The division may by rule extend or shorten a renewal cycle by as much as one year
5207 to stagger the renewal cycles it administers.

5208 (2) At the time of renewal, the licensed individual shall show satisfactory evidence of
5209 renewal requirements as required under this part.

5210 (3) Each license or registration expires on the expiration date shown on the license
5211 unless renewed by the licensed individual in accordance with Section 58-1-308.

5212 (4) (a) A registration as a registered behavior specialist or a registered assistant
5213 behavior specialist:

5214 (i) expires on the day the individual is no longer employed in accordance with
5215 Subsection [~~58-61-705(5)(e) or (6)(e)~~ 58-61-705(5)(d) or (5)(e)]; and

5216 (ii) may not be renewed.

5217 (b) The Department of Human Services, or an organization contracted with a division
5218 of the Department of Human Services, shall notify the Division of Occupational and
5219 Professional Licensing when a person registered under this part is no longer employed as a
5220 registered behavior specialist or a registered assistant behavior specialist.

5221 Section 89. Section **58-61-705** is amended to read:

5222 **58-61-705. Qualifications for licensure -- By examination -- By certification.**

5223 (1) An applicant for licensure as a behavior analyst based upon education, supervised
5224 experience, and national examination shall:

5225 (a) submit an application on a form provided by the division;

5226 (b) pay a fee determined by the department under Section 63J-1-504;

5227 [~~(c) be of good moral character;~~]

5228 [~~(d)~~] (c) produce certified transcripts of credit verifying satisfactory completion of a
5229 master's or doctoral degree in applied behavior analysis from an accredited institution of higher
5230 education or an equivalent master or doctorate degree as determined by the division by
5231 administrative rule;

5232 [~~(e)~~] (d) as defined by the division by administrative rule, have completed at least
5233 1,500 hours of experiential behavior analysis training within a five year period of time with a

5234 qualified supervisor; and
5235 ~~[(f)]~~ (e) pass the examination requirement established by division rule under Section
5236 58-1-203.
5237 (2) An applicant for licensure as a behavior analyst based upon certification shall:
5238 (a) without exception, on or before November 15, 2015, submit to the division an
5239 application on a form provided by the division;
5240 (b) pay a fee determined by the department under Section 63J-1-504; and
5241 ~~[(c) be of good moral character; and]~~
5242 ~~[(d)]~~ (c) provide official verification of current certification as a board certified
5243 behavior analyst from the Behavior Analyst Certification Board.
5244 (3) An applicant for licensure as an assistant behavior analyst based upon education,
5245 supervised experience, and national examination shall:
5246 (a) submit an application on a form provided by the division;
5247 (b) pay a fee determined by the department under Section 63J-1-504;
5248 ~~[(c) be of good moral character;]~~
5249 ~~[(d)]~~ (c) produce certified transcripts of credit verifying satisfactory completion of a
5250 bachelor's degree from an accredited institution of higher education and satisfactory completion
5251 of specific core course work in behavior analysis established under Section 58-1-203 from an
5252 accredited institution of higher education;
5253 ~~[(e)]~~ (d) as defined by the division by administrative rule, have completed at least
5254 1,000 hours of experiential behavior analysis training within a five-year period of time with a
5255 qualified supervisor; and
5256 ~~[(f)]~~ (e) pass the examination requirement established by division rule under Section
5257 58-1-203.
5258 (4) An applicant for licensure as an assistant behavior analyst based upon certification
5259 shall:
5260 (a) without exception, on or before November 15, 2015, submit to the division an
5261 application on a form provided by the division;
5262 (b) pay a fee determined by the department under Section 63J-1-504; and
5263 ~~[(c) be of good moral character; and]~~
5264 ~~[(d)]~~ (c) provide official verification of current certification as a board certified

5265 assistant behavior analyst from the Behavior Analyst Certification Board.

5266 (5) An applicant for registration as a behavior specialist based upon professional
5267 experience in behavior analysis shall:

5268 (a) without exception, on or before November 15, 2015, submit to the division, an
5269 application on a form provided by the division;

5270 (b) pay a fee determined by the department under Section [63J-1-504](#);

5271 [~~(c) be of good moral character;~~]

5272 [~~(d)~~] (c) have at least five years of experience as a professional engaged in the practice
5273 of behavior analysis on or before May 15, 2015; and

5274 [~~(e)~~] (d) be employed as a professional engaging in the practice of behavior analysis
5275 within an organization contracted with a division of the Utah Department of Human Services to
5276 provide behavior analysis on or before July 1, 2015.

5277 (6) An applicant for registration as an assistant behavior specialist based upon
5278 professional experience in behavior analysis shall:

5279 (a) without exception, on or before November 15, 2015, submit to the division, an
5280 application on a form provided by the division;

5281 (b) pay a fee determined by the department under Section [63J-1-504](#);

5282 [~~(c) be of good moral character;~~]

5283 [~~(d)~~] (c) have at least one year of experience as a professional engaging in the practice
5284 of behavior analysis prior to July 1, 2015; and

5285 [~~(e)~~] (d) be employed as a professional engaging in the practice of behavior analysis
5286 within an organization contracted with a division of the Utah Department of Human Services to
5287 provide behavior analysis on or before July 1, 2015.

5288 Section 90. Section **58-63-302** is amended to read:

5289 **58-63-302. Qualifications for licensure.**

5290 (1) Each applicant for licensure as an armored car company or a contract security
5291 company shall:

5292 (a) submit an application in a form prescribed by the division;

5293 (b) pay a fee determined by the department under Section [63J-1-504](#);

5294 (c) have a qualifying agent who:

5295 (i) shall meet with the division and the board and demonstrate that the applicant and

5296 the qualifying agent meet the requirements of this section;

5297 (ii) is a resident of the state and is a corporate officer or owner of the applicant;

5298 (iii) exercises material day-to-day authority in the conduct of the applicant's business

5299 by making substantive technical and administrative decisions and whose primary employment

5300 is with the applicant;

5301 (iv) is not concurrently acting as a qualifying agent or employee of another armored car

5302 company or contract security company and is not engaged in any other employment on a

5303 regular basis;

5304 (v) is not involved in any activity that would conflict with the qualifying agent's duties

5305 and responsibilities under this chapter to ensure that the qualifying agent's and the applicant's

5306 performance under this chapter does not jeopardize the health or safety of the general public;

5307 (vi) is not an employee of a government agency;

5308 (vii) passes an examination component established by rule by the division in

5309 collaboration with the board; and

5310 (viii) (A) demonstrates 6,000 hours of compensated experience as a manager,

5311 supervisor, or administrator of an armored car company or a contract security company; or

5312 (B) demonstrates 6,000 hours of supervisory experience acceptable to the division in

5313 collaboration with the board with a federal, United States military, state, county, or municipal

5314 law enforcement agency;

5315 (d) if a corporation, provide:

5316 (i) the names, addresses, dates of birth, and social security numbers of all corporate

5317 officers, directors, and those responsible management personnel employed within the state or

5318 having direct responsibility for managing operations of the applicant within the state; and

5319 (ii) the names, addresses, dates of birth, and social security numbers, of all

5320 shareholders owning 5% or more of the outstanding shares of the corporation, unless waived by

5321 the division if the stock is publicly listed and traded;

5322 (e) if a limited liability company, provide:

5323 (i) the names, addresses, dates of birth, and social security numbers of all company

5324 officers, and those responsible management personnel employed within the state or having

5325 direct responsibility for managing operations of the applicant within the state; and

5326 (ii) the names, addresses, dates of birth, and social security numbers of all individuals

5327 owning 5% or more of the equity of the company;

5328 (f) if a partnership, provide the names, addresses, dates of birth, and social security
5329 numbers of all general partners, and those responsible management personnel employed within
5330 the state or having direct responsibility for managing operations of the applicant within the
5331 state;

5332 (g) if a proprietorship, provide the names, addresses, dates of birth, and social security
5333 numbers of the proprietor, and those responsible management personnel employed within the
5334 state or having direct responsibility for managing operations of the applicant within the state;

5335 (h) have good moral character in that officers, directors, shareholders described in
5336 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have not
5337 been convicted of:

5338 (i) a felony;

5339 (ii) a misdemeanor involving moral turpitude; or

5340 (iii) a crime that when considered with the duties and responsibilities of a contract
5341 security company or an armored car company by the division and the board indicates that the
5342 best interests of the public are not served by granting the applicant a license;

5343 (i) document that none of the applicant's officers, directors, shareholders described in
5344 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel:

5345 (i) have been declared by a court of competent jurisdiction incompetent by reason of
5346 mental defect or disease and not been restored; and

5347 (ii) currently suffer from habitual drunkenness or from drug addiction or dependence;

5348 (j) file and maintain with the division evidence of:

5349 (i) comprehensive general liability insurance in a form and in amounts established by
5350 rule by the division in collaboration with the board;

5351 (ii) workers' compensation insurance that covers employees of the applicant in
5352 accordance with applicable Utah law;

5353 (iii) registration with the Division of Corporations and Commercial Code; and

5354 (iv) registration as required by applicable law with the:

5355 (A) Unemployment Insurance Division in the Department of Workforce Services, for
5356 purposes of Title 35A, Chapter 4, Employment Security Act;

5357 (B) State Tax Commission; and

- 5358 (C) Internal Revenue Service; and
- 5359 (k) meet with the division and board if requested by the division or board.
- 5360 (2) Each applicant for licensure as an armed private security officer shall:
- 5361 (a) submit an application in a form prescribed by the division;
- 5362 (b) pay a fee determined by the department under Section 63J-1-504;
- 5363 (c) have good moral character in that the applicant has not been convicted of:
- 5364 (i) a felony;
- 5365 (ii) a misdemeanor involving moral turpitude; or
- 5366 (iii) a crime that when considered with the duties and responsibilities of an armed
- 5367 private security officer by the division and the board indicates that the best interests of the
- 5368 public are not served by granting the applicant a license;
- 5369 (d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec.
- 5370 922(g);
- 5371 (e) not have been declared incompetent by a court of competent jurisdiction by reason
- 5372 of mental defect or disease and not been restored;
- 5373 (f) not be currently suffering from habitual drunkenness or from drug addiction or
- 5374 dependence;
- 5375 (g) successfully complete basic education and training requirements established by rule
- 5376 by the division in collaboration with the board, which shall include a minimum of eight hours
- 5377 of classroom or online curriculum;
- 5378 (h) successfully complete firearms training requirements established by rule by the
- 5379 division in collaboration with the board, which shall include a minimum of 12 hours of
- 5380 training;
- 5381 (i) pass the examination requirement established by rule by the division in
- 5382 collaboration with the board; and
- 5383 (j) meet with the division and board if requested by the division or the board.
- 5384 (3) Each applicant for licensure as an unarmed private security officer shall:
- 5385 (a) submit an application in a form prescribed by the division;
- 5386 (b) pay a fee determined by the department under Section 63J-1-504;
- 5387 (c) have good moral character in that the applicant has not been convicted of:
- 5388 (i) a felony;

- 5389 (ii) a misdemeanor involving moral turpitude; or
- 5390 (iii) a crime that when considered with the duties and responsibilities of an unarmed
- 5391 private security officer by the division and the board indicates that the best interests of the
- 5392 public are not served by granting the applicant a license;
- 5393 (d) not have been declared incompetent by a court of competent jurisdiction by reason
- 5394 of mental defect or disease and not been restored;
- 5395 (e) not be currently suffering from habitual drunkenness or from drug addiction or
- 5396 dependence;
- 5397 (f) successfully complete basic education and training requirements established by rule
- 5398 by the division in collaboration with the board, which shall include a minimum of eight hours
- 5399 of classroom or online curriculum;
- 5400 (g) pass the examination requirement established by rule by the division in
- 5401 collaboration with the board; and
- 5402 (h) meet with the division and board if requested by the division or board.
- 5403 (4) Each applicant for licensure as an armored car security officer shall:
- 5404 (a) submit an application in a form prescribed by the division;
- 5405 (b) pay a fee determined by the department under Section [63J-1-504](#);
- 5406 (c) have good moral character in that the applicant has not been convicted of:
- 5407 (i) a felony;
- 5408 (ii) a misdemeanor involving moral turpitude; or
- 5409 (iii) a crime that when considered with the duties and responsibilities of an armored car
- 5410 security officer by the division and the board indicates that the best interests of the public are
- 5411 not served by granting the applicant a license;
- 5412 (d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec.
- 5413 922(g);
- 5414 (e) not have been declared incompetent by a court of competent jurisdiction by reason
- 5415 of mental defect or disease and not been restored;
- 5416 (f) not be currently suffering from habitual drunkenness or from drug addiction or
- 5417 dependence;
- 5418 (g) successfully complete basic education and training requirements established by rule
- 5419 by the division in collaboration with the board;

5420 (h) successfully complete firearms training requirements established by rule by the
5421 division in collaboration with the board;

5422 (i) pass the examination requirements established by rule by the division in
5423 collaboration with the board; and

5424 (j) meet with the division and board if requested by the division or the board.

5425 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5426 division may make a rule establishing when the division shall request a Federal Bureau of
5427 Investigation records' review for an applicant who is applying for licensure or licensure renewal
5428 under this chapter.

5429 (6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c),
5430 (3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint
5431 cards to the Department of Public Safety with the division's request to:

5432 (a) conduct a search of records of the Department of Public Safety for criminal history
5433 information relating to each applicant for licensure under this chapter and each applicant's
5434 officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and
5435 responsible management personnel; and

5436 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
5437 requiring a check of records of the FBI for criminal history information under this section.

5438 (7) The Department of Public Safety shall send the division:

5439 (a) a written record of criminal history, or certification of no criminal history record, as
5440 contained in the records of the Department of Public Safety in a timely manner after receipt of
5441 a fingerprint card from the division and a request for review of Department of Public Safety
5442 records; and

5443 (b) the results of the FBI review concerning an applicant in a timely manner after
5444 receipt of information from the FBI.

5445 (8) (a) The division shall charge each applicant a fee, in accordance with Section
5446 [63J-1-504](#), equal to the cost of performing the records reviews under this section.

5447 (b) The division shall pay the Department of Public Safety the costs of all records
5448 reviews, and the Department of Public Safety shall pay the FBI the costs of records reviews
5449 under this chapter.

5450 (9) The division shall use or disseminate the information it obtains from the reviews of

5451 criminal history records of the Department of Public Safety and the FBI only to determine if an
5452 applicant for licensure or licensure renewal under this chapter is qualified for licensure.

5453 Section 91. Section **58-63-306** is amended to read:

5454 **58-63-306. Replacement of qualifying agent.**

5455 If the qualifying agent of an armored car company or a contract security company
5456 ceases to perform the agent's duties on a regular basis, the licensee shall:

5457 (1) notify the division in writing within 15 days [~~by registered or certified mail~~]; and

5458 (2) replace the qualifying agent within 60 days after the time required for notification
5459 to the division.

5460 Section 92. Section **58-63-503** is amended to read:

5461 **58-63-503. Penalties.**

5462 (1) Unless Subsection (2) applies, an individual who commits an act of unlawful
5463 conduct under Section **58-63-501** or who fails to comply with a citation issued under this
5464 section after it becomes final is guilty of a class A misdemeanor.

5465 (2) The division may immediately suspend a license issued under this chapter of a
5466 person who is given a citation for violating Subsection **58-63-501**(1), (2), (4), or (5).

5467 (3) (a) If upon inspection or investigation, the division determines that a person has
5468 violated Subsection **58-63-501**(1), (2), (4), or (5) or any rule made or order issued under those
5469 subsections, and that disciplinary action is warranted, the director or the director's designee
5470 within the division shall promptly issue a citation to the person and:

5471 (i) attempt to negotiate a stipulated settlement; or

5472 (ii) notify the person to appear for an adjudicative proceeding conducted under Title
5473 63G, Chapter 4, Administrative Procedures Act.

5474 (b) (i) The division may fine a person who violates Subsection **58-63-501**(1), (2), (4),
5475 or (5), as evidenced by an uncontested citation, a stipulated settlement, or a finding of a
5476 violation in an adjudicative proceeding held under Subsection (3)(a)(ii), or order the person to
5477 cease and desist from the violation, or do both.

5478 (ii) Except for a cease and desist order, the division may not impose the licensure
5479 sanctions listed in Section **58-63-401** through the issuance of a citation under this section.

5480 (c) The written citation shall:

5481 (i) describe the nature of the violation, including a reference to the allegedly violated

5482 statute, rule, or order;

5483 (ii) state the recipient must notify the division in writing within 20 calendar days of
5484 issuance of the citation if the recipient wants to contest the citation at the adjudicative
5485 proceeding referred to in Subsection (3)(a)(ii); and

5486 (iii) explain the consequences of failure to timely contest the citation or to make
5487 payment of a fine assessed under the citation with the time specified in the citation.

5488 (d) (i) The division may serve a citation issued under this section, or a copy of the
5489 citation, upon an individual who is subject to service of a summons under the Utah Rules of
5490 Civil Procedure.

5491 (ii) (A) The division may serve the individual personally or serve the individual's
5492 agent.

5493 (B) The division may serve the summons by a division investigator, by a person
5494 designated by the director, or by mail.

5495 (e) (i) If within 20 days from the service of a citation the person to whom the citation
5496 was issued fails to request a hearing to contest the citation, the citation becomes the final order
5497 of the division and is not subject to further agency review.

5498 (ii) The division may grant an extension of the 20-day period for cause.

5499 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation
5500 the license of a licensee who fails to comply with a citation after it becomes final.

5501 (g) The division may not issue a citation for an alleged violation under this section
5502 after the expiration of [~~six months following the occurrence of the alleged violation~~] one year
5503 following the date on which the violation that is the subject of the citation is reported to the
5504 division.

5505 (h) The director or the director's designee may assess fines under this section as
5506 follows:

5507 (i) for a first offense under Subsection (3)(a), a fine of up to \$1,000;

5508 (ii) for a second offense under Subsection (3)(a), a fine of up to \$2,000; and

5509 (iii) for a subsequent offense under Subsection (3)(a), a fine of up to \$2,000 for each
5510 day of continued violation.

5511 (i) (i) For purposes of issuing a final order under this section and assessing a fine under
5512 Subsection (3)(h), an offense is a second or subsequent offense if:

5513 (A) the division previously issued a final order determining that a person committed a
5514 first or second offense in violation of Subsection 58-63-501(1) or (4); or

5515 (B) (I) the division initiated an action for a first or second offense;

5516 (II) no final order has been issued by the division in an action initiated under

5517 Subsection (3)(i)(i)(B)(I);

5518 (III) the division determines during an investigation that occurred after the initiation of

5519 the action under Subsection (3)(i)(i)(B)(I) that the person committed a second or subsequent

5520 violation of Subsection 58-63-501(1) or (4); and

5521 (IV) after determining that the person committed a second or subsequent offense under

5522 Subsection (3)(i)(i)(B)(III), the division issues a final order on the action initiated under

5523 Subsection (3)(i)(i)(B)(I).

5524 (ii) In issuing a final order for a second or subsequent offense under Subsection

5525 (3)(i)(i), the division shall comply with the requirements of this section.

5526 (4) (a) The division shall deposit a fine imposed by the director under Subsection (3)(h)

5527 in the General Fund as a dedicated credit for use by the division for the purposes listed in

5528 Section 58-63-103.

5529 (b) The director may collect a fine that is not paid by:

5530 (i) referring the matter to a collection agency; or

5531 (ii) bringing an action in the district court of the county where the person against whom

5532 the penalty is imposed resides or in the county where the office of the director is located.

5533 (c) A county attorney or the attorney general of the state shall provide legal assistance

5534 and advice to the director in an action to collect a penalty.

5535 (d) A court shall award reasonable attorney fees and costs to the prevailing party in an

5536 action brought by the division to collect a penalty.

5537 Section 93. Section 58-64-302 is amended to read:

5538 **58-64-302. Qualifications for licensure.**

5539 (1) Each applicant for licensure as a deception detection examiner:

5540 (a) shall submit an application in a form prescribed by the division;

5541 (b) shall pay a fee determined by the department under Section 63J-1-504;

5542 (c) [~~shall be of good moral character in that the applicant has not~~] may not have been

5543 convicted of a felony, a misdemeanor involving moral turpitude, or any other crime [~~which~~]

5544 that when considered with the duties and responsibilities of a deception detection examiner is
5545 considered by the division and the board to indicate that the best interests of the public will not
5546 be served by granting the applicant a license;

5547 (d) may not have been declared by any court of competent jurisdiction incompetent by
5548 reason of mental defect or disease and not been restored;

5549 (e) may not be currently suffering from habitual drunkenness or from drug addiction or
5550 dependence;

5551 (f) shall have completed one of the following:

5552 (i) have earned a bachelor's degree from a four year university or college meeting
5553 standards established by the division by rule in collaboration with the board;

5554 (ii) have completed not less than 8,000 hours of investigation experience approved by
5555 the division in collaboration with the board; or

5556 (iii) have completed a combination of university or college education and investigation
5557 experience, as defined by rule by the division in collaboration with the board as being
5558 equivalent to the requirements under Subsection (1)(f)(i) or (1)(f)(ii);

5559 (g) shall have successfully completed a training program in detection deception
5560 meeting criteria established by rule by the division in collaboration with the board; and

5561 (h) shall have performed satisfactorily as a licensed deception detection intern for a
5562 period of not less than one year and shall have satisfactorily conducted not less than 100
5563 deception detection examinations under the supervision of a licensed deception detection
5564 examiner.

5565 (2) Each applicant for licensure as a deception detection intern:

5566 (a) shall submit an application in a form prescribed by the division;

5567 (b) shall pay a fee determined by the department under Section [63J-1-504](#);

5568 (c) [~~shall be of good moral character in that the applicant has not~~] may not have been
5569 convicted of a felony, a misdemeanor involving moral turpitude, or any other crime [~~which~~]

5570 that when considered with the duties and responsibilities of a deception detection intern is
5571 considered by the division and the board to indicate that the best interests of the public will not
5572 be served by granting the applicant a license;

5573 (d) may not have been declared by any court of competent jurisdiction incompetent by
5574 reason of mental defect or disease and not been restored;

5575 (e) may not be currently suffering from habitual drunkenness or from drug addiction or
5576 dependence;

5577 (f) shall have completed one of the following:

5578 (i) have earned a bachelor's degree from a four year university or college meeting
5579 standards established by the division by rule in collaboration with the board;

5580 (ii) have completed not less than 8,000 hours of investigation experience approved by
5581 the division in collaboration with the board; or

5582 (iii) have completed a combination of university or college education and investigation
5583 experience, as defined by rule by the division in collaboration with the board as being
5584 equivalent to the requirements under Subsection (2)(f)(i) or (2)(f)(ii);

5585 (g) shall have successfully completed a training program in deception detection
5586 meeting criteria established by rule by the division in collaboration with the board; and

5587 (h) shall provide the division with an intern supervision agreement in a form prescribed
5588 by the division under which:

5589 (i) a licensed deception detection examiner agrees to supervise the intern; and

5590 (ii) the applicant agrees to be supervised by that licensed deception detection examiner.

5591 (3) Each applicant for licensure as a deception detection examination administrator:

5592 (a) shall submit an application in a form prescribed by the division;

5593 (b) shall pay a fee determined by the department under Section 63J-1-504;

5594 (c) [~~shall be of good moral character in that the applicant has not~~] may not have been
5595 convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when
5596 considered with the duties and responsibilities of a deception detection examination
5597 administrator is considered by the division and the board to indicate that the best interests of
5598 the public will not be served by granting the applicant a license;

5599 (d) may not have been declared by a court of competent jurisdiction incompetent by
5600 reason of mental defect or disease and not been restored;

5601 (e) may not be currently suffering from habitual drunkenness or from drug addiction or
5602 dependence;

5603 (f) shall have earned an associate degree from a state-accredited university or college or
5604 have an equivalent number of years' work experience; and

5605 (g) shall have successfully completed a training program and have obtained

5606 certification in deception detection examination administration provided by the manufacturer
5607 of a scientific or technology-based software application solution that is approved by the
5608 director.

5609 (4) To determine if an applicant meets the qualifications of Subsection (1)(c), (2)(c), or
5610 (3)(c) the division shall provide an appropriate number of copies of fingerprint cards to the
5611 Department of Public Safety with the division's request to:

5612 (a) conduct a search of records of the Department of Public Safety for criminal history
5613 information relating to each applicant for licensure under this chapter; and

5614 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
5615 requiring a check of records of the F.B.I. for criminal history information under this section.

5616 (5) The Department of Public Safety shall send to the division:

5617 (a) a written record of criminal history, or certification of no criminal history record, as
5618 contained in the records of the Department of Public Safety in a timely manner after receipt of
5619 a fingerprint card from the division and a request for review of Department of Public Safety
5620 records; and

5621 (b) the results of the F.B.I. review concerning an applicant in a timely manner after
5622 receipt of information from the F.B.I.

5623 (6) (a) The division shall charge each applicant a fee, in accordance with Section
5624 [63J-1-504](#), equal to the cost of performing the records reviews under this section.

5625 (b) The division shall pay the Department of Public Safety the costs of all records
5626 reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews
5627 under this chapter.

5628 (7) Information obtained by the division from the reviews of criminal history records of
5629 the Department of Public Safety and the F.B.I. shall be used or disseminated by the division
5630 only for the purpose of determining if an applicant for licensure under this chapter is qualified
5631 for licensure.

5632 Section 94. Section **58-67-302** is amended to read:

5633 **58-67-302. Qualifications for licensure.**

5634 (1) An applicant for licensure as a physician and surgeon, except as set forth in
5635 Subsection (2), shall:

5636 (a) submit an application in a form prescribed by the division, which may include:

- 5637 (i) submissions by the applicant of information maintained by practitioner data banks,
5638 as designated by division rule, with respect to the applicant;
- 5639 (ii) a record of professional liability claims made against the applicant and settlements
5640 paid by or on behalf of the applicant; and
- 5641 (iii) authorization to use a record coordination and verification service approved by the
5642 division in collaboration with the board;
- 5643 (b) pay a fee determined by the department under Section [63J-1-504](#);
- 5644 ~~[(c) be of good moral character;]~~
- 5645 ~~[(d)]~~ (c) if the applicant is applying to participate in the Interstate Medical Licensure
5646 Compact under Chapter 67b, Interstate Medical Licensure Compact, consent to a criminal
5647 background check in accordance with Section [58-67-302.1](#) and any requirements established by
5648 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 5649 ~~[(e)]~~ (d) provide satisfactory documentation of having successfully completed a
5650 program of professional education preparing an individual as a physician and surgeon, as
5651 evidenced by:
- 5652 (i) having received an earned degree of doctor of medicine from an LCME accredited
5653 medical school or college; or
- 5654 (ii) if the applicant graduated from a medical school or college located outside the
5655 United States or its territories, submitting a current certification by the Educational
5656 Commission for Foreign Medical Graduates or any successor organization approved by the
5657 division in collaboration with the board;
- 5658 ~~[(f)]~~ (e) satisfy the division and board that the applicant:
- 5659 (i) has successfully completed 24 months of progressive resident training in a program
5660 approved by the ACGME, the Royal College of Physicians and Surgeons, the College of
5661 Family Physicians of Canada, or any similar body in the United States or Canada approved by
5662 the division in collaboration with the board; or
- 5663 (ii) (A) has successfully completed 12 months of resident training in an ACGME
5664 approved program after receiving a degree of doctor of medicine as required under Subsection
5665 (1)~~[(e)]~~(d);
- 5666 (B) has been accepted in and is successfully participating in progressive resident
5667 training in an ACGME approved program within Utah, in the applicant's second or third year

5668 of postgraduate training; and

5669 (C) has agreed to surrender to the division the applicant's license as a physician and
5670 surgeon without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act,
5671 and has agreed the applicant's license as a physician and surgeon will be automatically revoked
5672 by the division if the applicant fails to continue in good standing in an ACGME approved
5673 progressive resident training program within the state;

5674 [~~g~~] (f) pass the licensing examination sequence required by division rule made in
5675 collaboration with the board;

5676 [~~h~~] (g) be able to read, write, speak, understand, and be understood in the English
5677 language and demonstrate proficiency to the satisfaction of the board if requested by the board;

5678 [~~i~~] (h) meet with the board and representatives of the division, if requested, for the
5679 purpose of evaluating the applicant's qualifications for licensure;

5680 [~~j~~] (i) designate:

5681 (i) a contact person for access to medical records in accordance with the federal Health
5682 Insurance Portability and Accountability Act; and

5683 (ii) an alternate contact person for access to medical records, in the event the original
5684 contact person is unable or unwilling to serve as the contact person for access to medical
5685 records; and

5686 [~~k~~] (j) establish a method for notifying patients of the identity and location of the
5687 contact person and alternate contact person, if the applicant will practice in a location with no
5688 other persons licensed under this chapter.

5689 (2) An applicant for licensure as a physician and surgeon by endorsement who is
5690 currently licensed to practice medicine in any state other than Utah, a district or territory of the
5691 United States, or Canada shall:

5692 (a) be currently licensed with a full unrestricted license in good standing in any state,
5693 district, or territory of the United States, or Canada;

5694 (b) have been actively engaged in the legal practice of medicine in any state, district, or
5695 territory of the United States, or Canada for not less than 6,000 hours during the five years
5696 immediately preceding the date of application for licensure in Utah;

5697 (c) comply with the requirements for licensure under Subsections (1)(a) through [~~e~~]
5698 (d), (1)[~~f~~](e)(i), and (1)[~~h~~](g) through [~~k~~] (j);

5699 (d) have passed the licensing examination sequence required in Subsection [~~(1)~~(f)]
5700 (1)(e) or another medical licensing examination sequence in another state, district or territory of
5701 the United States, or Canada that the division in collaboration with the board by rulemaking
5702 determines is equivalent to its own required examination;

5703 (e) not have any investigation or action pending against any health care license of the
5704 applicant, not have a health care license that was suspended or revoked in any state, district or
5705 territory of the United States, or Canada, and not have surrendered a health care license in lieu
5706 of a disciplinary action, unless:

5707 (i) the license was subsequently reinstated as a full unrestricted license in good
5708 standing; or

5709 (ii) the division in collaboration with the board determines to its satisfaction, after full
5710 disclosure by the applicant, that:

5711 (A) the conduct has been corrected, monitored, and resolved; or

5712 (B) a mitigating circumstance exists that prevents its resolution, and the division in
5713 collaboration with the board is satisfied that, but for the mitigating circumstance, the license
5714 would be reinstated;

5715 (f) submit to a records review, a practice history review, and comprehensive
5716 assessments, if requested by the division in collaboration with the board; and

5717 (g) produce satisfactory evidence that the applicant meets the requirements of this
5718 Subsection (2) to the satisfaction of the division in collaboration with the board.

5719 (3) An applicant for licensure by endorsement may engage in the practice of medicine
5720 under a temporary license while the applicant's application for licensure is being processed by
5721 the division, provided:

5722 (a) the applicant submits a complete application required for temporary licensure to the
5723 division;

5724 (b) the applicant submits a written document to the division from:

5725 (i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility
5726 Licensing and Inspection Act, stating that the applicant is practicing under the:

5727 (A) invitation of the health care facility; and

5728 (B) the general supervision of a physician practicing at the facility; or

5729 (ii) two individuals licensed under this chapter, whose license is in good standing and

5730 who practice in the same clinical location, both stating that:

5731 (A) the applicant is practicing under the invitation and general supervision of the
5732 individual; and

5733 (B) the applicant will practice at the same clinical location as the individual;

5734 (c) the applicant submits a signed certification to the division that the applicant meets
5735 the requirements of Subsection (2);

5736 (d) the applicant does not engage in the practice of medicine until the division has
5737 issued a temporary license;

5738 (e) the temporary license is only issued for and may not be extended or renewed
5739 beyond the duration of one year from issuance; and

5740 (f) the temporary license expires immediately and prior to the expiration of one year
5741 from issuance, upon notification from the division that the applicant's application for licensure
5742 by endorsement is denied.

5743 (4) The division shall issue a temporary license under Subsection (3) within 15
5744 business days after the applicant satisfies the requirements of Subsection (3).

5745 (5) The division may not require the following requirements for licensure:

5746 (a) a post-residency board certification; or

5747 (b) a cognitive test when the physician reaches a specified age, unless:

5748 (i) the screening is based on evidence of cognitive changes associated with aging that
5749 are relevant to physician performance;

5750 (ii) the screening is based on principles of medical ethics;

5751 (iii) physicians are involved in the development of standards for assessing competency;

5752 (iv) guidelines, procedures, and methods of assessment, which may include cognitive
5753 screening, are relevant to physician practice and to the physician's ability to perform the tasks
5754 specifically required in the physician's practice environment;

5755 (v) the primary driver for establishing assessment results is the ethical obligation of the
5756 profession to the health of the public and patient safety;

5757 (vi) the goal of the assessment is to optimize physician competency and performance
5758 through education, remediation, and modifications to a physician's practice environment or
5759 scope;

5760 (vii) a credentialing committee determines that public health or patient safety is

5761 directly threatened, the screening permits a physician to retain the right to modify the
5762 physician's practice environment to allow the physician to continue to provide safe and
5763 effective care;

5764 (viii) guidelines, procedures, and methods of assessment are transparent to physicians
5765 and physicians' representatives, if requested by a physician or a physician's representative, and
5766 physicians are made aware of the specific methods used, performance expectations and
5767 standards against which performance will be judged, and the possible outcomes of the
5768 screening or assessment;

5769 (ix) education or remediation practices that result from screening or assessment
5770 procedures are:

5771 (A) supportive of physician wellness;

5772 (B) ongoing; and

5773 (C) proactive; and

5774 (x) procedures and screening mechanisms that are distinctly different from for cause
5775 assessments do not result in undue cost or burden to senior physicians providing patient care.

5776 Section 95. Section **58-67-302.5** is amended to read:

5777 **58-67-302.5. Licensing of graduates of foreign medical schools.**

5778 (1) Notwithstanding any other provision of law to the contrary, an individual enrolled
5779 in a medical school outside the United States, its territories, the District of Columbia, or
5780 Canada is eligible for licensure as a physician and surgeon in this state if the individual has
5781 satisfied the following requirements:

5782 (a) meets all the requirements of Subsection **58-67-302**(1), except for Subsection
5783 **58-67-302**(1)[~~(e)~~](d);

5784 (b) has studied medicine in a medical school located outside the United States which is
5785 recognized by an organization approved by the division;

5786 (c) has completed all of the formal requirements of the foreign medical school except
5787 internship or social service;

5788 (d) has attained a passing score on the educational commission for foreign medical
5789 graduates examination or other qualifying examinations such as the United States Medical
5790 Licensing Exam parts I and II, which are approved by the division or a medical school
5791 approved by the division;

5792 (e) has satisfactorily completed one calendar year of supervised clinical training under
5793 the direction of a United States medical education setting accredited by the liaison committee
5794 for graduate medical education and approved by the division;

5795 (f) has completed the postgraduate hospital training required by Subsection
5796 ~~58-67-302(1)(f)(i)~~(e)(i); and

5797 (g) has passed the examination required by the division of all applicants for licensure.

5798 (2) Satisfaction of the requirements of Subsection (1) is in lieu of:

5799 (a) the completion of any foreign internship or social service requirements; and

5800 (b) the certification required by Subsection ~~58-67-302(1)(e)~~(d).

5801 (3) Individuals who satisfy the requirements of Subsections (1)(a) through (g) shall be
5802 eligible for admission to graduate medical education programs within the state, including
5803 internships and residencies, which are accredited by the liaison committee for graduate medical
5804 education.

5805 (4) A document issued by a medical school located outside the United States shall be
5806 considered the equivalent of a degree of doctor of medicine for the purpose of licensure as a
5807 physician and surgeon in this state if:

5808 (a) the foreign medical school is recognized by an organization approved by the
5809 division;

5810 (b) the document granted by the foreign medical school is issued after the completion
5811 of all formal requirements of the medical school except internship or social service; and

5812 (c) the foreign medical school certifies that the person to whom the document was
5813 issued has satisfactorily completed the requirements of Subsection (1)(c).

5814 (5) The division may not require as a requirement for licensure a cognitive test when
5815 the physician reaches a specified age, unless the test reflects the standards described in
5816 Subsections ~~58-67-302(5)(b)(i)~~ through (x).

5817 (6) The provisions for licensure under this section shall be known as the "fifth pathway
5818 program."

5819 Section 96. Section ~~58-67-302.7~~ is amended to read:

5820 **~~58-67-302.7. Licensing of physician-educators.~~**

5821 (1) As used in this section:

5822 (a) "Foreign country" means a country other than the United States, its territories, or

5823 Canada.

5824 (b) "Foreign medical school" means a medical school that is outside the United States,
5825 its territories, and Canada.

5826 (2) Notwithstanding any provision of law to the contrary, an individual may receive a
5827 type I foreign teaching license if the individual:

5828 (a) submits an application in a form prescribed by the division, which may include:

5829 (i) submission by the applicant of information maintained in a practitioner data bank,
5830 as designated by division rule, with respect to the applicant;

5831 (ii) a record of professional liability claims made against the applicant and settlements
5832 paid by or on behalf of the applicant; and

5833 (iii) the applicant's curriculum vitae;

5834 (b) is a graduate of a foreign medical school that is accepted for certification by the
5835 Educational Commission for Foreign Medical Graduates;

5836 (c) is licensed in good standing in a foreign country, the United States, its territories, or
5837 Canada;

5838 (d) does not have an investigation or action pending against the physician's healthcare
5839 license, does not have a healthcare license that was suspended or revoked, and has not
5840 surrendered a healthcare license in lieu of disciplinary action, unless:

5841 (i) the license was subsequently reinstated in good standing; or

5842 (ii) the division in collaboration with the board determines to its satisfaction, after full
5843 disclosure by the applicant and full consideration by the division in collaboration with the
5844 board, that:

5845 (A) the conduct has been corrected, monitored, and resolved; or

5846 (B) a mitigating circumstance exists that prevents resolution, and the division in
5847 collaboration with the board is satisfied that but for the mitigating circumstance, the license
5848 would be reinstated;

5849 (e) submits documentation of legal status to work in the United States;

5850 (f) meets at least three of the following qualifications:

5851 (i) (A) published original results of clinical research, within 10 years before the day on
5852 which the application is submitted, in a medical journal listed in the Index Medicus or an
5853 equivalent scholarly publication; and

5854 (B) submits the publication to the Board in English or in a foreign language with a
5855 verifiable, certified English translation;

5856 (ii) held an appointment at a medical school approved by the LCME or at any medical
5857 school listed in the World Health Organization directory at the level of associate or full
5858 professor, or its equivalent, for at least five years;

5859 (iii) (A) developed a treatment modality, surgical technique, or other verified original
5860 contribution to the field of medicine within 10 years before the day on which the application is
5861 submitted; and

5862 (B) has the treatment modality, surgical technique, or other verified original
5863 contribution attested to by the dean of an LCME accredited school of medicine in Utah;

5864 (iv) actively practiced medicine cumulatively for 10 years; or

5865 (v) is board certified in good standing of a board of the American Board of Medical
5866 Specialities or equivalent specialty board;

5867 [~~(g) is of good moral character;~~]

5868 [~~(h)~~] (g) is able to read, write, speak, understand, and be understood in the English
5869 language and demonstrates proficiency to the satisfaction of the division in collaboration with
5870 the board, if requested;

5871 [~~(i)~~] (h) is invited by an LCME accredited medical school in Utah to serve as a
5872 full-time member of the medical school's academic faculty, as evidenced by written
5873 certification from:

5874 (i) the dean of the medical school, stating that the applicant has been appointed to a
5875 full-time faculty position, that because the applicant has unique expertise in a specific field of
5876 medicine the medical school considers the applicant to be a valuable member of the faculty,
5877 and that the applicant is qualified by knowledge, skill, and ability to practice medicine in the
5878 state; and

5879 (ii) the head of the department to which the applicant is to be appointed, stating that the
5880 applicant will be under the direction of the head of the department and will be permitted to
5881 practice medicine only as a necessary part of the applicant's duties, providing detailed evidence
5882 of the applicant's qualifications and competence, including the nature and location of the
5883 applicant's proposed responsibilities, reasons for any limitations of the applicant's practice
5884 responsibilities, and the degree of supervision, if any, under which the applicant will function;

- 5885 ~~[(f)]~~ (i) pays a licensing fee set by the division under Section 63J-1-504; and
5886 ~~[(k)]~~ (j) has practiced medicine for at least 10 years as an attending physician.
- 5887 (3) Notwithstanding any provision of law to the contrary, an individual may receive a
5888 type II foreign teaching license if the individual:
- 5889 (a) satisfies the requirements of Subsections (2)(a) through (e) and (g) through ~~[(f)]~~ (i);
5890 (b) has delivered clinical care to patients cumulatively for five years after graduation
5891 from medical school; and
- 5892 (c) (i) will be completing a clinical fellowship while employed at the medical school
5893 described in Subsection (2)~~[(f)]~~(h); or
- 5894 (ii) has already completed a medical residency accredited by the Royal College of
5895 Physicians and Surgeons of Canada, the United Kingdom, Australia, or New Zealand, or a
5896 comparable accreditation organization as determined by the division in collaboration with the
5897 board.
- 5898 (4) After an initial term of one year, a type I license may be renewed for periods of two
5899 years if the licensee continues to satisfy the requirements described in Subsection (2) and
5900 completes the division's continuing education renewal requirements established under Section
5901 58-67-303.
- 5902 (5) A type II license may be renewed on an annual basis, up to four times, if the
5903 licensee continues to satisfy the requirements described in Subsection (3) and completes the
5904 division's continuing education renewal requirements established under Section 58-67-303.
- 5905 (6) A license issued under this section:
- 5906 (a) authorizes the licensee to practice medicine:
- 5907 (i) within the scope of the licensee's employment at the medical school described in
5908 Subsection (2)~~[(f)]~~(h) and the licensee's academic position; and
- 5909 (ii) at a hospital or clinic affiliated with the medical school described in Subsection
5910 (2)~~[(f)]~~(h) for the purpose of teaching, clinical care, or pursuing research;
- 5911 (b) shall list the limitations described in Subsection (6)(a); and
- 5912 (c) shall expire on the earlier of:
- 5913 (i) one year after the day on which the type I or type II license is initially issued, unless
5914 the license is renewed;
- 5915 (ii) for a type I license, two years after the day on which the license is renewed;

5916 (iii) for a type II license, one year after the day on which the license is renewed; or
5917 (iv) the day on which employment at the medical school described in Subsection
5918 (2)[(†)](h) ends.

5919 (7) A person who holds a type I license for five consecutive years may apply for
5920 licensure as a physician and surgeon in this state and shall be licensed if the individual satisfies
5921 the requirements described in Subsection (8). If the person fails to obtain licensure as a
5922 physician and surgeon in this state, the person may apply for a renewal of the type I license
5923 under Subsection (2).

5924 (8) An individual who holds a type I or type II license for five consecutive years is
5925 eligible for licensure as a physician and surgeon in this state if the individual:

5926 (a) worked an average of at least 40 hours per month at the level of an attending
5927 physician during the time the individual held the type I or type II license;

5928 (b) holds the rank of associate professor or higher at the medical school described in
5929 Subsection (2)[(†)](h);

5930 (c) obtains certification from the Educational Commission for Foreign Medical
5931 Graduates or any successor organization approved by the division in collaboration with the
5932 board;

5933 (d) spent a cumulative 20 hours per year while holding a type I or type II license:

5934 (i) teaching or lecturing to medical students or house staff;

5935 (ii) participating in educational department meetings or conferences that are not
5936 certified to meet the continuing medical education license renewal requirement; or

5937 (iii) attending continuing medical education classes in addition to the requirements for
5938 continuing education described in Subsections (4) and (5);

5939 (e) obtains a passing score on the final step of the licensing examination sequence
5940 required by division rule made in collaboration with the board; and

5941 (f) satisfies the requirements described in Subsections 58-67-302(1)(a) through [(†);
5942 (†), and (j)] (c), (h), and (i).

5943 (9) If a person who holds a type II license fails to obtain licensure as a physician and
5944 surgeon in this state after applying under the procedures described in Subsection (8), the person
5945 may not:

5946 (a) reapply for or renew a type II license; or

5947 (b) apply for a type I license.

5948 (10) The division or the board may require an applicant for licensure under this section
5949 to meet with the board and representatives of the division for the purpose of evaluating the
5950 applicant's qualifications for licensure.

5951 (11) The division in collaboration with the board may withdraw a license under this
5952 section at any time for material misrepresentation or unlawful or unprofessional conduct.

5953 Section 97. Section **58-67-302.8** is amended to read:

5954 **58-67-302.8. Restricted licensing of an associate physician.**

5955 (1) An individual may apply for a restricted license as an associate physician if the
5956 individual:

5957 (a) meets the requirements described in Subsections **58-67-302(1)(a)** through ~~[(d);~~
5958 ~~(1)(e)(i), and (1)(h) through (k)]~~ (c), (1)(d)(i), and (1)(g) through (j);

5959 (b) successfully completes Step 1 and Step 2 of the United States Medical Licensing
5960 Examination or the equivalent steps of another board-approved medical licensing examination:

5961 (i) within three years after the day on which the applicant graduates from a program
5962 described in Subsection **58-67-302**~~[(1)(e)(i)]~~ (1)(d)(i); and

5963 (ii) within two years before applying for a restricted license as an associate physician;
5964 and

5965 (c) is not currently enrolled in and has not completed a residency program.

5966 (2) Before a licensed associate physician may engage in the practice of medicine as
5967 described in Subsection (3), the licensed associate physician shall:

5968 (a) enter into a collaborative practice arrangement described in Section **58-67-807**
5969 within six months after the associate physician's initial licensure; and

5970 (b) receive division approval of the collaborative practice arrangement.

5971 (3) An associate physician's scope of practice is limited to primary care services to
5972 medically underserved populations or in medically underserved areas within the state.

5973 Section 98. Section **58-67-304** is amended to read:

5974 **58-67-304. License renewal requirements.**

5975 (1) As a condition precedent for license renewal, each licensee shall, during each
5976 two-year licensure cycle or other cycle defined by division rule:

5977 (a) complete qualified continuing professional education requirements in accordance

5978 with the number of hours and standards defined by division rule made in collaboration with the
5979 board;

5980 (b) appoint a contact person for access to medical records and an alternate contact
5981 person for access to medical records in accordance with Subsection 58-67-302(1)(f)(i);

5982 (c) if the licensee practices medicine in a location with no other persons licensed under
5983 this chapter, provide some method of notice to the licensee's patients of the identity and
5984 location of the contact person and alternate contact person for the licensee; and

5985 (d) if the licensee is an associate physician licensed under Section 58-67-302.8,
5986 successfully complete the educational methods and programs described in Subsection
5987 58-67-807(4).

5988 (2) If a renewal period is extended or shortened under Section 58-67-303, the
5989 continuing education hours required for license renewal under this section are increased or
5990 decreased proportionally.

5991 (3) An application to renew a license under this chapter shall:

5992 (a) require a physician to answer the following question: "Do you perform elective
5993 abortions in Utah in a location other than a hospital?"; and

5994 (b) immediately following the question, contain the following statement: "For purposes
5995 of the immediately preceding question, elective abortion means an abortion other than one of
5996 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is
5997 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of
5998 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a
5999 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where
6000 the woman is pregnant as a result of rape or incest."

6001 (4) In order to assist the Department of Health in fulfilling its responsibilities relating
6002 to the licensing of an abortion clinic and the enforcement of Title 76, Chapter 7, Part 3,
6003 Abortion, if a physician responds positively to the question described in Subsection (3)(a), the
6004 division shall, within 30 days after the day on which it renews the physician's license under this
6005 chapter, inform the Department of Health in writing:

6006 (a) of the name and business address of the physician; and

6007 (b) that the physician responded positively to the question described in Subsection
6008 (3)(a).

6009 (5) The division shall accept and apply toward the hour requirement in Subsection
6010 (1)(a) any continuing education that a physician completes in accordance with Sections
6011 26-61a-106, 26-61a-403, and 26-61a-602.

6012 Section 99. Section **58-67-403** is amended to read:

6013 **58-67-403. Revocation of license -- Nondisciplinary.**

6014 Revocation by the division of a license under Subsection 58-67-302(1)(~~f~~)(e) for
6015 failure to continue on a resident training program for reasons other than unprofessional or
6016 unlawful conduct is a nondisciplinary action and may not be reported by the division as a
6017 disciplinary action against the licensee.

6018 Section 100. Section **58-67-503** is amended to read:

6019 **58-67-503. Penalties and administrative actions for unlawful and unprofessional**
6020 **conduct.**

6021 (1) Any person who violates the unlawful conduct provisions of Section 58-67-501 or
6022 Section 58-1-501 is guilty of a third degree felony.

6023 (2) (a) Subject to Subsection (4), the division may punish unprofessional or unlawful
6024 conduct by:

6025 (i) assessing administrative penalties; or

6026 (ii) taking other appropriate administrative action.

6027 (b) A monetary administrative penalty imposed under this section shall be deposited in
6028 the Physician Education Fund created in Section 58-67a-1.

6029 (3) If a licensee has been convicted of unlawful conduct, described in Section
6030 58-67-501, before an administrative proceeding regarding the same conduct, the division may
6031 not assess an additional administrative fine under this chapter for the same conduct.

6032 (4) (a) If the division concludes that an individual has violated provisions of Section
6033 58-67-501, Section 58-67-502, Chapter 1, Division of Occupational and Professional Licensing
6034 Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with respect to
6035 these provisions, and disciplinary action is appropriate, the director or director's designee shall:

6036 (i) issue a citation to the individual;

6037 (ii) attempt to negotiate a stipulated settlement; or

6038 (iii) notify the individual that an adjudicative proceeding conducted under Title 63G,
6039 Chapter 4, Administrative Procedures Act, will be commenced and the individual is invited to

6040 appear.

6041 (b) The division may take the following action against an individual who is in violation
6042 of a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a
6043 stipulated settlement, or a finding of violation in an adjudicative proceeding:

6044 (i) assess a fine of up to \$10,000 per single violation or up to \$2,000 per day of
6045 ongoing violation, whichever is greater, in accordance with a fine schedule established by rule;
6046 or

6047 (ii) order to cease and desist from the behavior that constitutes a violation of the
6048 provisions described in Subsection (4)(a).

6049 (c) An individual's license may not be suspended or revoked through a citation.

6050 (d) Each citation issued under this section shall:

6051 (i) be in writing;

6052 (ii) clearly describe or explain:

6053 (A) the nature of the violation, including a reference to the provision of the chapter,
6054 rule, or order alleged to have been violated;

6055 (B) that the recipient must notify the division in writing within 20 calendar days from
6056 the day on which the citation is served if the recipient wishes to contest the citation at a hearing
6057 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

6058 (C) the consequences of failure to timely contest the citation or pay the fine assessed by
6059 the citation within the time specified in the citation; and

6060 (iii) be served in accordance with the Utah Rules of Civil Procedure.

6061 (e) If the individual to whom the citation is issued fails to request a hearing to contest
6062 the citation within 20 calendar days from the day on which the citation is served, the citation
6063 becomes the final order of the division and is not subject to further agency review. The period
6064 to contest the citation may be extended by the division for cause.

6065 (f) The division may refuse to issue or renew or suspend, revoke, or place on probation
6066 the license of an individual who fails to comply with a citation after the citation becomes final.

6067 (g) The failure of an applicant for licensure to comply with a citation after it becomes
6068 final is a ground for denial of license.

6069 (h) No citation may be issued under this section after ~~[six months from the day on~~
6070 ~~which the violation last occurred]~~ the expiration of one year following the date on which the

6071 violation that is the subject of the citation is reported to the division.

6072 (5) (a) The director may collect a penalty imposed under this section that is not paid by:

6073 (i) referring the matter to a collection agency; or

6074 (ii) bringing an action in the district court of the county where the person against whom

6075 the penalty is imposed resides or in the county where the office of the director is located.

6076 (b) A county attorney or the attorney general of the state shall provide legal assistance

6077 and advice to the director in an action to collect a penalty.

6078 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an

6079 action brought by the division to collect a penalty.

6080 Section 101. Section **58-68-302** is amended to read:

6081 **58-68-302. Qualifications for licensure.**

6082 (1) An applicant for licensure as an osteopathic physician and surgeon, except as set

6083 forth in Subsection (2), shall:

6084 (a) submit an application in a form prescribed by the division, which may include:

6085 (i) submissions by the applicant of information maintained by practitioner data banks,

6086 as designated by division rule, with respect to the applicant;

6087 (ii) a record of professional liability claims made against the applicant and settlements

6088 paid by or on behalf of the applicant; and

6089 (iii) authorization to use a record coordination and verification service approved by the

6090 division in collaboration with the board;

6091 (b) pay a fee determined by the department under Section [63J-1-504](#);

6092 [~~(c)~~ be of good moral character;]

6093 [~~(d)~~ (c) if the applicant is applying to participate in the Interstate Medical Licensure

6094 Compact under Chapter 67b, Interstate Medical Licensure Compact, consent to a criminal

6095 background check in accordance with Section [58-68-302.1](#) and any requirements established by

6096 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

6097 [~~(e)~~ (d) provide satisfactory documentation of having successfully completed a

6098 program of professional education preparing an individual as an osteopathic physician and

6099 surgeon, as evidenced by:

6100 (i) having received an earned degree of doctor of osteopathic medicine from an AOA

6101 approved medical school or college; or

6102 (ii) submitting a current certification by the Educational Commission for Foreign
6103 Medical Graduates or any successor organization approved by the division in collaboration
6104 with the board, if the applicant is graduated from an osteopathic medical school or college
6105 located outside of the United States or its territories which at the time of the applicant's
6106 graduation, met criteria for accreditation by the AOA;

6107 [~~(f)~~] (e) satisfy the division and board that the applicant:

6108 (i) has successfully completed 24 months of progressive resident training in an
6109 ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine
6110 required under Subsection (1)[~~(e)~~](d); or

6111 (ii) (A) has successfully completed 12 months of resident training in an ACGME or
6112 AOA approved program after receiving a degree of doctor of osteopathic medicine as required
6113 under Subsection (1)[~~(e)~~](d);

6114 (B) has been accepted in and is successfully participating in progressive resident
6115 training in an ACGME or AOA approved program within Utah, in the applicant's second or
6116 third year of postgraduate training; and

6117 (C) has agreed to surrender to the division the applicant's license as an osteopathic
6118 physician and surgeon without any proceedings under Title 63G, Chapter 4, Administrative
6119 Procedures Act, and has agreed the applicant's license as an osteopathic physician and surgeon
6120 will be automatically revoked by the division if the applicant fails to continue in good standing
6121 in an ACGME or AOA approved progressive resident training program within the state;

6122 [~~(g)~~] (f) pass the licensing examination sequence required by division rule, as made in
6123 collaboration with the board;

6124 [~~(h)~~] (g) be able to read, write, speak, understand, and be understood in the English
6125 language and demonstrate proficiency to the satisfaction of the board, if requested by the board;

6126 [~~(i)~~] (h) meet with the board and representatives of the division, if requested for the
6127 purpose of evaluating the applicant's qualifications for licensure;

6128 [~~(j)~~] (i) designate:

6129 (i) a contact person for access to medical records in accordance with the federal Health
6130 Insurance Portability and Accountability Act; and

6131 (ii) an alternate contact person for access to medical records, in the event the original
6132 contact person is unable or unwilling to serve as the contact person for access to medical

6133 records; and

6134 ~~(k)~~ (j) establish a method for notifying patients of the identity and location of the
6135 contact person and alternate contact person, if the applicant will practice in a location with no
6136 other persons licensed under this chapter.

6137 (2) An applicant for licensure as an osteopathic physician and surgeon by endorsement
6138 who is currently licensed to practice osteopathic medicine in any state other than Utah, a
6139 district or territory of the United States, or Canada shall:

6140 (a) be currently licensed with a full unrestricted license in good standing in any state,
6141 district or territory of the United States, or Canada;

6142 (b) have been actively engaged in the legal practice of osteopathic medicine in any
6143 state, district or territory of the United States, or Canada for not less than 6,000 hours during
6144 the five years immediately preceding the day on which the applicant applied for licensure in
6145 Utah;

6146 (c) comply with the requirements for licensure under Subsections (1)(a) through ~~(e)~~;
6147 ~~(f)(i), and (1)(h) through (k)~~ (d), (1)(e)(i), and (1)(g) through (j);

6148 (d) have passed the licensing examination sequence required in Subsection (1)~~(g)~~(f)
6149 or another medical licensing examination sequence in another state, district or territory of the
6150 United States, or Canada that the division in collaboration with the board by rulemaking
6151 determines is equivalent to its own required examination;

6152 (e) not have any investigation or action pending against any health care license of the
6153 applicant, not have a health care license that was suspended or revoked in any state, district or
6154 territory of the United States, or Canada, and not have surrendered a health care license in lieu
6155 of a disciplinary action, unless:

6156 (i) the license was subsequently reinstated as a full unrestricted license in good
6157 standing; or

6158 (ii) the division in collaboration with the board determines, after full disclosure by the
6159 applicant, that:

6160 (A) the conduct has been corrected, monitored, and resolved; or

6161 (B) a mitigating circumstance exists that prevents its resolution, and the division in
6162 collaboration with the board is satisfied that, but for the mitigating circumstance, the license
6163 would be reinstated;

6164 (f) submit to a records review, a practice review history, and physical and
6165 psychological assessments, if requested by the division in collaboration with the board; and

6166 (g) produce evidence that the applicant meets the requirements of this Subsection (2) to
6167 the satisfaction of the division in collaboration with the board.

6168 (3) An applicant for licensure by endorsement may engage in the practice of medicine
6169 under a temporary license while the applicant's application for licensure is being processed by
6170 the division, provided:

6171 (a) the applicant submits a complete application required for temporary licensure to the
6172 division;

6173 (b) the applicant submits a written document to the division from:

6174 (i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility
6175 Licensing and Inspection Act, stating that the applicant is practicing under the:

6176 (A) invitation of the health care facility; and

6177 (B) the general supervision of a physician practicing at the health care facility; or

6178 (ii) two individuals licensed under this chapter, whose license is in good standing and
6179 who practice in the same clinical location, both stating that:

6180 (A) the applicant is practicing under the invitation and general supervision of the
6181 individual; and

6182 (B) the applicant will practice at the same clinical location as the individual;

6183 (c) the applicant submits a signed certification to the division that the applicant meets
6184 the requirements of Subsection (2);

6185 (d) the applicant does not engage in the practice of medicine until the division has
6186 issued a temporary license;

6187 (e) the temporary license is only issued for and may not be extended or renewed
6188 beyond the duration of one year from issuance; and

6189 (f) the temporary license expires immediately and prior to the expiration of one year
6190 from issuance, upon notification from the division that the applicant's application for licensure
6191 by endorsement is denied.

6192 (4) The division shall issue a temporary license under Subsection (3) within 15
6193 business days after the applicant satisfies the requirements of Subsection (3).

6194 (5) The division may not require a;

6195 (a) post-residency board certification[-]; or

6196 (b) a cognitive test when the physician reaches a specified age, unless the test reflects
6197 the standards described in Subsections 58-67-302(5)(b)(i) through (x).

6198 Section 102. Section **58-68-302.5** is amended to read:

6199 **58-68-302.5. Restricted licensing of an associate physician.**

6200 (1) An individual may apply for a restricted license as an associate physician if the
6201 individual:

6202 (a) meets the requirements described in Subsections 58-68-302(1)(a) through [(d);
6203 (1)(e)(i), and (1)(h) through (k)] (c), (1)(d)(i), and (1)(g) through (j);

6204 (b) successfully completes Step 1 and Step 2 of the United States Medical Licensing
6205 Examination or the equivalent steps of another board-approved medical licensing examination:

6206 (i) within three years after the day on which the applicant graduates from a program
6207 described in Subsection 58-68-302(1)[(e)(i)](d)(i); and

6208 (ii) within two years before applying for a restricted license as an associate physician;
6209 and

6210 (c) is not currently enrolled in and has not completed a residency program.

6211 (2) Before a licensed associate physician may engage in the practice of medicine as
6212 described in Subsection (3), the licensed associate physician shall:

6213 (a) enter into a collaborative practice arrangement described in Section 58-68-807
6214 within six months after the associate physician's initial licensure; and

6215 (b) receive division approval of the collaborative practice arrangement.

6216 (3) An associate physician's scope of practice is limited to primary care services to
6217 medically underserved populations or in medically underserved areas within the state.

6218 Section 103. Section **58-68-304** is amended to read:

6219 **58-68-304. License renewal requirements.**

6220 (1) As a condition precedent for license renewal, each licensee shall, during each
6221 two-year licensure cycle or other cycle defined by division rule:

6222 (a) complete qualified continuing professional education requirements in accordance
6223 with the number of hours and standards defined by division rule in collaboration with the
6224 board;

6225 (b) appoint a contact person for access to medical records and an alternate contact

6226 person for access to medical records in accordance with Subsection 58-68-302(1)(~~f~~)(i);

6227 (c) if the licensee practices osteopathic medicine in a location with no other persons
6228 licensed under this chapter, provide some method of notice to the licensee's patients of the
6229 identity and location of the contact person and alternate contact person for access to medical
6230 records for the licensee in accordance with Subsection 58-68-302(1)(~~k~~)(j); and

6231 (d) if the licensee is an associate physician licensed under Section 58-68-302.5,
6232 successfully complete the educational methods and programs described in Subsection
6233 58-68-807(4).

6234 (2) If a renewal period is extended or shortened under Section 58-68-303, the
6235 continuing education hours required for license renewal under this section are increased or
6236 decreased proportionally.

6237 (3) An application to renew a license under this chapter shall:

6238 (a) require a physician to answer the following question: "Do you perform elective
6239 abortions in Utah in a location other than a hospital?"; and

6240 (b) immediately following the question, contain the following statement: "For purposes
6241 of the immediately preceding question, elective abortion means an abortion other than one of
6242 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is
6243 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of
6244 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a
6245 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where
6246 the woman is pregnant as a result of rape or incest."

6247 (4) In order to assist the Department of Health in fulfilling its responsibilities relating
6248 to the licensing of an abortion clinic, if a physician responds positively to the question
6249 described in Subsection (3)(a), the division shall, within 30 days after the day on which it
6250 renews the physician's license under this chapter, inform the Department of Health in writing:

6251 (a) of the name and business address of the physician; and

6252 (b) that the physician responded positively to the question described in Subsection
6253 (3)(a).

6254 (5) The division shall accept and apply toward the hour requirement in Subsection
6255 (1)(a) any continuing education that a physician completes in accordance with Sections
6256 26-61a-106, 26-61a-403, and 26-61a-602.

6257 Section 104. Section **58-68-403** is amended to read:

6258 **58-68-403. Revocation of license -- Nondisciplinary.**

6259 Revocation by the division of a license under Subsection **58-68-302(1)(~~f~~)(e)** for
6260 failure to continue on a resident training program for reasons other than unprofessional or
6261 unlawful conduct is a nondisciplinary action and may not be reported by the division as a
6262 disciplinary action against the licensee.

6263 Section 105. Section **58-68-503** is amended to read:

6264 **58-68-503. Penalties and administrative actions for unlawful and unprofessional**
6265 **conduct.**

6266 (1) Any person who violates the unlawful conduct provisions of Section **58-68-501** or
6267 Section **58-1-501** is guilty of a third degree felony.

6268 (2) (a) Subject to Subsection (4), the division may punish unprofessional or unlawful
6269 conduct by:

6270 (i) assessing administrative penalties; or

6271 (ii) taking any other appropriate administrative action.

6272 (b) A monetary administrative penalty imposed under this section shall be deposited in
6273 the Physician Education Fund described in Section **58-67a-1**.

6274 (3) If a licensee is convicted of unlawful conduct, described in Section **58-68-501**,
6275 before an administrative proceeding regarding the same conduct, the licensee may not be
6276 assessed an administrative fine under this chapter for the same conduct.

6277 (4) (a) If the division concludes that an individual has violated the provisions of
6278 Section **58-68-501**, Section **58-68-502**, Chapter 1, Division of Occupational and Professional
6279 Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with
6280 respect to these provisions, and disciplinary action is appropriate, the director or director's
6281 designee shall:

6282 (i) issue a citation to the individual;

6283 (ii) attempt to negotiate a stipulated settlement; or

6284 (iii) notify the individual that an adjudicative proceeding conducted under Title 63G,
6285 Chapter 4, Administrative Procedures Act, will be commenced and the individual is invited to
6286 appear.

6287 (b) The division may take the following action against an individual who is in violation

6288 of a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a
6289 stipulated settlement, or a finding of violation in an adjudicative proceeding:

6290 (i) assess a fine of up to \$10,000 per single violation or \$2,000 per day of ongoing
6291 violation, whichever is greater, in accordance with a fine schedule established by rule; or

6292 (ii) order to cease and desist from the behavior that constitutes a violation of provisions
6293 described in Subsection (4)(a).

6294 (c) Except for an administrative fine and a cease and desist order, the licensure
6295 sanctions cited in Section 58-1-401 may not be assessed through a citation.

6296 (d) Each citation issued under this section shall:

6297 (i) be in writing;

6298 (ii) clearly describe or explain:

6299 (A) the nature of the violation, including a reference to the provision of the chapter,
6300 rule, or order alleged to have been violated;

6301 (B) that the recipient must notify the division in writing within 20 calendar days from
6302 the day on which the citation is served if the recipient wishes to contest the citation at a hearing
6303 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

6304 (C) the consequences of failure to timely contest the citation or pay the fine assessed by
6305 the citation within the time specified in the citation; and

6306 (iii) be served in accordance with the requirements of the Utah Rules of Civil
6307 Procedure.

6308 (e) If the individual to whom the citation is issued fails to request a hearing to contest
6309 the citation within 20 calendar days from the day on which the citation is served, the citation
6310 becomes the final order of the division and is not subject to further agency review. The period
6311 to contest the citation may be extended by the division for cause.

6312 (f) The division may refuse to issue or renew or suspend, revoke, or place on probation
6313 the license of an individual who fails to comply with a citation after the citation becomes final.

6314 (g) The failure of an applicant for licensure to comply with a citation after it becomes
6315 final is a ground for denial of a license.

6316 (h) No citation may be issued under this section after [~~six months from the day on~~
6317 ~~which the last violation occurred~~] the expiration of one year following the date on which the
6318 violation that is the subject of the citation is reported to the division.

6319 (5) (a) The director may collect a penalty imposed under this section that is not paid by:

6320 (i) referring the matter to a collection agency; or

6321 (ii) bringing an action in the district court of the county where the person against whom
6322 the penalty is imposed resides or in the county where the office of the director is located.

6323 (b) A county attorney or the attorney general of the state shall provide legal assistance
6324 and advice to the director in an action to collect a penalty.

6325 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an
6326 action brought by the division to collect a penalty.

6327 Section 106. Section **58-69-302** is amended to read:

6328 **58-69-302. Qualifications -- Licensure as a dentist -- Licensure as a dental**
6329 **hygienist.**

6330 (1) An applicant for licensure as a dentist, except as provided in Subsection (2), shall:

6331 (a) submit an application in a form as prescribed by the division;

6332 (b) pay a fee as determined by the department under Section [63J-1-504](#);

6333 [~~(c)~~] ~~be of good moral character;~~

6334 [~~(d)~~] (c) provide satisfactory documentation of having successfully completed a
6335 program of professional education preparing an individual as a dentist as evidenced by having
6336 received an earned doctor's degree in dentistry from a dental school accredited by the
6337 Commission on Dental Accreditation of the American Dental Association;

6338 [~~(e)~~] (d) pass the National Board Dental Examinations as administered by the Joint
6339 Commission on National Dental Examinations of the American Dental Association;

6340 [~~(f)~~] (e) pass any regional dental clinical licensure examination approved by division
6341 rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah
6342 Administrative Rulemaking Act;

6343 [~~(g)~~] (f) pass any other examinations regarding applicable law, rules, or ethics as
6344 established by division rule made in collaboration with the board and in accordance with Title
6345 63G, Chapter 3, Utah Administrative Rulemaking Act;

6346 [~~(h)~~] (g) be able to read, write, speak, understand, and be understood in the English
6347 language and demonstrate proficiency to the satisfaction of the board if requested by the board;
6348 and

6349 [~~(i)~~] (h) meet with the board if requested by the board or division for the purpose of

6350 examining the applicant's qualifications for licensure.

6351 (2) An applicant for licensure as a dentist qualifying under the endorsement provision
6352 of Section 58-1-302 shall:

6353 (a) be currently licensed in good standing with an unrestricted license in another
6354 jurisdiction described in Section 58-1-302;

6355 (b) document having met all requirements for licensure under Subsection (1) except
6356 Subsection ~~[(1)(d)]~~ (1)(c); and

6357 (c) document having been successfully engaged in clinical practice as a dentist for not
6358 less than 6,000 hours in the five years immediately preceding the date of application for
6359 licensure.

6360 (3) An applicant for licensure as a dental hygienist, except as set forth in Subsection
6361 (4), shall:

6362 (a) submit an application in a form as prescribed by the division;

6363 (b) pay a fee as determined by the department pursuant to Section 63J-1-504;

6364 ~~[(c) be of good moral character;]~~

6365 ~~[(d)]~~ (c) be a graduate holding a certificate or degree in dental hygiene from a school
6366 accredited by the Commission on Dental Accreditation of the American Dental Association;

6367 ~~[(e)]~~ (d) pass the National Board Dental Hygiene Examination as administered by the
6368 Joint Commission on National Dental Examinations of the American Dental Association;

6369 ~~[(f)]~~ (e) pass an examination consisting of practical demonstrations in the practice of
6370 dental hygiene and written or oral examination in the theory and practice of dental hygiene as
6371 established by division rule made in collaboration with the board;

6372 ~~[(g)]~~ (f) pass any other examinations regarding applicable law, rules, and ethics as
6373 established by rule by division rule made in collaboration with the board;

6374 ~~[(h)]~~ (g) be able to read, write, speak, understand, and be understood in the English
6375 language and demonstrate proficiency to the satisfaction of the board if requested by the board;
6376 and

6377 ~~[(i)]~~ (h) meet with the board if requested by the board or division for the purpose of
6378 examining the applicant's qualifications for licensure.

6379 (4) An applicant for licensure as a dental hygienist qualifying under the endorsement
6380 provision of Section 58-1-302 shall:

- 6381 (a) be currently licensed in another jurisdiction set forth in Section 58-1-302;
- 6382 (b) (i) document having met all requirements for licensure under Subsection (3) except,
- 6383 an applicant having received licensure in another state or jurisdiction prior to 1962, the year
- 6384 when the National Board Dental Hygiene Examinations were first administered, shall
- 6385 document having passed a state administered examination acceptable to the division in
- 6386 collaboration with the board; or
- 6387 (ii) document having obtained licensure in another state or jurisdiction upon which
- 6388 licensure by endorsement is based by meeting requirements which were equal to licensure
- 6389 requirements in Utah at the time the applicant obtained licensure in the other state or
- 6390 jurisdiction; and
- 6391 (c) document having been successfully engaged in practice as a dental hygienist for not
- 6392 less than 2,000 hours in the two years immediately preceding the date of application for
- 6393 licensure.

6394 Section 107. Section 58-70a-302 is amended to read:

6395 **58-70a-302. Qualifications for licensure.**

6396 Each applicant for licensure as a physician assistant shall:

- 6397 (1) submit an application in a form prescribed by the division;
- 6398 (2) pay a fee determined by the department under Section 63J-1-504;
- 6399 [~~(3)~~ be of good moral character;]
- 6400 [~~(4)~~ (3) have successfully completed a physician assistant program accredited by the:
- 6401 (a) Accreditation Review Commission on Education for the Physician Assistant; or
- 6402 (b) if prior to January 1, 2001, either the:
- 6403 (i) Committee on Accreditation of Allied Health Education Programs; or
- 6404 (ii) Committee on Allied Health Education and Accreditation;
- 6405 [~~(5)~~ (4) have passed the licensing examinations required by division rule made in
- 6406 collaboration with the board;
- 6407 [~~(6)~~ (5) meet with the board and representatives of the division, if requested, for the
- 6408 purpose of evaluating the applicant's qualifications for licensure; and
- 6409 [~~(7)~~ (6) (a) if the applicant desires to practice in Utah, complete a form provided by
- 6410 the division indicating:
- 6411 (i) the applicant has completed a delegation of services agreement signed by the

6412 physician assistant and the supervising physician; and

6413 (ii) the agreement is on file at the Utah practice sites; or

6414 (b) complete a form provided by the division indicating the applicant is not practicing
6415 in Utah and, prior to practicing in Utah, the applicant will meet the requirements of Subsection
6416 [~~7~~] (6)(a).

6417 Section 108. Section **58-70a-306** is amended to read:

6418 **58-70a-306. Temporary license.**

6419 (1) An applicant for licensure as a physician assistant who has met all qualifications for
6420 licensure except passing an examination component as required in Section **58-70a-302**, may
6421 apply for and be granted a temporary license to practice under Subsection (2).

6422 (2) (a) The applicant shall submit to the division evidence of completion of a physician
6423 assistant program as defined in Subsection **58-70a-302**[~~(4)~~](3).

6424 (b) (i) The temporary license shall be issued for a period not to exceed 120 days to
6425 allow the applicant to pass the Physician Assistant National Certifying Examination.

6426 (ii) The temporary license may not be renewed or extended.

6427 (c) A physician assistant holding a temporary license may work only under the direct
6428 supervision of an approved supervising or substitute supervising physician in accordance with
6429 a delegation of services agreement, and all patient charts shall be reviewed and countersigned
6430 by the supervising or substitute supervising physician.

6431 Section 109. Section **58-71-302** is amended to read:

6432 **58-71-302. Qualifications for licensure.**

6433 (1) An applicant for licensure as a naturopathic physician, except as set forth in
6434 Subsection (2), shall:

6435 (a) submit an application in a form prescribed by the division, which may include:

6436 (i) submissions by the applicant of information maintained by practitioner data banks,
6437 as designated by division rule, with respect to the applicant; and

6438 (ii) a record of professional liability claims made against the applicant and settlements
6439 paid by or in behalf of the applicant;

6440 (b) pay a fee determined by the department under Section **63J-1-504**;

6441 [~~(c) be of good moral character;~~]

6442 [~~(d)~~] (c) provide satisfactory documentation of having successfully completed a

6443 program of professional education preparing an individual as a naturopathic physician, as
6444 evidenced by having received an earned degree of doctor of naturopathic medicine from:

6445 (i) a naturopathic medical school or college accredited by the Council of Naturopathic
6446 Medical Education or its successor organization approved by the division;

6447 (ii) a naturopathic medical school or college that is a candidate for accreditation by the
6448 Council of Naturopathic Medical Education or its successor organization, and is approved by
6449 the division in collaboration with the board, upon a finding there is reasonable expectation the
6450 school or college will be accredited; or

6451 (iii) a naturopathic medical school or college which, at the time of the applicant's
6452 graduation, met current criteria for accreditation by the Council of Naturopathic Medical
6453 Education or its successor organization approved by the division;

6454 ~~[(e)]~~ (d) provide satisfactory documentation of having successfully completed, after
6455 successful completion of the education requirements set forth in Subsection ~~[(1)(d)]~~ (1)(c), 12
6456 months of clinical experience in naturopathic medicine in a residency program recognized by
6457 the division and associated with an accredited school or college of naturopathic medicine, and
6458 under the preceptorship of a licensed naturopathic physician, physician and surgeon, or
6459 osteopathic physician;

6460 ~~[(f)]~~ (e) pass the licensing examination sequence required by division rule established
6461 in collaboration with the board;

6462 ~~[(g)]~~ (f) be able to read, write, speak, understand, and be understood in the English
6463 language and demonstrate proficiency to the satisfaction of the board if requested by the board;
6464 and

6465 ~~[(h)]~~ (g) meet with the board and representatives of the division, if requested, for the
6466 purpose of evaluating the applicant's qualifications for licensure.

6467 (2) (a) In accordance with Subsection (2)(b), an applicant for licensure as a
6468 naturopathic physician under the endorsement provision of Section 58-1-302 shall:

6469 (i) meet the requirements of Section 58-1-302;

6470 (ii) document having met all requirements for licensure under Subsection (1) except
6471 the clinical experience requirement of Subsection ~~[(1)(e)]~~ (1)(d);

6472 (iii) have passed the examination requirements established under Subsection ~~[(1)(f)]~~
6473 ~~which~~ (1)(e) that:

6474 (A) the applicant has not passed in connection with licensure in another state or
6475 jurisdiction; and

6476 (B) are available to the applicant to take without requiring additional professional
6477 education;

6478 (iv) have been actively engaged in the practice of a naturopathic physician for not less
6479 than 6,000 hours during the five years immediately preceding the date of application for
6480 licensure in Utah; and

6481 (v) meet with the board and representatives of the division for the purpose of
6482 evaluating the applicant's qualifications for licensure.

6483 (b) The division may rely, either wholly or in part, on one or more credentialing
6484 associations designated by division rule, made in collaboration with the board, to document
6485 and certify in writing to the satisfaction of the division that an applicant has met each of the
6486 requirements of this Subsection (2), including the requirements of Section 58-1-302 that:

6487 (i) the applicant holds a current license;

6488 (ii) the education, experience, and examination requirements of the foreign country or
6489 the state, district, or territory of the United States that issued the applicant's license are, or were
6490 at the time the license was issued, equal to those of this state for licensure as a naturopathic
6491 physician; and

6492 (iii) the applicant has produced evidence satisfactory to the division of the applicant's
6493 qualifications, identity, and good standing as a naturopathic physician.

6494 Section 110. Section 58-72-302 is amended to read:

6495 **58-72-302. Qualifications for licensure.**

6496 An applicant for licensure as a licensed acupuncturist shall:

6497 (1) submit an application in a form prescribed by the division;

6498 (2) pay a fee determined by the department under Section 63J-1-504;

6499 [~~3~~] be of good moral character;

6500 [~~4~~] (3) meet the requirements for current active certification in acupuncture under
6501 guidelines established by the National Commission for the Certification of Acupuncture and
6502 Oriental Medicine (NCCAOM) as demonstrated through a current certificate or other
6503 appropriate documentation;

6504 [~~5~~] (4) pass the examination required by the division by rule;

6505 [~~(6)~~] (5) establish procedures, as defined by rule, which shall enable patients to give
6506 informed consent to treatment; and

6507 [~~(7)~~] (6) meet with the board, if requested, for the purpose of evaluating the applicant's
6508 qualifications for licensure.

6509 Section 111. Section **58-73-302** is amended to read:

6510 **58-73-302. Qualifications for licensure.**

6511 (1) Each applicant for licensure as a chiropractic physician, other than those applying
6512 for a license based on licensure as a chiropractor or chiropractic physician in another
6513 jurisdiction, shall:

6514 (a) submit an application in a form prescribed by the division;

6515 (b) pay a fee determined by the department under Section [63J-1-504](#);

6516 [~~(c)~~ be of good moral character;]

6517 [~~(d)~~] (c) demonstrate satisfactory completion of at least two years of general study in a
6518 college or university;

6519 [~~(e)~~] (d) demonstrate having earned a degree of doctor of chiropractic from a
6520 chiropractic college or university that at the time the degree was conferred was accredited by
6521 the Council on Chiropractic Education, Inc., or an equivalent chiropractic accrediting body
6522 recognized by the United States Department of Education and by the division rule made in
6523 collaboration with the board;

6524 [~~(f)~~] (e) demonstrate successful completion of:

6525 (i) the National Chiropractic Boards:

6526 (A) Parts I and II;

6527 (B) Written Clinical Competency Examination; and

6528 (C) Physical Therapy;

6529 (ii) the Utah Chiropractic Law and Rules Examination; and

6530 (iii) a practical examination approved by the division in collaboration with the board;

6531 and

6532 [~~(g)~~] (f) meet with the board, if requested, for the purpose of reviewing the applicant's
6533 qualifications for licensure.

6534 (2) Each applicant for licensure as a chiropractic physician based on licensure as a
6535 chiropractor or chiropractic physician in another jurisdiction shall:

- 6536 (a) submit an application in the form prescribed by the division;
- 6537 (b) pay a fee determined by the department under Section [63J-1-504](#);
- 6538 [~~(c) be of good moral character;~~]
- 6539 [~~(d)~~] (c) demonstrate having obtained licensure as a chiropractor or chiropractic
- 6540 physician in another state under education requirements which were equivalent to the education
- 6541 requirements in this state to obtain a chiropractor or chiropractic physician license at the time
- 6542 the applicant obtained the license in the other state;
- 6543 [~~(e)~~] (d) demonstrate successful completion of:
- 6544 (i) the Utah Chiropractic Law and Rules Examination; and
- 6545 (ii) the Special Purposes Examination for Chiropractic (SPEC) of the National Board
- 6546 of Chiropractic Examiners;
- 6547 [~~(f)~~] (e) have been actively engaged in the practice of chiropractic for not less than two
- 6548 years immediately preceding application for licensure in this state; and
- 6549 [~~(g)~~] (f) meet with the board, if requested, for the purpose of reviewing the applicant's
- 6550 qualifications for licensure.

6551 Section 112. Section **58-74-102** is amended to read:

6552 **58-74-102. Definitions.**

6553 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

- 6554 (1) "Practice of court reporting" means the making of a verbatim record, by
- 6555 stenography or voice writing, of any trial, legislative public hearing, state agency public
- 6556 hearing, deposition, examination before trial, hearing or proceeding before any grand jury,
- 6557 referee, board, commission, master or arbitrator, or other sworn testimony given under oath.
- 6558 (2) "State certified court reporter" means a person who engages in the practice of court
- 6559 reporting and has met the requirements for state certification as a state certified court reporter.
- 6560 (3) "Unlawful conduct" means the same as that term is defined in Sections [58-1-501](#)
- 6561 and [58-74-501](#).
- 6562 (4) "Unprofessional conduct" means the same as that term is defined in [~~Section~~]
- 6563 Sections [58-1-501](#) and [58-74-502](#) and as may be further defined by rule.

6564 Section 113. Section **58-74-302** is amended to read:

6565 **58-74-302. Qualifications for state certification.**

- 6566 (1) Each applicant for state certification as a state certified court reporter under this

6567 chapter shall:

- 6568 (a) be at least 18 years of age;
- 6569 (b) be a citizen of the United States and a resident of the state;
- 6570 (c) submit an application in a form prescribed by the division;
- 6571 (d) pay a fee determined by the department under Section 63J-1-504;
- 6572 (e) possess a high degree of skill and ability in the art of court reporting; and
- 6573 ~~[(f) produce satisfactory evidence of good moral character; and]~~
- 6574 ~~[(g)]~~ (f) submit evidence that the applicant has completed and passed the Registered
- 6575 Professional Reporter Examination of the National Court Reporters Association or the
- 6576 Certified Verbatim Reporter Examination of the National Verbatim Reporters Association.

6577 (2) ~~[Any]~~ A person granted a certificate to practice as a state certified court reporter

6578 may use the abbreviation "C.C.R." or "C.V.R." as long as the person's certificate is current and

6579 valid.

6580 Section 114. Section **58-75-302** is amended to read:

6581 **58-75-302. Qualifications for licensure -- Temporary license.**

6582 (1) Except as provided in Subsection (2), each applicant for licensure as a genetic

6583 counselor under this chapter shall:

- 6584 (a) submit an application in a form prescribed by the division;
- 6585 (b) pay a fee determined by the department under Section 63J-1-504;
- 6586 ~~[(c) be of good moral character;]~~
- 6587 ~~[(d)]~~ (c) provide satisfactory documentation of having earned:
- 6588 (i) a master's degree from a genetic counseling training program that is accredited by
- 6589 the American Board of Genetic Counseling or an equivalent as determined by the division; or
- 6590 (ii) a doctoral degree from a medical genetics training program that is accredited by the
- 6591 American Board of Medical Genetics or an equivalent as determined by the division; and
- 6592 ~~[(e)]~~ (d) meet the examination requirement for certification as:
- 6593 (i) a genetic counselor by the American Board of Genetic Counseling or the American
- 6594 Board of Medical Genetics; or
- 6595 (ii) a medical geneticist by the American Board of Medical Genetics.

6596 (2) The division may issue a temporary license, in accordance with Section 58-1-303

6597 and any other conditions established by rule, to an applicant who meets all of the requirements

6598 for licensure except the examination requirement of Subsection ~~[(1)(e)]~~ (1)(d).

6599 Section 115. Section **58-76-302** is amended to read:

6600 **58-76-302. Qualifications for licensure.**

6601 Each applicant for licensure as a professional geologist shall:

6602 (1) submit an application in a form as prescribed by the division;

6603 (2) pay a fee as determined by the department under Section [63J-1-504](#);

6604 ~~[(3) be of good moral character;]~~

6605 ~~[(4)]~~ (3) provide satisfactory evidence of:

6606 (a) a bachelors or graduate degree in the geosciences granted through an institution of
6607 higher education that is accredited by a regional or national accrediting agency with a minimum
6608 of 30 semester or 45 quarter hours of course work in the geosciences; or

6609 (b) completion of other equivalent educational requirements as determined by the
6610 division in collaboration with the board;

6611 ~~[(5)]~~ (4) provide satisfactory evidence of:

6612 (a) with a bachelors degree, a specific record of five years of active professional
6613 practice in geological work of a character satisfactory to the division, indicating the applicant is
6614 competent to be placed in a responsible charge of the work;

6615 (b) with a masters degree, a specific record of three years of active professional
6616 practice in geological work of a character satisfactory to the division, indicating the applicant is
6617 competent to be placed in a responsible charge of the work; or

6618 (c) with a doctorate degree, a specific record of one year of active professional practice
6619 in geological work of a character satisfactory to the division, indicating the applicant is
6620 competent to be placed in a responsible charge of the work; and

6621 ~~[(6)]~~ (5) after January 1, 2004, meet the examination requirement established by rule
6622 by the division in collaboration with the board.

6623 Section 116. Section **58-76-502** is amended to read:

6624 **58-76-502. Penalty for unlawful conduct.**

6625 (1) (a) If, upon inspection or investigation, the division concludes that a person has
6626 violated Section [58-76-501](#) or any rule or order issued with respect to Section [58-76-501](#), and
6627 that disciplinary action is appropriate, the director or the director's designee from within the
6628 division shall promptly issue a citation to the person according to this chapter and any pertinent

6629 rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an
6630 adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

6631 (i) A person who violates Subsections 58-1-501(1)(a) through (d) or Section 58-76-501
6632 or any rule or order issued with respect to Section 58-76-501, as evidenced by an uncontested
6633 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may
6634 be assessed a fine pursuant to this Subsection (1) and may, in addition to or in lieu of, be
6635 ordered to cease and desist from violating Subsections 58-1-501(1)(a) through (d) or Section
6636 58-76-501 or any rule or order issued with respect to this section.

6637 (ii) Except for a cease and desist order, the licensure sanctions cited in Section
6638 58-76-401 may not be assessed through a citation.

6639 (b) A citation shall:

6640 (i) be in writing;

6641 (ii) describe with particularity the nature of the violation, including a reference to the
6642 provision of the chapter, rule, or order alleged to have been violated;

6643 (iii) clearly state that the recipient must notify the division in writing within 20
6644 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing
6645 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

6646 (iv) clearly explain the consequences of failure to timely contest the citation or to make
6647 payment of any fines assessed by the citation within the time specified in the citation.

6648 (c) The division may issue a notice in lieu of a citation.

6649 (d) Each citation issued under this section, or a copy of each citation, may be served
6650 upon any person upon whom a summons may be served in accordance with the Utah Rules of
6651 Civil Procedure and may be made personally or upon the person's agent by a division
6652 investigator or by any person specially designated by the director or by mail.

6653 (e) If within 20 calendar days from the service of the citation, the person to whom the
6654 citation was issued fails to request a hearing to contest the citation, the citation becomes the
6655 final order of the division and is not subject to further agency review. The period to contest a
6656 citation may be extended by the division for cause.

6657 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation
6658 the license of a licensee who fails to comply with a citation after it becomes final.

6659 (g) The failure of an applicant for licensure to comply with a citation after it becomes

6660 final is a ground for denial of license.

6661 (h) No citation may be issued under this section after the expiration of [~~six months~~
6662 ~~following the occurrence of any violation~~] one year following the date on which the violation
6663 that is the subject of the citation is reported to the division.

6664 (i) The director or the director's designee shall assess fines according to the following:

6665 (i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to \$1,000;

6666 (ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000;

6667 and

6668 (iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to
6669 \$2,000 for each day of continued offense.

6670 (2) An action initiated for a first or second offense which has not yet resulted in a final
6671 order of the division shall not preclude initiation of any subsequent action for a second or
6672 subsequent offense during the pendency of any preceding action. The final order on a
6673 subsequent action shall be considered a second or subsequent offense, respectively, provided
6674 the preceding action resulted in a first or second offense, respectively.

6675 (3) (a) The director may collect a penalty that is not paid by:

6676 (i) referring the matter to a collection agency; or

6677 (ii) bringing an action in the district court of the county where the person against whom
6678 the penalty is imposed resides or in the county where the office of the director is located.

6679 (b) A county attorney or the attorney general of the state shall provide legal assistance
6680 and advice to the director in an action to collect a penalty.

6681 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an
6682 action brought by the division to collect a penalty.

6683 Section 117. Section **58-77-302** is amended to read:

6684 **58-77-302. Qualifications for licensure.**

6685 Each applicant for licensure as a licensed direct-entry midwife shall:

6686 (1) submit an application in a form prescribed by the division;

6687 (2) pay a fee as determined by the department under Section [63J-1-504](#);

6688 [~~(3) be of good moral character;~~]

6689 [~~(4)~~] (3) hold a Certified Professional Midwife certificate in good standing with the
6690 North American Registry of Midwives or equivalent certification approved by the division in

6691 collaboration with the board;

6692 ~~[(5)]~~ (4) hold current adult and infant CPR and newborn resuscitation certifications
6693 through an organization approved by the division in collaboration with the board; and

6694 ~~[(6)]~~ (5) provide documentation of successful completion of an approved
6695 pharmacology course as defined by division rule.

6696 Section 118. Section **58-78-302** is amended to read:

6697 **58-78-302. Qualifications for licensure -- Licensure by credential.**

6698 (1) Except as provided in Subsection (2), an applicant for licensure as a vocational
6699 rehabilitation counselor under this chapter shall:

6700 (a) submit an application in a form as prescribed by the division;

6701 (b) pay a fee determined by the department under Section [63J-1-504](#) to recover the
6702 costs of administering licensing requirements relating to vocational rehabilitation counselors;

6703 ~~[(c) be of good moral character;]~~

6704 ~~[(d)]~~ (c) provide satisfactory evidence of having earned a master's degree in
6705 rehabilitation counseling or a related field;

6706 ~~[(e)]~~ (d) provide satisfactory evidence of having 4,000 hours of disability related work
6707 experience under the supervision of a licensed vocational rehabilitation counselor, except as
6708 otherwise provided in Subsection (2); and

6709 ~~[(f)]~~ (e) meet the examination requirement established by rule by the division in
6710 collaboration with the board.

6711 (2) The division may issue a license under this chapter to an individual who is licensed
6712 in another state or jurisdiction to practice vocational rehabilitation counseling if the division
6713 finds that the other state or jurisdiction has substantially the same or higher licensure
6714 requirements as this state.

6715 Section 119. Section **58-79-302** is amended to read:

6716 **58-79-302. Qualifications for licensure.**

6717 (1) An applicant for licensure as a hunting guide shall:

6718 (a) submit an application in a form prescribed by the division;

6719 (b) pay a fee determined by the department under Section [63J-1-504](#);

6720 ~~[(c) produce satisfactory evidence of good moral character;]~~

6721 ~~[(d)]~~ (c) possess a high degree of skill and ability as a hunting guide;

6722 ~~[(e)]~~ (d) successfully complete basic education and training requirements established
6723 by rule by the division in collaboration with the board; and

6724 ~~[(f)]~~ (e) meet with the division and board if requested by the division or board.

6725 (2) An applicant for licensure as an outfitter shall:

6726 (a) submit an application in a form prescribed by the division;

6727 (b) pay a fee determined by the department under Section 63J-1-504;

6728 ~~[(c) produce satisfactory evidence of good moral character;]~~

6729 ~~[(d)]~~ (c) possess a high degree of skill and ability as an outfitter;

6730 ~~[(e)]~~ (d) successfully complete basic education and training requirements established
6731 by rule by the division in collaboration with the board; and

6732 ~~[(f)]~~ (e) meet with the division and board if requested by the division or board.

6733 Section 120. Section **58-84-201** is amended to read:

6734 **58-84-201. Qualifications for state certification.**

6735 (1) The division shall grant state certification to a person who qualifies under this
6736 chapter to engage in the practice of music therapy as a state certified music therapist.

6737 (2) Each applicant for state certification as a state certified music therapist shall:

6738 (a) submit an application in a form prescribed by the division;

6739 (b) pay a fee determined by the department under Section 63J-1-504; and

6740 ~~[(c) be of good moral character; and]~~

6741 ~~[(d)]~~ (c) provide satisfactory documentation that the applicant is board certified by, and
6742 in good standing with, the Certification Board for Music Therapists, or an equivalent board as
6743 determined by division rule.

6744 Section 121. Section **58-86-202** is amended to read:

6745 **58-86-202. Qualifications for state certification.**

6746 Each applicant for state certification as a state certified commercial interior designer
6747 shall:

6748 (1) submit an application in a form prescribed by the division;

6749 (2) pay a fee determined by the department under Section 63J-1-504; and

6750 (3) provide satisfactory evidence of~~[(a) good moral character; and (b)]~~ having

6751 qualified to take and having passed the examination of the National Council for Interior Design

6752 Qualification, or an equivalent body as determined by division rule.

6753 Section 122. Section **58-86-302** is amended to read:

6754 **58-86-302. Penalty for unlawful conduct.**

6755 (1) If upon inspection or investigation the division concludes that a person has violated
6756 Subsections **58-1-501(1)(a)** through (d), Section **58-86-301**, or a rule or order issued with
6757 respect to Section **58-86-301**, and that disciplinary action is appropriate, the director or the
6758 director's designee may:

6759 (a) issue a citation to the person according to this chapter and any pertinent rules;

6760 (b) attempt to negotiate a stipulated settlement; or

6761 (c) notify the person to appear at an adjudicative proceeding conducted under Title
6762 63G, Chapter 4, Administrative Procedures Act.

6763 (2) A person who violates Subsections **58-1-501(1)(a)** through (d), Section **58-86-301**,
6764 or a rule or order issued with respect to Section **58-86-301**, as evidenced by an uncontested
6765 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may
6766 be assessed a fine pursuant to this chapter and may, in addition to or in lieu of the fine, be
6767 ordered to cease and desist from violating Subsections **58-1-501(1)(a)** through (d), Section
6768 **58-86-301**, or a rule or order issued with respect to Section **58-86-301**.

6769 (3) A citation issued under this chapter shall:

6770 (a) be in writing;

6771 (b) describe with particularity the nature of the violation, including a reference to the
6772 provision of the chapter, rule, or order alleged to have been violated;

6773 (c) clearly state that the recipient must notify the division in writing within 20 calendar
6774 days of service of the citation if the recipient wishes to contest the citation at a hearing
6775 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

6776 (d) clearly explain the consequences of failure to timely contest the citation or to make
6777 payment of any fines assessed by the citation within the time specified in the citation.

6778 (4) The division may issue a notice in lieu of a citation.

6779 (5) A citation issued under this section, or a copy of the citation, may be served upon a
6780 person upon whom a summons may be served in accordance with the Utah Rules of Civil
6781 Procedure and may be made by mail or may be made personally or upon the person's agent by a
6782 division investigator or by a person specially designated by the director.

6783 (6) (a) If within 20 calendar days from the service of the citation the person to whom

6784 the citation was issued fails to request a hearing to contest the citation, the citation becomes the
6785 final order of the division and is not subject to further agency review.

6786 (b) The period to contest a citation may be extended by the division for cause.

6787 (7) The division may refuse to issue or renew or may suspend, revoke, or place on
6788 probation the state certification of a state certified commercial interior designer who fails to
6789 comply with a citation after the citation becomes final.

6790 (8) The failure of an applicant for state certification to comply with a citation after the
6791 citation becomes final is a ground for denial of state certification.

6792 (9) No citation may be issued under this section after the expiration of [~~six months~~
6793 ~~following the occurrence of a violation~~] one year following the date on which the violation that
6794 is the subject of the citation is reported to the division.

6795 (10) The director or the director's designee shall assess fines according to the
6796 following:

6797 (a) for a first offense handled pursuant to this section, a fine of up to \$1,000;

6798 (b) for a second offense handled pursuant to this section, a fine of up to \$2,000; and

6799 (c) for any subsequent offense handled pursuant to this section, a fine of up to \$2,000
6800 for each day of continued offense.

6801 (11) An action initiated for a first or second offense that has not yet resulted in a final
6802 order of the division does not preclude initiation of a subsequent action for a second or
6803 subsequent offense during the pendency of a preceding action.

6804 (12) (a) A penalty that is not paid may be collected by the director by either referring
6805 the matter to a collection agency or by bringing an action in the district court of the county in
6806 which the person against whom the penalty is imposed resides or in the county where the office
6807 of the director is located.

6808 (b) A county attorney or the attorney general of the state shall provide legal assistance
6809 and advice to the director in an action to collect the penalty.

6810 (c) In an action brought to enforce the provisions of this section, reasonable attorney
6811 fees and costs shall be awarded to the division.

6812 Section 123. Section **63G-2-305** is amended to read:

6813 **63G-2-305. Protected records.**

6814 The following records are protected if properly classified by a governmental entity:

6815 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret
6816 has provided the governmental entity with the information specified in Section 63G-2-309;

6817 (2) commercial information or nonindividual financial information obtained from a
6818 person if:

6819 (a) disclosure of the information could reasonably be expected to result in unfair
6820 competitive injury to the person submitting the information or would impair the ability of the
6821 governmental entity to obtain necessary information in the future;

6822 (b) the person submitting the information has a greater interest in prohibiting access
6823 than the public in obtaining access; and

6824 (c) the person submitting the information has provided the governmental entity with
6825 the information specified in Section 63G-2-309;

6826 (3) commercial or financial information acquired or prepared by a governmental entity
6827 to the extent that disclosure would lead to financial speculations in currencies, securities, or
6828 commodities that will interfere with a planned transaction by the governmental entity or cause
6829 substantial financial injury to the governmental entity or state economy;

6830 (4) records, the disclosure of which could cause commercial injury to, or confer a
6831 competitive advantage upon a potential or actual competitor of, a commercial project entity as
6832 defined in Subsection 11-13-103(4);

6833 (5) test questions and answers to be used in future license, certification, registration,
6834 employment, or academic examinations;

6835 (6) records, the disclosure of which would impair governmental procurement
6836 proceedings or give an unfair advantage to any person proposing to enter into a contract or
6837 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
6838 Subsection (6) does not restrict the right of a person to have access to, after the contract or
6839 grant has been awarded and signed by all parties:

6840 (a) a bid, proposal, application, or other information submitted to or by a governmental
6841 entity in response to:

6842 (i) an invitation for bids;

6843 (ii) a request for proposals;

6844 (iii) a request for quotes;

6845 (iv) a grant; or

- 6846 (v) other similar document; or
- 6847 (b) an unsolicited proposal, as defined in Section [63G-6a-712](#);
- 6848 (7) information submitted to or by a governmental entity in response to a request for
- 6849 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict
- 6850 the right of a person to have access to the information, after:
- 6851 (a) a contract directly relating to the subject of the request for information has been
- 6852 awarded and signed by all parties; or
- 6853 (b) (i) a final determination is made not to enter into a contract that relates to the
- 6854 subject of the request for information; and
- 6855 (ii) at least two years have passed after the day on which the request for information is
- 6856 issued;
- 6857 (8) records that would identify real property or the appraisal or estimated value of real
- 6858 or personal property, including intellectual property, under consideration for public acquisition
- 6859 before any rights to the property are acquired unless:
- 6860 (a) public interest in obtaining access to the information is greater than or equal to the
- 6861 governmental entity's need to acquire the property on the best terms possible;
- 6862 (b) the information has already been disclosed to persons not employed by or under a
- 6863 duty of confidentiality to the entity;
- 6864 (c) in the case of records that would identify property, potential sellers of the described
- 6865 property have already learned of the governmental entity's plans to acquire the property;
- 6866 (d) in the case of records that would identify the appraisal or estimated value of
- 6867 property, the potential sellers have already learned of the governmental entity's estimated value
- 6868 of the property; or
- 6869 (e) the property under consideration for public acquisition is a single family residence
- 6870 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
- 6871 the property as required under Section [78B-6-505](#);
- 6872 (9) records prepared in contemplation of sale, exchange, lease, rental, or other
- 6873 compensated transaction of real or personal property including intellectual property, which, if
- 6874 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
- 6875 of the subject property, unless:
- 6876 (a) the public interest in access is greater than or equal to the interests in restricting

6877 access, including the governmental entity's interest in maximizing the financial benefit of the
6878 transaction; or

6879 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
6880 the value of the subject property have already been disclosed to persons not employed by or
6881 under a duty of confidentiality to the entity;

6882 (10) records created or maintained for civil, criminal, or administrative enforcement
6883 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
6884 release of the records:

6885 (a) reasonably could be expected to interfere with investigations undertaken for
6886 enforcement, discipline, licensing, certification, or registration purposes;

6887 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
6888 proceedings;

6889 (c) would create a danger of depriving a person of a right to a fair trial or impartial
6890 hearing;

6891 (d) reasonably could be expected to disclose the identity of a source who is not
6892 generally known outside of government and, in the case of a record compiled in the course of
6893 an investigation, disclose information furnished by a source not generally known outside of
6894 government if disclosure would compromise the source; or

6895 (e) reasonably could be expected to disclose investigative or audit techniques,
6896 procedures, policies, or orders not generally known outside of government if disclosure would
6897 interfere with enforcement or audit efforts;

6898 (11) records the disclosure of which would jeopardize the life or safety of an
6899 individual;

6900 (12) records the disclosure of which would jeopardize the security of governmental
6901 property, governmental programs, or governmental recordkeeping systems from damage, theft,
6902 or other appropriation or use contrary to law or public policy;

6903 (13) records that, if disclosed, would jeopardize the security or safety of a correctional
6904 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
6905 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

6906 (14) records that, if disclosed, would reveal recommendations made to the Board of
6907 Pardons and Parole by an employee of or contractor for the Department of Corrections, the

6908 Board of Pardons and Parole, or the Department of Human Services that are based on the
6909 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's
6910 jurisdiction;

6911 (15) records and audit workpapers that identify audit, collection, and operational
6912 procedures and methods used by the State Tax Commission, if disclosure would interfere with
6913 audits or collections;

6914 (16) records of a governmental audit agency relating to an ongoing or planned audit
6915 until the final audit is released;

6916 (17) records that are subject to the attorney client privilege;

6917 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
6918 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,
6919 quasi-judicial, or administrative proceeding;

6920 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
6921 from a member of the Legislature; and

6922 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
6923 legislative action or policy may not be classified as protected under this section; and

6924 (b) (i) an internal communication that is part of the deliberative process in connection
6925 with the preparation of legislation between:

6926 (A) members of a legislative body;

6927 (B) a member of a legislative body and a member of the legislative body's staff; or

6928 (C) members of a legislative body's staff; and

6929 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
6930 legislative action or policy may not be classified as protected under this section;

6931 (20) (a) records in the custody or control of the Office of Legislative Research and
6932 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
6933 legislation or contemplated course of action before the legislator has elected to support the
6934 legislation or course of action, or made the legislation or course of action public; and

6935 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
6936 Office of Legislative Research and General Counsel is a public document unless a legislator
6937 asks that the records requesting the legislation be maintained as protected records until such
6938 time as the legislator elects to make the legislation or course of action public;

6939 (21) research requests from legislators to the Office of Legislative Research and
6940 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
6941 in response to these requests;

6942 (22) drafts, unless otherwise classified as public;

6943 (23) records concerning a governmental entity's strategy about:

6944 (a) collective bargaining; or

6945 (b) imminent or pending litigation;

6946 (24) records of investigations of loss occurrences and analyses of loss occurrences that
6947 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
6948 Uninsured Employers' Fund, or similar divisions in other governmental entities;

6949 (25) records, other than personnel evaluations, that contain a personal recommendation
6950 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
6951 personal privacy, or disclosure is not in the public interest;

6952 (26) records that reveal the location of historic, prehistoric, paleontological, or
6953 biological resources that if known would jeopardize the security of those resources or of
6954 valuable historic, scientific, educational, or cultural information;

6955 (27) records of independent state agencies if the disclosure of the records would
6956 conflict with the fiduciary obligations of the agency;

6957 (28) records of an institution within the state system of higher education defined in
6958 Section [53B-1-102](#) regarding tenure evaluations, appointments, applications for admissions,
6959 retention decisions, and promotions, which could be properly discussed in a meeting closed in
6960 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
6961 the final decisions about tenure, appointments, retention, promotions, or those students
6962 admitted, may not be classified as protected under this section;

6963 (29) records of the governor's office, including budget recommendations, legislative
6964 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
6965 policies or contemplated courses of action before the governor has implemented or rejected
6966 those policies or courses of action or made them public;

6967 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
6968 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
6969 recommendations in these areas;

6970 (31) records provided by the United States or by a government entity outside the state
6971 that are given to the governmental entity with a requirement that they be managed as protected
6972 records if the providing entity certifies that the record would not be subject to public disclosure
6973 if retained by it;

6974 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a
6975 public body except as provided in Section [52-4-206](#);

6976 (33) records that would reveal the contents of settlement negotiations but not including
6977 final settlements or empirical data to the extent that they are not otherwise exempt from
6978 disclosure;

6979 (34) memoranda prepared by staff and used in the decision-making process by an
6980 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
6981 other body charged by law with performing a quasi-judicial function;

6982 (35) records that would reveal negotiations regarding assistance or incentives offered
6983 by or requested from a governmental entity for the purpose of encouraging a person to expand
6984 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
6985 person or place the governmental entity at a competitive disadvantage, but this section may not
6986 be used to restrict access to a record evidencing a final contract;

6987 (36) materials to which access must be limited for purposes of securing or maintaining
6988 the governmental entity's proprietary protection of intellectual property rights including patents,
6989 copyrights, and trade secrets;

6990 (37) the name of a donor or a prospective donor to a governmental entity, including an
6991 institution within the state system of higher education defined in Section [53B-1-102](#), and other
6992 information concerning the donation that could reasonably be expected to reveal the identity of
6993 the donor, provided that:

6994 (a) the donor requests anonymity in writing;

6995 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
6996 classified protected by the governmental entity under this Subsection (37); and

6997 (c) except for an institution within the state system of higher education defined in
6998 Section [53B-1-102](#), the governmental unit to which the donation is made is primarily engaged
6999 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
7000 over the donor, a member of the donor's immediate family, or any entity owned or controlled

7001 by the donor or the donor's immediate family;

7002 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and

7003 73-18-13;

7004 (39) a notification of workers' compensation insurance coverage described in Section

7005 34A-2-205;

7006 (40) (a) the following records of an institution within the state system of higher

7007 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,

7008 or received by or on behalf of faculty, staff, employees, or students of the institution:

7009 (i) unpublished lecture notes;

7010 (ii) unpublished notes, data, and information:

7011 (A) relating to research; and

7012 (B) of:

7013 (I) the institution within the state system of higher education defined in Section

7014 53B-1-102; or

7015 (II) a sponsor of sponsored research;

7016 (iii) unpublished manuscripts;

7017 (iv) creative works in process;

7018 (v) scholarly correspondence; and

7019 (vi) confidential information contained in research proposals;

7020 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public

7021 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

7022 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;

7023 (41) (a) records in the custody or control of the Office of Legislative Auditor General

7024 that would reveal the name of a particular legislator who requests a legislative audit prior to the

7025 date that audit is completed and made public; and

7026 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the

7027 Office of the Legislative Auditor General is a public document unless the legislator asks that

7028 the records in the custody or control of the Office of Legislative Auditor General that would

7029 reveal the name of a particular legislator who requests a legislative audit be maintained as

7030 protected records until the audit is completed and made public;

7031 (42) records that provide detail as to the location of an explosive, including a map or

7032 other document that indicates the location of:

7033 (a) a production facility; or

7034 (b) a magazine;

7035 (43) information:

7036 (a) contained in the statewide database of the Division of Aging and Adult Services
7037 created by Section [62A-3-311.1](#); or

7038 (b) received or maintained in relation to the Identity Theft Reporting Information
7039 System (IRIS) established under Section [67-5-22](#);

7040 (44) information contained in the Management Information System and Licensing
7041 Information System described in Title 62A, Chapter 4a, Child and Family Services;

7042 (45) information regarding National Guard operations or activities in support of the
7043 National Guard's federal mission;

7044 (46) records provided by any pawn or secondhand business to a law enforcement
7045 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
7046 Secondhand Merchandise Transaction Information Act;

7047 (47) information regarding food security, risk, and vulnerability assessments performed
7048 by the Department of Agriculture and Food;

7049 (48) except to the extent that the record is exempt from this chapter pursuant to Section
7050 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or
7051 prepared or maintained by the Division of Emergency Management, and the disclosure of
7052 which would jeopardize:

7053 (a) the safety of the general public; or

7054 (b) the security of:

7055 (i) governmental property;

7056 (ii) governmental programs; or

7057 (iii) the property of a private person who provides the Division of Emergency
7058 Management information;

7059 (49) records of the Department of Agriculture and Food that provides for the
7060 identification, tracing, or control of livestock diseases, including any program established under
7061 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control
7062 of Animal Disease;

7063 (50) as provided in Section 26-39-501:

7064 (a) information or records held by the Department of Health related to a complaint
7065 regarding a child care program or residential child care which the department is unable to
7066 substantiate; and

7067 (b) information or records related to a complaint received by the Department of Health
7068 from an anonymous complainant regarding a child care program or residential child care;

7069 (51) unless otherwise classified as public under Section 63G-2-301 and except as
7070 provided under Section 41-1a-116, an individual's home address, home telephone number, or
7071 personal mobile phone number, if:

7072 (a) the individual is required to provide the information in order to comply with a law,
7073 ordinance, rule, or order of a government entity; and

7074 (b) the subject of the record has a reasonable expectation that this information will be
7075 kept confidential due to:

7076 (i) the nature of the law, ordinance, rule, or order; and

7077 (ii) the individual complying with the law, ordinance, rule, or order;

7078 (52) the portion of the following documents that contains a candidate's residential or
7079 mailing address, if the candidate provides to the filing officer another address or phone number
7080 where the candidate may be contacted:

7081 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,
7082 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408,
7083 20A-9-408.5, 20A-9-502, or 20A-9-601;

7084 (b) an affidavit of impecuniosity, described in Section 20A-9-201; or

7085 (c) a notice of intent to gather signatures for candidacy, described in Section
7086 20A-9-408;

7087 (53) the name, home address, work addresses, and telephone numbers of an individual
7088 that is engaged in, or that provides goods or services for, medical or scientific research that is:

7089 (a) conducted within the state system of higher education, as defined in Section
7090 53B-1-102; and

7091 (b) conducted using animals;

7092 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance
7093 Evaluation Commission concerning an individual commissioner's vote on whether or not to

7094 recommend that the voters retain a judge including information disclosed under Subsection
7095 [78A-12-203\(5\)\(e\)](#);

7096 (55) information collected and a report prepared by the Judicial Performance
7097 Evaluation Commission concerning a judge, unless Section [20A-7-702](#) or Title 78A, Chapter
7098 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
7099 the information or report;

7100 (56) records contained in the Management Information System created in Section
7101 [62A-4a-1003](#);

7102 (57) records provided or received by the Public Lands Policy Coordinating Office in
7103 furtherance of any contract or other agreement made in accordance with Section [63J-4-603](#);

7104 (58) information requested by and provided to the 911 Division under Section
7105 [63H-7a-302](#);

7106 (59) in accordance with Section [73-10-33](#):

7107 (a) a management plan for a water conveyance facility in the possession of the Division
7108 of Water Resources or the Board of Water Resources; or

7109 (b) an outline of an emergency response plan in possession of the state or a county or
7110 municipality;

7111 (60) the following records in the custody or control of the Office of Inspector General
7112 of Medicaid Services, created in Section [63A-13-201](#):

7113 (a) records that would disclose information relating to allegations of personal
7114 misconduct, gross mismanagement, or illegal activity of a person if the information or
7115 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services
7116 through other documents or evidence, and the records relating to the allegation are not relied
7117 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation
7118 report or final audit report;

7119 (b) records and audit workpapers to the extent they would disclose the identity of a
7120 person who, during the course of an investigation or audit, communicated the existence of any
7121 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or
7122 regulation adopted under the laws of this state, a political subdivision of the state, or any
7123 recognized entity of the United States, if the information was disclosed on the condition that
7124 the identity of the person be protected;

- 7125 (c) before the time that an investigation or audit is completed and the final
7126 investigation or final audit report is released, records or drafts circulated to a person who is not
7127 an employee or head of a governmental entity for the person's response or information;
- 7128 (d) records that would disclose an outline or part of any investigation, audit survey
7129 plan, or audit program; or
- 7130 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
7131 investigation or audit;
- 7132 (61) records that reveal methods used by the Office of Inspector General of Medicaid
7133 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or
7134 abuse;
- 7135 (62) information provided to the Department of Health or the Division of Occupational
7136 and Professional Licensing under [~~Subsection~~] Subsections 58-67-304(3) and (4) and
7137 Subsections 58-68-304(3) [or] and (4);
- 7138 (63) a record described in Section 63G-12-210;
- 7139 (64) captured plate data that is obtained through an automatic license plate reader
7140 system used by a governmental entity as authorized in Section 41-6a-2003;
- 7141 (65) any record in the custody of the Utah Office for Victims of Crime relating to a
7142 victim, including:
- 7143 (a) a victim's application or request for benefits;
7144 (b) a victim's receipt or denial of benefits; and
7145 (c) any administrative notes or records made or created for the purpose of, or used to,
7146 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim
7147 Reparations Fund;
- 7148 (66) an audio or video recording created by a body-worn camera, as that term is
7149 defined in Section 77-7a-103, that records sound or images inside a hospital or health care
7150 facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care
7151 provider, as that term is defined in Section 78B-3-403, or inside a human service program as
7152 that term is defined in Section 62A-2-101, except for recordings that:
- 7153 (a) depict the commission of an alleged crime;
7154 (b) record any encounter between a law enforcement officer and a person that results in
7155 death or bodily injury, or includes an instance when an officer fires a weapon;

7156 (c) record any encounter that is the subject of a complaint or a legal proceeding against
7157 a law enforcement officer or law enforcement agency;

7158 (d) contain an officer involved critical incident as defined in Subsection
7159 76-2-408(1)(d); or

7160 (e) have been requested for reclassification as a public record by a subject or
7161 authorized agent of a subject featured in the recording;

7162 (67) a record pertaining to the search process for a president of an institution of higher
7163 education described in Section 53B-2-102, except for application materials for a publicly
7164 announced finalist; and

7165 (68) an audio recording that is:

7166 (a) produced by an audio recording device that is used in conjunction with a device or
7167 piece of equipment designed or intended for resuscitating an individual or for treating an
7168 individual with a life-threatening condition;

7169 (b) produced during an emergency event when an individual employed to provide law
7170 enforcement, fire protection, paramedic, emergency medical, or other first responder service:

7171 (i) is responding to an individual needing resuscitation or with a life-threatening
7172 condition; and

7173 (ii) uses a device or piece of equipment designed or intended for resuscitating an
7174 individual or for treating an individual with a life-threatening condition; and

7175 (c) intended and used for purposes of training emergency responders how to improve
7176 their response to an emergency situation;

7177 (69) records submitted by or prepared in relation to an applicant seeking a
7178 recommendation by the Research and General Counsel Subcommittee, the Budget
7179 Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an
7180 employment position with the Legislature;

7181 (70) work papers as defined in Section 31A-2-204;

7182 (71) a record made available to Adult Protective Services or a law enforcement agency
7183 under Section 61-1-206;

7184 (72) a record submitted to the Insurance Department in accordance with Section
7185 31A-37-201; and

7186 (73) a record described in Section 31A-37-503.

7187 (74) any record created by the Division of Occupational and Professional Licensing as
7188 a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii); and

7189 (75) a record described in Section 72-16-306 that relates to the reporting of an injury
7190 involving an amusement ride.

7191 Section 124. Section 78B-3-416 is amended to read:

7192 **78B-3-416. Division to provide panel -- Exemption -- Procedures -- Statute of**
7193 **limitations tolled -- Composition of panel -- Expenses -- Division authorized to set license**
7194 **fees.**

7195 (1) (a) The division shall provide a hearing panel in alleged medical liability cases
7196 against health care providers as defined in Section 78B-3-403, except dentists.

7197 (b) (i) The division shall establish procedures for prelitigation consideration of medical
7198 liability claims for damages arising out of the provision of or alleged failure to provide health
7199 care.

7200 (ii) The division may establish rules necessary to administer the process and
7201 procedures related to prelitigation hearings and the conduct of prelitigation hearings in
7202 accordance with Sections 78B-3-416 through 78B-3-420.

7203 (c) The proceedings are informal, nonbinding, and are not subject to Title 63G, Chapter
7204 4, Administrative Procedures Act, but are compulsory as a condition precedent to commencing
7205 litigation.

7206 (d) Proceedings conducted under authority of this section are confidential, privileged,
7207 and immune from civil process.

7208 (e) The division may not provide more than one hearing panel for each alleged medical
7209 liability case against a health care provider.

7210 (2) (a) The party initiating a medical liability action shall file a request for prelitigation
7211 panel review with the division within 60 days after the service of a statutory notice of intent to
7212 commence action under Section 78B-3-412.

7213 (b) The request shall include a copy of the notice of intent to commence action. The
7214 request shall be mailed to all health care providers named in the notice and request.

7215 (3) (a) The filing of a request for prelitigation panel review under this section tolls the
7216 applicable statute of limitations until the later of:

7217 (i) 60 days following the division's issuance of:

- 7218 (A) an opinion by the prelitigation panel; or
7219 (B) a certificate of compliance under Section 78B-3-418; or
7220 (ii) the expiration of the time for holding a hearing under Subsection (3)(b)(ii).
7221 (b) The division shall:
7222 (i) send any opinion issued by the panel to all parties by regular mail; and
7223 (ii) complete a prelitigation hearing under this section within:
7224 (A) 180 days after the filing of the request for prelitigation panel review; or
7225 (B) any longer period as agreed upon in writing by all parties to the review.
7226 (c) If the prelitigation hearing has not been completed within the time limits
7227 established in Subsection (3)(b)(ii), the claimant shall:
7228 (i) file an affidavit of merit under the provisions of Section 78B-3-423; or
7229 (ii) file an affidavit with the division within 180 days of the request for pre-litigation
7230 review, in accordance with Subsection (3)(d), alleging that the respondent has failed to
7231 reasonably cooperate in scheduling the hearing.
7232 (d) If the claimant files an affidavit under Subsection (3)(c)(ii):
7233 (i) within 15 days of the filing of the affidavit under Subsection (3)(c)(ii), the division
7234 shall determine whether either the respondent or the claimant failed to reasonably cooperate in
7235 the scheduling of a pre-litigation hearing; and
7236 (ii) (A) if the determination is that the respondent failed to reasonably cooperate in the
7237 scheduling of a hearing, and the claimant did not fail to reasonably cooperate, the division
7238 shall, issue a certificate of compliance for the claimant in accordance with Section 78B-3-418;
7239 or
7240 (B) if the division makes a determination other than the determination in Subsection
7241 (3)(d)(ii)(A), the claimant shall file an affidavit of merit in accordance with Section 78B-3-423,
7242 within 30 days of the determination of the division under this Subsection (3).
7243 (e) (i) The claimant and any respondent may agree by written stipulation that no useful
7244 purpose would be served by convening a prelitigation panel under this section.
7245 (ii) When the stipulation is filed with the division, the division shall within 10 days
7246 after receipt issue a certificate of compliance under Section 78B-3-418, as it concerns the
7247 stipulating respondent, and stating that the claimant has complied with all conditions precedent
7248 to the commencement of litigation regarding the claim.

7249 (4) The division shall provide for and appoint an appropriate panel or panels to hear
7250 complaints of medical liability and damages, made by or on behalf of any patient who is an
7251 alleged victim of medical liability. The panels are composed of:

7252 (a) one member who is a resident lawyer currently licensed and in good standing to
7253 practice law in this state and who shall serve as chairman of the panel, who is appointed by the
7254 division from among qualified individuals who have registered with the division indicating a
7255 willingness to serve as panel members, and a willingness to comply with the rules of
7256 professional conduct governing lawyers in the state, and who has completed division training
7257 regarding conduct of panel hearings;

7258 (b) (i) one ~~[member who is a]~~ or more members who are licensed health care ~~[provider]~~
7259 providers listed under Section 78B-3-403, who ~~[is]~~ are practicing and knowledgeable in the
7260 same specialty as the proposed defendant, and who ~~[is]~~ are appointed by the division in
7261 accordance with Subsection (5); or

7262 (ii) in claims against only ~~[hospitals or their]~~ a health care facility or the facility's
7263 employees, one member who is an individual currently serving in a ~~[hospital]~~ health care
7264 facility administration position directly related to ~~[hospital]~~ health care facility operations or
7265 conduct that includes responsibility for the area of practice that is the subject of the liability
7266 claim, and who is appointed by the division; and

7267 (c) a lay panelist who is not a lawyer, doctor, hospital employee, or other health care
7268 provider, and who is a responsible citizen of the state, selected and appointed by the division
7269 from among individuals who have completed division training with respect to panel hearings.

7270 (5) (a) Each person listed as a health care provider in Section 78B-3-403 and practicing
7271 under a license issued by the state, is obligated as a condition of holding that license to
7272 participate as a member of a medical liability prelitigation panel at reasonable times, places,
7273 and intervals, upon issuance, with advance notice given in a reasonable time frame, by the
7274 division of an Order to Participate as a Medical Liability Prelitigation Panel Member.

7275 (b) A licensee may be excused from appearance and participation as a panel member
7276 upon the division finding participation by the licensee will create an unreasonable burden or
7277 hardship upon the licensee.

7278 (c) A licensee whom the division finds failed to appear and participate as a panel
7279 member when so ordered, without adequate explanation or justification and without being

7280 excused for cause by the division, may be assessed an administrative fine not to exceed \$5,000.

7281 (d) A licensee whom the division finds intentionally or repeatedly failed to appear and
7282 participate as a panel member when so ordered, without adequate explanation or justification
7283 and without being excused for cause by the division, may be assessed an administrative fine not
7284 to exceed \$5,000, and is guilty of unprofessional conduct.

7285 (e) All fines collected under Subsections (5)(c) and (d) shall be deposited in the
7286 Physicians Education Fund created in Section 58-67a-1.

7287 (f) The director of the division may collect a fine that is not paid by:

7288 (i) referring the matter to a collection agency; or

7289 (ii) bringing an action in the district court of the county where the person against whom
7290 the penalty is imposed resides or in the county where the office of the director is located.

7291 (g) A county attorney or the attorney general of the state shall provide legal assistance
7292 and advice to the director in an action to collect a fine.

7293 (h) A court shall award reasonable attorney fees and costs to the prevailing party in an
7294 action brought by the division to collect a fine.

7295 (6) Each person selected as a panel member shall certify, under oath, that he has no
7296 bias or conflict of interest with respect to any matter under consideration.

7297 (7) A member of the prelitigation hearing panel may not receive compensation or
7298 benefits for the member's service, but may receive per diem and travel expenses in accordance
7299 with:

7300 (a) Section 63A-3-106;

7301 (b) Section 63A-3-107; and

7302 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
7303 63A-3-107.

7304 (8) (a) In addition to the actual cost of administering the licensure of health care
7305 providers, the division may set license fees of health care providers within the limits
7306 established by law equal to their proportionate costs of administering prelitigation panels.

7307 (b) The claimant bears none of the costs of administering the prelitigation panel except
7308 under Section 78B-3-420.