

**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

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**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 the membership of the Plumbers Licensing Board and the Electricians



26 Licensing Board;

- 27       ▶ modifies provisions related to the health facility administrator license;
- 28       ▶ modifies the citation authority of the division;
- 29       ▶ modifies pharmacy notification requirements;
- 30       ▶ modifies provisions related to prelitigation panels under the Utah Health Care

31 Malpractice Act;

- 32       ▶ modifies provisions related to disclosing information from the controlled substance
- 33 database in criminal proceedings;
- 34       ▶ modifies provisions related to unprofessional and unlawful conduct for professions
- 35 regulated by the division; and
- 36       ▶ makes technical and conforming changes.

37 **Money Appropriated in this Bill:**

38       None

39 **Other Special Clauses:**

40       None

41 **Utah Code Sections Affected:**

42 AMENDS:

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

- 57 [58-11a-102](#), as last amended by Laws of Utah 2017, Chapters 215 and 342
- 58 [58-11a-302](#), as last amended by Laws of Utah 2018, Chapters 415 and 445
- 59 [58-11a-304](#), as last amended by Laws of Utah 2018, Chapter 318
- 60 [58-11a-306](#), as last amended by Laws of Utah 2018, Chapter 318
- 61 [58-11a-502](#), as last amended by Laws of Utah 2016, Chapters 249 and 274
- 62 [58-11a-503](#), as last amended by Laws of Utah 2018, Chapter 318
- 63 [58-15-11](#), as last amended by Laws of Utah 1993, Chapter 297
- 64 [58-16a-102](#), as last amended by Laws of Utah 2012, Chapters 256 and 362
- 65 [58-16a-302](#), as last amended by Laws of Utah 2016, Chapter 238
- 66 [58-16a-501](#), as last amended by Laws of Utah 2012, Chapter 256
- 67 [58-16a-503](#), as last amended by Laws of Utah 2000, Chapter 160
- 68 [58-17b-303](#), as last amended by Laws of Utah 2012, Chapter 93
- 69 [58-17b-304](#), as last amended by Laws of Utah 2013, Chapter 166
- 70 [58-17b-305](#), as last amended by Laws of Utah 2013, Chapter 166
- 71 [58-17b-305.1](#), as enacted by Laws of Utah 2014, Chapter 385
- 72 [58-17b-308](#), as last amended by Laws of Utah 2017, Chapter 384
- 73 [58-17b-504](#), as last amended by Laws of Utah 2018, Chapter 318
- 74 [58-17b-614](#), as last amended by Laws of Utah 2007, Chapter 279
- 75 [58-20b-302](#), as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
- 76 [58-22-102](#), as last amended by Laws of Utah 2017, Chapter 218
- 77 [58-22-104](#), as enacted by Laws of Utah 2019, Chapter 215
- 78 [58-22-302](#), as last amended by Laws of Utah 2017, Chapter 382
- 79 [58-22-305](#), as last amended by Laws of Utah 2013, Chapter 262
- 80 [58-22-503](#), as last amended by Laws of Utah 2018, Chapter 318
- 81 [58-24b-302](#), as last amended by Laws of Utah 2019, Chapter 101
- 82 [58-26a-302](#), as last amended by Laws of Utah 2017, Chapter 229
- 83 [58-26a-305](#), as last amended by Laws of Utah 2008, Chapter 265
- 84 [58-26a-306](#), as last amended by Laws of Utah 2019, Chapter 122
- 85 [58-28-301](#), as enacted by Laws of Utah 2006, Chapter 109
- 86 [58-28-302](#), as last amended by Laws of Utah 2009, Chapter 183
- 87 [58-28-304](#), as renumbered and amended by Laws of Utah 2006, Chapter 109

- 88 **58-31b-503**, as last amended by Laws of Utah 2018, Chapter 318
- 89 **58-31b-803**, as last amended by Laws of Utah 2019, Chapter 233
- 90 **58-37f-203**, as last amended by Laws of Utah 2019, Chapter 59
- 91 **58-37f-301**, as last amended by Laws of Utah 2018, Chapter 123
- 92 **58-37f-302**, as enacted by Laws of Utah 2010, Chapter 287
- 93 **58-37f-303**, as enacted by Laws of Utah 2016, Chapter 112
- 94 **58-40-302**, as last amended by Laws of Utah 2015, Chapter 77
- 95 **58-40-501**, as enacted by Laws of Utah 2012, Chapter 82
- 96 **58-41-5**, as last amended by Laws of Utah 2010, Chapter 397
- 97 **58-42a-302**, as last amended by Laws of Utah 2015, Chapters 28, 432 and last amended
- 98 by Coordination Clause, Laws of Utah 2015, Chapter 28
- 99 **58-42a-501**, as repealed and reenacted by Laws of Utah 2015, Chapter 432
- 100 **58-46a-302**, as last amended by Laws of Utah 2013, Chapter 87
- 101 **58-47b-302**, as last amended by Laws of Utah 2009, Chapter 183
- 102 **58-49-4**, as last amended by Laws of Utah 1989, Chapter 225
- 103 **58-49-5**, as enacted by Laws of Utah 1986, Chapter 192
- 104 **58-49-9**, as enacted by Laws of Utah 1986, Chapter 192
- 105 **58-53-502**, as last amended by Laws of Utah 2018, Chapter 318
- 106 **58-54-302**, as last amended by Laws of Utah 2012, Chapter 369
- 107 **58-55-103**, as last amended by Laws of Utah 2016, Chapter 25
- 108 **58-55-106**, as enacted by Laws of Utah 2019, Chapter 215
- 109 **58-55-201**, as last amended by Laws of Utah 2019, Chapter 215
- 110 **58-55-302**, as last amended by Laws of Utah 2019, Chapter 215
- 111 **58-55-305**, as last amended by Laws of Utah 2019, Chapters 136 and 215
- 112 **58-55-308**, as last amended by Laws of Utah 2019, Chapter 340
- 113 **58-55-401**, as last amended by Laws of Utah 2011, Chapter 413
- 114 **58-55-501**, as last amended by Laws of Utah 2018, Chapter 318
- 115 **58-55-503**, as last amended by Laws of Utah 2018, Chapter 318
- 116 **58-56-9.5**, as last amended by Laws of Utah 2018, Chapters 229 and 318
- 117 **58-57-4**, as last amended by Laws of Utah 2009, Chapter 183
- 118 **58-60-109**, as last amended by Laws of Utah 2015, Chapter 323

- 119 [58-60-115](#), as last amended by Laws of Utah 2012, Chapter 179
- 120 [58-60-117](#), as last amended by Laws of Utah 2018, Chapter 318
- 121 [58-60-205](#), as last amended by Laws of Utah 2019, Chapter 393
- 122 [58-60-207](#), as last amended by Laws of Utah 2019, Chapter 393
- 123 [58-60-305.5](#), as last amended by Laws of Utah 2009, Chapter 183
- 124 [58-60-305](#), as last amended by Laws of Utah 2019, Chapter 393
- 125 [58-60-308](#), as last amended by Laws of Utah 2019, Chapter 393
- 126 [58-60-405](#), as last amended by Laws of Utah 2015, Chapter 77
- 127 [58-60-407](#), as last amended by Laws of Utah 2019, Chapter 393
- 128 [58-60-506](#), as last amended by Laws of Utah 2015, Chapter 77
- 129 [58-61-304](#), as last amended by Laws of Utah 2013, Chapters 16 and 262
- 130 [58-61-501](#), as last amended by Laws of Utah 2001, Chapter 281
- 131 [58-61-704](#), as enacted by Laws of Utah 2015, Chapter 367
- 132 [58-61-705](#), as enacted by Laws of Utah 2015, Chapter 367
- 133 [58-63-302](#), as last amended by Laws of Utah 2018, Chapter 177
- 134 [58-63-306](#), as last amended by Laws of Utah 2008, Chapter 246
- 135 [58-63-503](#), as last amended by Laws of Utah 2018, Chapter 318
- 136 [58-64-302](#), as last amended by Laws of Utah 2016, Chapter 201
- 137 [58-67-503](#), as last amended by Laws of Utah 2018, Chapter 318
- 138 [58-67-302](#), as last amended by Laws of Utah 2019, Chapter 445
- 139 [58-67-302.5](#), as last amended by Laws of Utah 2019, Chapter 445
- 140 [58-67-302.7](#), as last amended by Laws of Utah 2018, Chapter 318
- 141 [58-67-302.8](#), as last amended by Laws of Utah 2018, Chapter 318
- 142 [58-67-304](#), as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 143 [58-67-403](#), as last amended by Laws of Utah 2018, Chapter 318
- 144 [58-68-302](#), as last amended by Laws of Utah 2019, Chapter 445
- 145 [58-68-302.5](#), as last amended by Laws of Utah 2018, Chapter 318
- 146 [58-68-304](#), as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 147 [58-68-403](#), as last amended by Laws of Utah 2018, Chapter 318
- 148 [58-68-503](#), as last amended by Laws of Utah 2018, Chapter 318
- 149 [58-69-302](#), as last amended by Laws of Utah 2018, Chapter 66

- 150 [58-70a-302](#), as last amended by Laws of Utah 2017, Chapter 309
- 151 [58-70a-306](#), as last amended by Laws of Utah 2010, Chapter 37
- 152 [58-71-302](#), as last amended by Laws of Utah 2009, Chapter 183
- 153 [58-72-302](#), as last amended by Laws of Utah 2019, Chapter 485
- 154 [58-73-302](#), as last amended by Laws of Utah 2009, Chapter 183
- 155 [58-74-102](#), as last amended by Laws of Utah 2019, Chapter 379
- 156 [58-74-302](#), as last amended by Laws of Utah 2019, Chapter 379
- 157 [58-75-302](#), as last amended by Laws of Utah 2009, Chapter 183
- 158 [58-76-302](#), as last amended by Laws of Utah 2009, Chapter 183
- 159 [58-76-502](#), as last amended by Laws of Utah 2018, Chapter 318
- 160 [58-77-302](#), as last amended by Laws of Utah 2009, Chapter 183
- 161 [58-78-302](#), as last amended by Laws of Utah 2011, Chapter 367
- 162 [58-79-302](#), as enacted by Laws of Utah 2009, Chapter 52
- 163 [58-84-201](#), as enacted by Laws of Utah 2014, Chapter 340
- 164 [58-86-202](#), as enacted by Laws of Utah 2016, Chapter 294
- 165 [58-86-302](#), as enacted by Laws of Utah 2016, Chapter 294
- 166 [63G-2-305](#), as last amended by Laws of Utah 2019, Chapters 128, 193, 244, and 277
- 167 [78B-3-416](#), as last amended by Laws of Utah 2018, Chapter 318

168 ENACTS:

169 [58-61-304.1](#), Utah Code Annotated 1953

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

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

173 **15A-1-203. Uniform Building Code Commission -- Unified Code Analysis**

174 **Council.**

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

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

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

180 (b) one member shall be a licensed building inspector employed by a political

181 subdivision of the state;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

210 (8) A commission member may not receive compensation or benefits for the  
211 commission member's service, but may receive per diem and travel expenses in accordance

212 with:

213 (a) Section 63A-3-106;

214 (b) Section 63A-3-107; and

215 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
216 63A-3-107.

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

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

221 (10) The commission shall:

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

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

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

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

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

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

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

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

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

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

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



- 243 (i) the appointment of members to the Unified Code Analysis Council; and
- 244 (ii) procedures followed by the Unified Code Analysis Council.

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

246 **38-11-102. Definitions.**

247 (1) "Board" means the Residence Lien Recovery Fund Advisory Board established  
248 under Section [38-11-104](#).

249 (2) "Certificate of compliance" means an order issued by the director to the owner  
250 finding that the owner is in compliance with the requirements of Subsections [38-11-204\(4\)\(a\)](#)  
251 and [\(4\)\(b\)](#) and is entitled to protection under Section [38-11-107](#).

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

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

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

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

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

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

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

263 (10) "Factory built housing" is as defined in Section [15A-1-302](#).

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

266 (12) "Fund" means the Residence Lien Recovery Fund established under Section  
267 [38-11-201](#).

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

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

274 Construction Trades Licensing Act.

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

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

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

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

284 (i) owns; or

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

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

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

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

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

296 (a) provides qualified services;

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

298 (c) registers with the division:

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

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

304 (20) (a) "Qualified services" means the following performed in construction on an

305 owner-occupied residence:

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

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

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

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

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

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

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

319 (viii) renting equipment or materials;

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

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

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

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

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

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

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

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

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

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

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

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

340 **58-1-301.3. Waiver of licensing fees.**

341 An individual applying for initial licensure or licensure renewal under this title may  
342 apply for initial licensure or licensure renewal without paying the fees described in Subsection  
343 **58-1-301(1)** if the applicant provides evidence to the division in a form prescribed by the  
344 division that at the time of the application the applicant is:

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

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

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

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

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

353 **58-1-301.5. Division access to Bureau of Criminal Identification records.**

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

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

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

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

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

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

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

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

368           ~~[(g)]~~ (h) Section 58-64-302 of Title 58, Chapter 64, Deception Detection Examiners

369 Licensing Act;

370           ~~[(h)]~~ (i) Sections 58-67-302 and 58-67-302.1 of Title 58, Chapter 67, Utah Medical

371 Practice Act; and

372           ~~[(i)]~~ (j) Sections 58-68-302 and 58-68-302.1 of Title 58, Chapter 68, Utah Osteopathic

373 Medical Practice Act.

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

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

376           (b) includes convictions, pleas of nolo contendere, pleas of guilty or nolo contendere

377 held in abeyance, dismissed charges, and charges without a known disposition.

378           (3) The division may not disseminate outside of the division any criminal history

379 record information that the division obtains from the Bureau of Criminal Identification or the

380 Federal Bureau of Investigation under the criminal background check requirements of this

381 section.

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

383           **58-1-301.7. Change of information.**

384           (1) (a) An applicant, licensee, or certificate holder shall ~~[send the division a signed~~

385 ~~statement, in a form required by the division, notifying]~~ notify the division within 10 business

386 days of a change in mailing address or email address.

387           (b) When providing a mailing address, the individual may provide a post office box or

388 other mail drop location.

389           (c) In addition to providing a mailing address, an applicant, licensee, or certificate

390 holder ~~[may]~~ shall provide to the division, in a form ~~[required]~~ approved by the division, an

391 email address ~~[and may designate email as the preferred method of receiving notifications from~~

392 ~~the division]~~.

393           (2) An applicant, licensee, or certificate holder is considered to have received a

394 notification that has been sent to the most recent:

395           (a) mailing address provided to the division by the applicant, licensee, or certificate

396 holder; or

397           (b) email address furnished to the division by the applicant, licensee, or certificate

398 holder[, if email has been designated by the applicant, licensee, or certificate holder as the  
399 preferred method of receiving notifications from the division].

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

401 **58-1-302. License by endorsement.**

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

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

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

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

415 (b) the person's license is in good standing in the state, district, or territory of the  
416 United States where the license was issued.

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

420 (b) Notwithstanding the provisions of Subsection (1), the division may refuse to issue a  
421 license to a person as described in Subsection (1), if:

422 (i) the division determines that there is reasonable cause to believe that the person is  
423 not qualified to receive a license in this state; or

424 (ii) the person has a previous or pending disciplinary action related to the person's  
425 license.

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

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

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

431 (4) In accordance with Section 58-1-107, licensure endorsement provisions in this  
432 section are subject to and may be supplemented or altered by licensure endorsement provisions  
433 or multistate licensure compacts in specific chapters of this title.

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

435 **58-1-307. Exemptions from licensure.**

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

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

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

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

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

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

458 (f) an individual licensed under the laws of this state, other than under this title, to  
459 practice or engage in an occupation or profession, while engaged in the lawful, professional,

460 and competent practice of that occupation or profession;

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

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

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

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

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

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

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

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

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

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

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

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

490 (4) Upon the declaration of a national, state, or local emergency, a public health



491 emergency as defined in Section [26-23b-102](#), or a declaration by the president of the United  
492 States or other federal official requesting public health-related activities, the division in  
493 collaboration with the relevant board may:

494 (a) suspend the requirements for permanent or temporary licensure of individuals who  
495 are licensed in another state for the duration of the emergency while engaged in the scope of  
496 practice for which they are licensed in the other state;

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

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

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

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

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

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

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

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

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

514 (d) suspend requirements in Subsections [58-17b-620](#)(3) through (6) which require  
515 certain prescriptive procedures;

516 (e) exempt or modify the requirement for licensure of an individual who is activated as  
517 a member of a medical reserve corps during a time of emergency as provided in Section  
518 [26A-1-126](#); ~~and~~

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

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

526 (5) Individuals exempt under Subsection (4)(c) and individuals operating under  
527 modified scope of practice provisions under Subsection (4)(b):

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

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

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

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

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

535 (6) In accordance with the protocols established under Subsection (8), upon the  
536 declaration of a national, state, or local emergency, the Department of Health or a local health  
537 department shall coordinate with public safety authorities as defined in Subsection  
538 26-23b-110(1) and may:

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

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

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

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

549 (A) a pharmacy;

550 (B) a prescribing practitioner;

551 (C) a licensed health care facility;

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

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

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

558 (a) received from the strategic national stockpile to local health departments; and

559 (b) from local health departments to emergency personnel within the local health  
560 departments' geographic region.

561 (8) The Department of Health shall establish by rule, made in accordance with Title  
562 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for administering, dispensing,  
563 and distributing a vaccine, an antiviral, an antibiotic, or other prescription medication that is  
564 not a controlled substance in the event of a declaration of a national, state, or local emergency.  
565 The protocol shall establish procedures for the Department of Health or a local health  
566 department to:

567 (a) coordinate the distribution of:

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

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

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

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

580 (i) is working in a triage situation;

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

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

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

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

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

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

590 **58-1-501. Unlawful and unprofessional conduct.**

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

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

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

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

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

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

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

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

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

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

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

617 (B) with prescriptive authority conferred by an exception issued under this title or a  
618 multistate practice privilege recognized under this title, if the prescription was issued without  
619 first obtaining information, in the usual course of professional practice, that is sufficient to  
620 establish a diagnosis, to identify underlying conditions, and to identify contraindications to the  
621 proposed treatment; and

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

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

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

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

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

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

642 (d) engaging in conduct that results in disciplinary action, including reprimand,  
643 censure, diversion, probation, suspension, or revocation, by any other licensing or regulatory  
644 authority having jurisdiction over the licensee or applicant in the same occupation or profession  
645 if the conduct would, in this state, constitute grounds for denial of licensure or disciplinary

646 proceedings under Section 58-1-401;

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

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

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

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

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

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

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

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

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

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

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

676 (n) violating a provision of Section 58-1-501.5; or

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

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

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

683 **58-1-502. Unlawful and unprofessional conduct -- Penalties.**

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

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

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

- 694 (i) issue a citation to the person according to this section and any pertinent rules;  
695 (ii) attempt to negotiate a stipulated settlement; or  
696 (iii) notify the person to appear before an adjudicative proceeding conducted under  
697 Title 63G, Chapter 4, Administrative Procedures Act.

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

- 701 (A) an uncontested citation;  
702 (B) a stipulated settlement; or  
703 (C) a finding of a violation in an adjudicative proceeding.

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

707 (c) Except for a cease and desist order, the division may not assess the licensure

708 sanctions cited in Section [58-1-401](#) through a citation.

709 (d) A citation shall:

710 (i) be in writing;

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

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

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

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

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

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

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

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

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

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

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

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

734 and

735 (iii) for each subsequent offense handled pursuant to Subsection (2)(a), a fine of up to  
736 \$2,000 for each day of continued offense.

737 (3) (a) An action for a first or second offense that has not yet resulted in a final order of  
738 the division may not preclude initiation of a subsequent action for a second or subsequent



739 offense during the pendency of a preceding action.

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

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

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

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

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

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

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

752 **58-3a-105. Surcharge fee.**

753 (1) In addition to any other fees authorized by this chapter or by the division in  
754 accordance with Section [63J-1-504](#), the division shall require each applicant for an initial  
755 license, renewal of a license, or reinstatement of a license under this chapter to pay a \$1  
756 surcharge fee.

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

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

762 **58-3a-302. Qualifications for licensure.**

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

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

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

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

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

770 the board;

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

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

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

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

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

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

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

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

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

784 (ii) current certification from the National Council of Architectural Registration  
785 Boards; or

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

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

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

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

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

795 **58-3a-304. Exemptions from licensure.**

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

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

800 (i) holds a current and valid architect license issued by a licensing authority recognized

801 by rule by the division in collaboration with the board;

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

803 (A) is not licensed in the state;

804 (B) may not provide architectural services in the state until the architect is licensed in

805 the state; and

806 (C) that such condition may cause a delay in the ability of the architect to provide

807 architectural services in the state;

808 (iii) notifies the division in writing of his intent to offer to render architectural services

809 in the state; and

810 (iv) does not provide architectural services or engage in the practice of architecture in

811 this state until licensed to do so;

812 (b) a person preparing a plan and specification for one or two-family dwellings,

813 including townhouses;

814 (c) a person licensed to practice professional engineering under Title 58, Chapter 22,

815 Professional Engineers and Professional Land Surveyors Licensing Act, performing

816 engineering or incidental architectural acts or practices that do not exceed the scope of the

817 education and training of the person performing architecture;

818 (d) unlicensed employees, subordinates, associates, or drafters of a person licensed

819 under this chapter while preparing plans and specifications under the supervision of an

820 architect;

821 (e) a person preparing a plan or specification for, or supervising the alteration of or

822 repair to, an existing building affecting an area not exceeding 3,000 square feet when structural

823 elements of a building are not changed, such as foundations, beams, columns, and structural

824 slabs, joists, bearing walls, and trusses; and

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

826 (i) the organization employs a principal; and

827 (ii) all individuals employed by the organization, who are engaged in the practice of

828 architecture, are licensed or exempt from licensure under this chapter.

829 (2) Nothing in this section shall be construed to restrict a [draftsman] person from

830 preparing plans for a client under the exemption provided in Subsection (1)(b) or taking those

831 plans to a licensed architect for [his] review, approval, and subsequent fixing of the architect's

832 seal to that set of plans [~~if they meet the building code standards~~].

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

834 **58-3a-502. Penalty for unlawful conduct.**

835 (1) (a) If upon inspection or investigation, the division concludes that a person has  
836 violated Subsections **58-1-501**(1)(a) through (d) or Section **58-3a-501** or any rule or order  
837 issued with respect to Section **58-3a-501**, and that disciplinary action is appropriate, the  
838 director or the director's designee from within the division for each alternative respectively,  
839 shall promptly issue a citation to the person according to this chapter and any pertinent rules,  
840 attempt to negotiate a stipulated settlement, or notify the person to appear before an  
841 adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

842 (i) A person who violates Subsections **58-1-501**(1)(a) through (d) or Section **58-3a-501**  
843 or any rule or order issued with respect to Section **58-3a-501**, as evidenced by an uncontested  
844 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may  
845 be assessed a fine pursuant to this Subsection (1) and may, in addition to or in lieu of, be  
846 ordered to cease and desist from violating Subsections **58-1-501**(1)(a) through (d) or Section  
847 **58-3a-501** or any rule or order issued with respect to this section.

848 (ii) Except for a cease and desist order, the licensure sanctions cited in Section  
849 **58-3a-401** may not be assessed through a citation.

850 (b) A citation shall:

851 (i) be in writing;

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

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

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

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

860 (d) Each citation issued under this section, or a copy of each citation, may be served  
861 upon a person upon whom a summons may be served in accordance with the Utah Rules of  
862 Civil Procedure and may be made personally or upon the person's agent by a division

863 investigator or by any person specially designated by the director or by mail.

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

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

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

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

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

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

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

878 and

879 (iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to  
880 \$2,000 for each day of continued offense.

881 (2) An action initiated for a first or second offense which has not yet resulted in a final  
882 order of the division shall not preclude initiation of any subsequent action for a second or  
883 subsequent offense during the pendency of any preceding action. The final order on a  
884 subsequent action shall be considered a second or subsequent offense, respectively, provided  
885 the preceding action resulted in a first or second offense, respectively.

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

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

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

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

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

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

895 **58-5a-302. Qualifications to practice podiatry.**

896 An applicant for licensure to practice podiatry shall:

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

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

899 [~~3~~] be of good moral character;

900 [~~4~~] (3) provide satisfactory documentation of having successfully completed a

901 program of professional education preparing an individual as a podiatric physician, as

902 evidenced by having received an earned degree of doctor of podiatric medicine from a podiatry

903 school or college accredited by the Council on Podiatric Medical Education;

904 [~~5~~] (4) if licensed on or after July 1, 2015, satisfy the division and board that the

905 applicant:

906 (a) has successfully completed 24 months of resident training in a program approved

907 by the Council on Podiatric Medical Education; or

908 (b) (i) has successfully completed 12 months of resident training in a program

909 approved by the Council on Podiatric Medical Education after receiving a degree of doctor of

910 podiatric medicine as required under Subsection [~~4~~] (3);

911 (ii) has been accepted in, and is successfully participating in, progressive resident

912 training in a Council on Podiatric Medical Education approved program within Utah, in the

913 applicant's second or third year of postgraduate training; and

914 (iii) has agreed to surrender to the division the applicant's license as a podiatric

915 physician without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act,

916 and has agreed the applicant's license as a podiatric physician will be automatically revoked by

917 the division if the applicant fails to continue in good standing in a Council on Podiatric

918 Medical Education approved progressive resident training program within the state; and

919 [~~6~~] (5) pass examinations required by rule.

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

921 **58-11a-102. Definitions.**

922 As used in this chapter:

923 (1) "Approved barber or cosmetologist/barber apprenticeship" means an apprenticeship

924 that meets the requirements of Subsection [58-11a-306\(1\)](#) for barbers or Subsection

925 58-11a-306(2) for cosmetologist/barbers and the requirements established by rule by the  
 926 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah  
 927 Administrative Rulemaking Act.

928 (2) "Approved esthetician apprenticeship" means an apprenticeship that meets the  
 929 requirements of Subsection 58-11a-306~~(3)~~(4) and the requirements established by rule by the  
 930 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah  
 931 Administrative Rulemaking Act.

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

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

940 ~~(4)~~ (5) "Approved nail technician apprenticeship" means an apprenticeship that meets  
 941 the requirements of Subsection 58-11a-306~~(5)~~(6) and the requirements established by rule by  
 942 the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah  
 943 Administrative Rulemaking Act.

944 ~~(5)~~ (6) "Barber" means a person who is licensed under this chapter to engage in the  
 945 practice of barbering.

946 ~~(6)~~ (7) "Barber instructor" means a barber who is licensed under this chapter to  
 947 engage in the practice of barbering instruction.

948 ~~(7)~~ (8) "Board" means the Cosmetology and Associated Professions Licensing Board  
 949 created in Section 58-11a-201.

950 ~~(8)~~ (9) "Cosmetic laser procedure" includes a nonablative procedure as defined in  
 951 Section 58-67-102.

952 ~~(9)~~ (10) "Cosmetic supervisor" means a supervisor as defined in Section 58-1-505.

953 ~~(10)~~ (11) "Cosmetologist/barber" means a person who is licensed under this chapter  
 954 to engage in the practice of cosmetology/barbering.

955 ~~(11)~~ (12) "Cosmetologist/barber instructor" means a cosmetologist/barber who is

956 licensed under this chapter to engage in the practice of cosmetology/barbering instruction.

957 ~~[(12)]~~ (13) "Direct supervision" means that the supervisor of an apprentice or the  
958 instructor of a student is immediately available for consultation, advice, instruction, and  
959 evaluation.

960 ~~[(13)]~~ (14) "Electrologist" means a person who is licensed under this chapter to engage  
961 in the practice of electrology.

962 ~~[(14)]~~ (15) "Electrologist instructor" means an electrologist who is licensed under this  
963 chapter to engage in the practice of electrology instruction.

964 ~~[(15)]~~ (16) "Esthetician" means a person who is licensed under this chapter to engage  
965 in the practice of esthetics.

966 ~~[(16)]~~ (17) "Esthetician instructor" means a master esthetician who is licensed under  
967 this chapter to engage in the practice of esthetics instruction.

968 ~~[(17)]~~ (18) "Fund" means the Cosmetology and Associated Professions Education and  
969 Enforcement Fund created in Section [58-11a-103](#).

970 ~~[(18)]~~ (19) (a) "Hair braiding" means the twisting, weaving, or interweaving of a  
971 person's natural human hair.

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

973 (i) African-style braiding;

974 (ii) box braids;

975 (iii) cornrows;

976 (iv) dreadlocks;

977 (v) french braids;

978 (vi) invisible braids;

979 (vii) micro braids;

980 (viii) single braids;

981 (ix) single plaits;

982 (x) twists;

983 (xi) visible braids;

984 (xii) the use of lock braids; and

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

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



- 987 (i) the use of:
- 988 (A) wefts;
- 989 (B) synthetic tape;
- 990 (C) synthetic glue;
- 991 (D) keratin bonds;
- 992 (E) fusion bonds; or
- 993 (F) heat tools;
- 994 (ii) the cutting of human hair; or
- 995 (iii) the application of heat, dye, a reactive chemical, or other preparation to:
- 996 (A) alter the color of the hair; or
- 997 (B) straighten, curl, or alter the structure of the hair.
- 998 [~~19~~] (20) "Hair designer" means a person who is licensed under this chapter to
- 999 engage in the practice of hair design.
- 1000 [~~20~~] (21) "Hair designer instructor" means a hair designer who is licensed under this
- 1001 chapter to engage in the practice of hair design instruction.
- 1002 [~~21~~] (22) "Licensed barber or cosmetology/barber school" means a barber or
- 1003 cosmetology/barber school licensed under this chapter.
- 1004 [~~22~~] (23) "Licensed electrology school" means an electrology school licensed under
- 1005 this chapter.
- 1006 [~~23~~] (24) "Licensed esthetics school" means an esthetics school licensed under this
- 1007 chapter.
- 1008 [~~24~~] (25) "Licensed hair design school" means a hair design school licensed under
- 1009 this chapter.
- 1010 [~~25~~] (26) "Licensed nail technology school" means a nail technology school licensed
- 1011 under this chapter.
- 1012 [~~26~~] (27) "Master esthetician" means an individual who is licensed under this chapter
- 1013 to engage in the practice of master-level esthetics.
- 1014 [~~27~~] (28) "Nail technician" means an individual who is licensed under this chapter to
- 1015 engage in the practice of nail technology.
- 1016 [~~28~~] (29) "Nail technician instructor" means a nail technician licensed under this
- 1017 chapter to engage in the practice of nail technology instruction.

1018 [~~(29)~~] (30) "Practice of barbering" means:

1019 (a) cutting, clipping, or trimming the hair of the head of any person by the use of  
1020 scissors, shears, clippers, or other appliances;

1021 (b) draping, shampooing, scalp treatments, basic wet styling, and blow drying;

1022 (c) removing hair from the face or neck of a person by the use of shaving equipment;  
1023 and

1024 (d) when providing other services described in this Subsection [~~(29)~~] (30), gently  
1025 massaging the head, back of the neck, and shoulders by manual or mechanical means.

1026 [~~(30)~~] (31) "Practice of barbering instruction" means teaching the practice of barbering  
1027 at a licensed barber school, at a licensed cosmetology/barber school, or for an approved barber  
1028 apprenticeship.

1029 [~~(31)~~] (32) "Practice of basic esthetics" means any one of the following skin care  
1030 procedures done on the body for cosmetic purposes and not for the treatment of medical,  
1031 physical, or mental ailments:

1032 (a) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays, or  
1033 masks, manual extraction, including a comedone extractor, depilatories, waxes, tweezing, the  
1034 application of eyelash or eyebrow extensions, natural nail manicures or pedicures, or callous  
1035 removal by buffing or filing;

1036 (b) limited chemical exfoliation as defined by rule;

1037 (c) removing superfluous hair by means other than electrolysis, except that an  
1038 individual is not required to be licensed as an esthetician to engage in the practice of threading;

1039 (d) other esthetic preparations or procedures with the use of the hands, a  
1040 high-frequency or galvanic electrical apparatus, or a heat lamp for cosmetic purposes and not  
1041 for the treatment of medical, physical, or mental ailments;

1042 (e) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes, or applying  
1043 eyelash or eyebrow extensions; or

1044 (f) except as provided in Subsection [~~(31)(f)(i)~~] (32)(f)(i), cosmetic laser procedures  
1045 under the direct cosmetic medical procedure supervision of a cosmetic supervisor limited to the  
1046 following:

1047 (i) superfluous hair removal which shall be under indirect supervision;

1048 (ii) anti-aging resurfacing enhancements;

1049 (iii) photo rejuvenation; or

1050 (iv) tattoo removal.

1051 [~~(32)~~] (33) (a) "Practice of cosmetology/barbering" means:

1052 (i) styling, arranging, dressing, curling, waving, permanent waving, cleansing,  
1053 singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a  
1054 person;

1055 (ii) cutting, clipping, or trimming the hair by the use of scissors, shears, clippers, or  
1056 other appliances;

1057 (iii) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes, applying  
1058 eyelash or eyebrow extensions;

1059 (iv) removing hair from the body of a person by the use of depilatories, waxing, or  
1060 shaving equipment;

1061 (v) cutting, curling, styling, fitting, measuring, or forming caps for wigs or hairpieces  
1062 or both on the human head; or

1063 (vi) practicing hair weaving or hair fusing or servicing previously medically implanted  
1064 hair.

1065 (b) The term "practice of cosmetology/barbering" includes:

1066 (i) the practice of barbering;

1067 (ii) the practice of basic esthetics; and

1068 (iii) the practice of nail technology.

1069 (c) An individual is not required to be licensed as a cosmetologist/barber to engage in  
1070 the practice of threading.

1071 [~~(33)~~] (34) "Practice of cosmetology/barbering instruction" means teaching the practice  
1072 of cosmetology/barbering:

1073 (a) at a licensed cosmetology/barber school, a licensed barber school, or a licensed nail  
1074 technology school; or

1075 (b) for an approved cosmetologist/barber apprenticeship.

1076 [~~(34)~~] (35) "Practice of electrology" means:

1077 (a) the removal of superfluous hair from the body of a person by the use of electricity,  
1078 waxing, shaving, or tweezing; or

1079 (b) cosmetic laser procedures under the supervision of a cosmetic supervisor limited to

1080 superfluous hair removal.

1081 ~~[(35)]~~ (36) "Practice of electrology instruction" means teaching the practice of  
1082 electrology at a licensed electrology school.

1083 ~~[(36)]~~ (37) "Practice of esthetics instruction" means teaching the practice of basic  
1084 esthetics or the practice of master-level esthetics:

1085 (a) at a licensed esthetics school or a licensed cosmetology/barber school; or

1086 (b) for an approved esthetician apprenticeship or an approved master esthetician  
1087 apprenticeship.

1088 ~~[(37)]~~ (38) "Practice of hair design" means:

1089 (a) styling, arranging, dressing, curling, waving, permanent waving, cleansing,  
1090 singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a  
1091 person;

1092 (b) barbering, cutting, clipping, shaving, or trimming the hair by the use of scissors,  
1093 shears, clippers, or other appliances;

1094 (c) cutting, curling, styling, fitting, measuring, or forming caps for wigs, hairpieces, or  
1095 both on the human head; or

1096 (d) practicing hair weaving, hair fusing, or servicing previously medically implanted  
1097 hair.

1098 ~~[(38)]~~ (39) "Practice of hair design instruction" means teaching the practice of hair  
1099 design at a licensed cosmetology/barber school, a licensed hair design school, or a licensed  
1100 barber school.

1101 ~~[(39)]~~ (40) (a) "Practice of master-level esthetics" means:

1102 (i) any of the following when done for cosmetic purposes on the body and not for the  
1103 treatment of medical, physical, or mental ailments:

1104 (A) body wraps as defined by rule;

1105 (B) hydrotherapy as defined by rule;

1106 (C) chemical exfoliation as defined by rule;

1107 (D) advanced pedicures as defined by rule;

1108 (E) sanding, including microdermabrasion;

1109 (F) advanced extraction;

1110 (G) other esthetic preparations or procedures with the use of:

1111 (I) the hands; or  
1112 (II) a mechanical or electrical apparatus which is approved for use by division rule for  
1113 beautifying or similar work performed on the body for cosmetic purposes and not for the  
1114 treatment of a medical, physical, or mental ailment; or  
1115 (H) cosmetic laser procedures under the supervision of a cosmetic supervisor with a  
1116 physician's evaluation before the procedure, as needed, unless specifically required under  
1117 Section 58-1-506, and limited to the following:  
1118 (I) superfluous hair removal;  
1119 (II) anti-aging resurfacing enhancements;  
1120 (III) photo rejuvenation; or  
1121 (IV) tattoo removal with a physician's, advanced practice nurse's, or physician  
1122 assistant's evaluation before the tattoo removal procedure, as required by Subsection  
1123 58-1-506(3)(a); and  
1124 (ii) lymphatic massage by manual or other means as defined by rule.  
1125 (b) Notwithstanding the provisions of Subsection [~~(39)(a)~~] (40)(a), a master-level  
1126 esthetician may perform procedures listed in Subsection [~~(39)(a)(i)(H)~~] (40)(a)(i)(H) if done  
1127 under the supervision of a cosmetic supervisor acting within the scope of the cosmetic  
1128 supervisor license.  
1129 (c) The term "practice of master-level esthetics" includes the practice of esthetics, but  
1130 an individual is not required to be licensed as an esthetician or master-level esthetician to  
1131 engage in the practice of threading.  
1132 [~~(40)~~] (41) "Practice of nail technology" means to trim, cut, clean, manicure, shape,  
1133 massage, or enhance the appearance of the hands, feet, and nails of an individual by the use of  
1134 hands, mechanical, or electrical preparation, antiseptic, lotions, or creams, including the  
1135 application and removal of sculptured or artificial nails.  
1136 [~~(41)~~] (42) "Practice of nail technology instruction" means teaching the practice of nail  
1137 technology at a licensed nail technician school, at a licensed cosmetology/barber school, or for  
1138 an approved nail technician apprenticeship.  
1139 [~~(42)~~] (43) "Recognized barber school" means a barber school located in a state other  
1140 than Utah, whose students, upon graduation, are recognized as having completed the  
1141 educational requirements for licensure in that state.

1142           ~~[(43)]~~ (44) "Recognized cosmetology/barber school" means a cosmetology/barber  
1143 school located in a state other than Utah, whose students, upon graduation, are recognized as  
1144 having completed the educational requirements for licensure in that state.

1145           ~~[(44)]~~ (45) "Recognized electrology school" means an electrology school located in a  
1146 state other than Utah, whose students, upon graduation, are recognized as having completed the  
1147 educational requirements for licensure in that state.

1148           ~~[(45)]~~ (46) "Recognized esthetics school" means an esthetics school located in a state  
1149 other than Utah, whose students, upon graduation, are recognized as having completed the  
1150 educational requirements for licensure in that state.

1151           ~~[(46)]~~ (47) "Recognized hair design school" means a hair design school located in a  
1152 state other than Utah, whose students, upon graduation, are recognized as having completed the  
1153 educational requirements for licensure in that state.

1154           ~~[(47)]~~ (48) "Recognized nail technology school" means a nail technology school  
1155 located in a state other than Utah, whose students, upon graduation, are recognized as having  
1156 completed the educational requirements for licensure in that state.

1157           ~~[(48)]~~ (49) "Salon" means a place, shop, or establishment in which  
1158 cosmetology/barbering, esthetics, electrology, or nail technology is practiced.

1159           ~~[(49)]~~ (50) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-11a-502.

1160           ~~[(50)]~~ (51) "Unprofessional conduct" is as defined in Sections 58-1-501 and  
1161 58-11a-501 and as may be further defined by rule by the division in collaboration with the  
1162 board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1163           Section 16. Section 58-11a-302 is amended to read:

1164           **58-11a-302. Qualifications for licensure.**

1165           (1) Each applicant for licensure as a barber shall:

1166           (a) submit an application in a form prescribed by the division;

1167           (b) pay a fee determined by the department under Section 63J-1-504;

1168           ~~[(c) be of good moral character;]~~

1169           ~~[(d)]~~ (c) provide satisfactory documentation of:

1170           (i) graduation from a licensed or recognized barber school, or a licensed or recognized  
1171 cosmetology/barber school, whose curriculum consists of a minimum of 1,000 hours of  
1172 instruction, or the equivalent number of credit hours, over a period of not less than 25 weeks;

1173 (ii) (A) graduation from a recognized barber school located in a state other than Utah  
1174 whose curriculum consists of less than 1,000 hours of instruction or the equivalent number of  
1175 credit hours; and

1176 (B) practice as a licensed barber in a state other than Utah for not less than the number  
1177 of hours required to equal 1,000 total hours when added to the hours of instruction described in  
1178 Subsection ~~[(1)(d)(ii)(A)]~~ (1)(c)(ii)(A); or

1179 (iii) completion of an approved barber apprenticeship; and

1180 ~~[(e)]~~ (d) meet the examination requirement established by rule.

1181 (2) Each applicant for licensure as a barber instructor shall:

1182 (a) submit an application in a form prescribed by the division;

1183 (b) subject to Subsection (24), pay a fee determined by the department under Section  
1184 [63J-1-504](#);

1185 (c) provide satisfactory documentation that the applicant is currently licensed as a  
1186 barber;

1187 ~~[(d) be of good moral character;]~~

1188 ~~[(e)]~~ (d) provide satisfactory documentation of completion of:

1189 (i) an instructor training program conducted by a licensed or recognized school, as  
1190 defined by rule, consisting of a minimum of 250 hours or the equivalent number of credit  
1191 hours;

1192 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or  
1193 recognized school, as defined by rule, consisting of a minimum of 250 hours or the equivalent  
1194 number of credit hours; or

1195 (iii) a minimum of 2,000 hours of experience as a barber; and

1196 ~~[(f)]~~ (e) meet the examination requirement established by rule.

1197 (3) Each applicant for licensure as a barber school shall:

1198 (a) submit an application in a form prescribed by the division;

1199 (b) pay a fee determined by the department under Section [63J-1-504](#); and

1200 (c) provide satisfactory documentation:

1201 (i) of appropriate registration with the Division of Corporations and Commercial Code;

1202 (ii) of business licensure from the city, town, or county in which the school is located;

1203 (iii) that the applicant's physical facilities comply with the requirements established by

1204 rule; and

1205 (iv) that the applicant meets:

1206 (A) the standards for barber schools, including staff and accreditation requirements,

1207 established by rule; and

1208 (B) the requirements for recognition as an institution of postsecondary study as

1209 described in Subsection (22).

1210 (4) Each applicant for licensure as a cosmetologist/barber shall:

1211 (a) submit an application in a form prescribed by the division;

1212 (b) pay a fee determined by the department under Section [63J-1-504](#);

1213 ~~[(c) be of good moral character;]~~

1214 ~~[(d)]~~ (c) provide satisfactory documentation of:

1215 (i) graduation from a licensed or recognized cosmetology/barber school whose

1216 curriculum consists of a minimum of 1,600 hours of instruction, or the equivalent number of

1217 credit hours, with full flexibility within those hours;

1218 (ii) (A) graduation from a recognized cosmetology/barber school located in a state

1219 other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the

1220 equivalent number of credit hours, with full flexibility within those hours; and

1221 (B) practice as a licensed cosmetologist/barber in a state other than Utah for not less

1222 than the number of hours required to equal 1,600 total hours when added to the hours of

1223 instruction described in Subsection ~~[(4)(d)(ii)(A)]~~ (4)(c)(ii)(A); or

1224 (iii) completion of an approved cosmetology/barber apprenticeship; and

1225 ~~[(e)]~~ (d) meet the examination requirement established by rule.

1226 (5) Each applicant for licensure as a cosmetologist/barber instructor shall:

1227 (a) submit an application in a form prescribed by the division;

1228 (b) subject to Subsection (24), pay a fee determined by the department under Section

1229 [63J-1-504](#);

1230 (c) provide satisfactory documentation that the applicant is currently licensed as a

1231 cosmetologist/barber;

1232 ~~[(d) be of good moral character;]~~

1233 ~~[(e)]~~ (d) provide satisfactory documentation of completion of:

1234 (i) an instructor training program conducted by a licensed or recognized school, as



1235 defined by rule, consisting of a minimum of 400 hours or the equivalent number of credit  
1236 hours;

1237 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or  
1238 recognized school, as defined by rule, consisting of a minimum of 400 hours or the equivalent  
1239 number of credit hours; or

1240 (iii) a minimum of 3,000 hours of experience as a cosmetologist/barber; and  
1241 ~~[(f)]~~ (e) meet the examination requirement established by rule.

1242 (6) Each applicant for licensure as a cosmetologist/barber school shall:

1243 (a) submit an application in a form prescribed by the division;

1244 (b) pay a fee determined by the department under Section 63J-1-504; and

1245 (c) provide satisfactory documentation:

1246 (i) of appropriate registration with the Division of Corporations and Commercial Code;

1247 (ii) of business licensure from the city, town, or county in which the school is located;

1248 (iii) that the applicant's physical facilities comply with the requirements established by  
1249 rule; and

1250 (iv) that the applicant meets:

1251 (A) the standards for cosmetology schools, including staff and accreditation  
1252 requirements, established by rule; and

1253 (B) the requirements for recognition as an institution of postsecondary study as  
1254 described in Subsection (22).

1255 (7) Each applicant for licensure as an electrologist shall:

1256 (a) submit an application in a form prescribed by the division;

1257 (b) pay a fee determined by the department under Section 63J-1-504;

1258 ~~[(c) be of good moral character;]~~

1259 ~~[(d)]~~ (c) provide satisfactory documentation of having graduated from a licensed or  
1260 recognized electrology school after completing a curriculum of 600 hours of instruction or the  
1261 equivalent number of credit hours; and

1262 ~~[(e)]~~ (d) meet the examination requirement established by rule.

1263 (8) Each applicant for licensure as an electrologist instructor shall:

1264 (a) submit an application in a form prescribed by the division;

1265 (b) subject to Subsection (24), pay a fee determined by the department under Section

1266 63J-1-504;

1267 (c) provide satisfactory documentation that the applicant is currently licensed as an  
1268 electrologist;

1269 [~~(d)~~ be of good moral character;]

1270 [~~(e)~~] (d) provide satisfactory documentation of completion of:

1271 (i) an instructor training program conducted by a licensed or recognized school, as  
1272 defined by rule, consisting of a minimum of 150 hours or the equivalent number of credit  
1273 hours;

1274 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or  
1275 recognized school, as defined by rule, consisting of a minimum of 150 hours or the equivalent  
1276 number of credit hours; or

1277 (iii) a minimum of 1,000 hours of experience as an electrologist; and

1278 [~~(f)~~] (e) meet the examination requirement established by rule.

1279 (9) Each applicant for licensure as an electrologist school shall:

1280 (a) submit an application in a form prescribed by the division;

1281 (b) pay a fee determined by the department under Section 63J-1-504; and

1282 (c) provide satisfactory documentation:

1283 (i) of appropriate registration with the Division of Corporations and Commercial Code;

1284 (ii) of business licensure from the city, town, or county in which the school is located;

1285 (iii) that the applicant's facilities comply with the requirements established by rule; and

1286 (iv) that the applicant meets:

1287 (A) the standards for electrologist schools, including staff, curriculum, and  
1288 accreditation requirements, established by rule; and

1289 (B) the requirements for recognition as an institution of postsecondary study as  
1290 described in Subsection (22).

1291 (10) Each applicant for licensure as an esthetician shall:

1292 (a) submit an application in a form prescribed by the division;

1293 (b) pay a fee determined by the department under Section 63J-1-504;

1294 [~~(c)~~ be of good moral character;]

1295 [~~(d)~~] (c) provide satisfactory documentation of one of the following:

1296 (i) graduation from a licensed or recognized esthetic school or a licensed or recognized

1297 cosmetology/barber school whose curriculum consists of not less than 15 weeks of esthetic  
1298 instruction with a minimum of 600 hours or the equivalent number of credit hours;

1299 (ii) completion of an approved esthetician apprenticeship; or

1300 (iii) (A) graduation from a recognized cosmetology/barber school located in a state  
1301 other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the  
1302 equivalent number of credit hours, with full flexibility within those hours; and

1303 (B) practice as a licensed cosmetologist/barber for not less than the number of hours  
1304 required to equal 1,600 total hours when added to the hours of instruction described in

1305 Subsection ~~[(10)(d)(iii)(A)]~~ (10)(c)(iii)(A); and

1306 ~~[(e)]~~ (d) meet the examination requirement established by division rule.

1307 (11) Each applicant for licensure as a master esthetician shall:

1308 (a) submit an application in a form prescribed by the division;

1309 (b) pay a fee determined by the department under Section 63J-1-504;

1310 ~~[(c) be of good moral character;]~~

1311 ~~[(d)]~~ (c) provide satisfactory documentation of:

1312 (i) completion of at least 1,200 hours of training, or the equivalent number of credit  
1313 hours, at a licensed or recognized esthetics school, except that up to 600 hours toward the  
1314 1,200 hours may have been completed:

1315 (A) at a licensed or recognized cosmetology/barbering school, if the applicant  
1316 graduated from the school and its curriculum consisted of at least 1,600 hours of instruction, or  
1317 the equivalent number of credit hours, with full flexibility within those hours; or

1318 (B) at a licensed or recognized cosmetology/barber school located in a state other than  
1319 Utah, if the applicant graduated from the school and its curriculum contained full flexibility  
1320 within its hours of instruction; or

1321 (ii) completion of an approved master esthetician apprenticeship;

1322 ~~[(e)]~~ (d) if the applicant will practice lymphatic massage, provide satisfactory  
1323 documentation to show completion of 200 hours of training, or the equivalent number of credit  
1324 hours, in lymphatic massage as defined by division rule; and

1325 ~~[(f)]~~ (e) meet the examination requirement established by division rule.

1326 (12) Each applicant for licensure as an esthetician instructor shall:

1327 (a) submit an application in a form prescribed by the division;

1328 (b) subject to Subsection (24), pay a fee determined by the department under Section  
1329 63J-1-504;

1330 (c) provide satisfactory documentation that the applicant is currently licensed as a  
1331 master esthetician;

1332 [~~(d) be of good moral character;~~]

1333 [~~(e)~~] (d) provide satisfactory documentation of completion of:

1334 (i) an instructor training program conducted by a licensed or recognized school, as  
1335 defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit  
1336 hours;

1337 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or  
1338 recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent  
1339 number of credit hours; or

1340 (iii) a minimum of 1,000 hours of experience in esthetics; and

1341 [~~(f)~~] (e) meet the examination requirement established by rule.

1342 (13) Each applicant for licensure as an esthetics school shall:

1343 (a) submit an application in a form prescribed by the division;

1344 (b) pay a fee determined by the department under Section 63J-1-504; and

1345 (c) provide satisfactory documentation:

1346 (i) of appropriate registration with the Division of Corporations and Commercial Code;

1347 (ii) of business licensure from the city, town, or county in which the school is located;

1348 (iii) that the applicant's physical facilities comply with the requirements established by  
1349 rule; and

1350 (iv) that the applicant meets:

1351 (A) the standards for esthetics schools, including staff, curriculum, and accreditation  
1352 requirements, established by division rule made in collaboration with the board; and

1353 (B) the requirements for recognition as an institution of postsecondary study as  
1354 described in Subsection (22).

1355 (14) Each applicant for licensure as a hair designer shall:

1356 (a) submit an application in a form prescribed by the division;

1357 (b) pay a fee determined by the department under Section 63J-1-504;

1358 [~~(c) be of good moral character;~~]

1359           ~~[(d)]~~ (c) provide satisfactory documentation of:

1360           (i) graduation from a licensed or recognized cosmetology/barber, hair design, or

1361 barbering school whose curriculum consists of a minimum of 1,200 hours of instruction, or the

1362 equivalent number of credit hours, with full flexibility within those hours;

1363           (ii) (A) graduation from a recognized cosmetology/barber, hair design, or barbering

1364 school located in a state other than Utah whose curriculum consists of less than 1,200 hours of

1365 instruction, or the equivalent number of credit hours, with full flexibility within those hours;

1366 and

1367           (B) practice as a licensed cosmetologist/barber or hair designer in a state other than

1368 Utah for not less than the number of hours required to equal 1,200 total hours when added to

1369 the hours of instruction described in Subsection ~~[(14)(d)(ii)(A); or]~~ (14)(c)(ii)(A);

1370           (iii) being a state licensed cosmetologist/barber; ~~[and]~~ or

1371           (iv) completion of an approved hair designer apprenticeship; and

1372           ~~[(e)]~~ (d) meet the examination requirements established by rule.

1373           (15) Each applicant for licensure as a hair designer instructor shall:

1374           (a) submit an application in a form prescribed by the division;

1375           (b) subject to Subsection (24), pay a fee determined by the department under Section

1376 [63J-1-504](#);

1377           (c) provide satisfactory documentation that the applicant is currently licensed as a hair

1378 designer or as a cosmetologist/barber;

1379           ~~[(d) be of good moral character;]~~

1380           ~~[(e)]~~ (d) provide satisfactory documentation of completion of:

1381           (i) an instructor training program conducted by a licensed or recognized school, as

1382 defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit

1383 hours;

1384           (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or

1385 recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent

1386 number of credit hours; or

1387           (iii) a minimum of 2,500 hours of experience as a hair designer or as a

1388 cosmetologist/barber; and

1389           ~~[(f)]~~ (e) meet the examination requirement established by rule.

1390 (16) Each applicant for licensure as a hair design school shall:  
 1391 (a) submit an application in a form prescribed by the division;  
 1392 (b) pay a fee determined by the department under Section 63J-1-504; and  
 1393 (c) provide satisfactory documentation:  
 1394 (i) of appropriate registration with the Division of Corporations and Commercial Code;  
 1395 (ii) of business licensure from the city, town, or county in which the school is located;  
 1396 (iii) that the applicant's physical facilities comply with the requirements established by  
 1397 rule; and

1398 (iv) that the applicant meets:  
 1399 (A) the standards for a hair design school, including staff and accreditation  
 1400 requirements, established by rule; and  
 1401 (B) the requirements for recognition as an institution of postsecondary study as  
 1402 described in Subsection (22).

1403 (17) Each applicant for licensure as a nail technician shall:  
 1404 (a) submit an application in a form prescribed by the division;  
 1405 (b) pay a fee determined by the department under Section 63J-1-504;  
 1406 [~~(c) be of good moral character;~~  
 1407 [~~(c)~~] (c) provide satisfactory documentation of:  
 1408 (i) graduation from a licensed or recognized nail technology school, or a licensed or  
 1409 recognized cosmetology/barber school, whose curriculum consists of not less than 300 hours of  
 1410 instruction, or the equivalent number of credit hours;  
 1411 (ii) (A) graduation from a recognized nail technology school located in a state other  
 1412 than Utah whose curriculum consists of less than 300 hours of instruction or the equivalent  
 1413 number of credit hours; and

1414 (B) practice as a licensed nail technician in a state other than Utah for not less than the  
 1415 number of hours required to equal 300 total hours when added to the hours of instruction  
 1416 described in Subsection [~~(17)(d)(ii)(A)~~] (17)(c)(ii)(A); or

1417 (iii) completion of an approved nail technician apprenticeship; and  
 1418 [~~(e)~~] (d) meet the examination requirement established by division rule.

1419 (18) Each applicant for licensure as a nail technician instructor shall:  
 1420 (a) submit an application in a form prescribed by the division;

- 1421 (b) subject to Subsection (24), pay a fee determined by the department under Section  
1422 63J-1-504;
- 1423 (c) provide satisfactory documentation that the applicant is currently licensed as a nail  
1424 technician;
- 1425 [~~(d) be of good moral character;~~]
- 1426 [(~~e~~)] (d) provide satisfactory documentation of completion of:
- 1427 (i) an instructor training program conducted by a licensed or recognized school, as  
1428 defined by rule, consisting of a minimum of 75 hours or the equivalent number of credit hours;
- 1429 (ii) an on-the-job instructor training program conducted by a licensed instructor at a  
1430 licensed or recognized school, as defined by rule, consisting of a minimum of 75 hours or the  
1431 equivalent number of credit hours; or
- 1432 (iii) a minimum of 600 hours of experience in nail technology; and
- 1433 [(~~f~~)] (e) meet the examination requirement established by rule.
- 1434 (19) Each applicant for licensure as a nail technology school shall:
- 1435 (a) submit an application in a form prescribed by the division;
- 1436 (b) pay a fee determined by the department under Section 63J-1-504; and
- 1437 (c) provide satisfactory documentation:
- 1438 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 1439 (ii) of business licensure from the city, town, or county in which the school is located;
- 1440 (iii) that the applicant's facilities comply with the requirements established by rule; and
- 1441 (iv) that the applicant meets:
- 1442 (A) the standards for nail technology schools, including staff, curriculum, and  
1443 accreditation requirements, established by rule; and
- 1444 (B) the requirements for recognition as an institution of postsecondary study as  
1445 described in Subsection (22).
- 1446 (20) Each applicant for licensure under this chapter whose education in the field for  
1447 which a license is sought was completed at a foreign school may satisfy the educational  
1448 requirement for licensure by demonstrating, to the satisfaction of the division, the educational  
1449 equivalency of the foreign school education with a licensed school under this chapter.
- 1450 (21) (a) A licensed or recognized school under this section shall accept credit hours  
1451 towards graduation for documented, relevant, and substantially equivalent coursework

1452 previously completed by:

1453 (i) a student that did not complete the student's education while attending a different  
1454 school; or

1455 (ii) a licensee of any other profession listed in this section, based on the licensee's  
1456 schooling, apprenticeship, or experience.

1457 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and  
1458 consistent with this section, the division may make rules governing the acceptance of credit  
1459 hours under Subsection (21)(a).

1460 (22) A school licensed or applying for licensure under this chapter shall maintain  
1461 recognition as an institution of postsecondary study by meeting the following conditions:

1462 (a) the school shall admit as a regular student only an individual who has earned a  
1463 recognized high school diploma or the equivalent of a recognized high school diploma, or who  
1464 is beyond the age of compulsory high school attendance as prescribed by Title 53G, Chapter 6,  
1465 Part 2, Compulsory Education; and

1466 (b) the school shall be licensed by name, or in the case of an applicant, shall apply for  
1467 licensure by name, under this chapter to offer one or more training programs beyond the  
1468 secondary level.

1469 (23) A person seeking to qualify for licensure under this chapter by apprenticing in an  
1470 approved apprenticeship shall register with the division as described in Section 58-11a-306.

1471 (24) The department may only charge a fee to a person applying for licensure as any  
1472 type of instructor under this chapter if the person is not a licensed instructor in any other  
1473 profession under this chapter.

1474 (25) In order to encourage economic development in the state in accordance with  
1475 Subsection 63G-1-201(4)(e), the department may offer any required examination under this  
1476 section, which is prepared by a national testing organization, in languages in addition to  
1477 English.

1478 Section 17. Section 58-11a-304 is amended to read:

1479 **58-11a-304. Exemptions from licensure.**

1480 In addition to the exemptions from licensure in Section 58-1-307, the following persons  
1481 may engage in the practice of barbering, cosmetology/barbering, hair design, esthetics,  
1482 master-level esthetics, electrology, or nail technology without being licensed under this



1483 chapter:

1484 (1) a person licensed under the laws of this state to engage in the practice of medicine,  
1485 surgery, osteopathy, or chiropractic when engaged in the practice of the profession for which  
1486 they are licensed;

1487 (2) a commissioned physician or surgeon serving in the armed forces of the United  
1488 States or another federal agency;

1489 (3) a registered nurse, undertaker, or mortician licensed under the laws of this state  
1490 when engaged in the practice of the profession for which the person is licensed;

1491 (4) a person who visits the state to engage in instructional seminars, advanced classes,  
1492 trade shows, or competitions of a limited duration;

1493 (5) a person who engages in the practice of barbering, cosmetology/barbering, hair  
1494 design, esthetics, master-level esthetics, electrology, or nail technology without compensation;

1495 (6) a person instructing an adult education class or other educational program directed  
1496 toward persons who are not licensed under this chapter and that is not intended to train persons  
1497 to become licensed under this chapter, provided:

1498 (a) an attendee receives no credit toward educational requirements for licensure under  
1499 this chapter;

1500 (b) the instructor informs each attendee in writing that taking such a class or program  
1501 will not certify or qualify the attendee to perform a service for compensation that requires  
1502 licensure under this chapter; and

1503 (c) (i) the instructor is properly licensed; or

1504 (ii) the instructor receives no compensation;

1505 (7) a person providing instruction in workshops, seminars, training meetings, or other  
1506 educational programs whose purpose is to provide continuing professional development to  
1507 licensed barbers, cosmetologists/barbers, hair designers, estheticians, master estheticians,  
1508 electrologists, or nail technicians;

1509 (8) a person enrolled in a licensed barber [or] cosmetology/barber, or hair design  
1510 school when participating in an on the job training internship under the direct supervision of a  
1511 licensed barber [or] cosmetologist/barber, or hair design upon completion of a basic program  
1512 under the standards established by rule by the division in collaboration with the board;

1513 (9) a person enrolled in an approved apprenticeship pursuant to Section [58-11a-306](#);

1514 (10) an employee of a company that is primarily engaged in the business of selling  
1515 products used in the practice of barbering, cosmetology/barbering, hair design, esthetics,  
1516 master-level esthetics, electrology, or nail technology when demonstrating the company's  
1517 products to a potential customer, provided the employee makes no representation to a potential  
1518 customer that attending such a demonstration will certify or qualify the attendee to perform a  
1519 service for compensation that requires licensure under this chapter;

1520 (11) a person who:

1521 (a) is qualified to engage in the practice of barbering, cosmetology/barbering, hair  
1522 design, esthetics, master-level esthetics, electrology, or nail technology in another jurisdiction  
1523 as evidenced by licensure, certification, or lawful practice in the other jurisdiction;

1524 (b) is employed by, or under contract with, a motion picture company; and

1525 (c) engages in the practice of barbering, cosmetology/barbering, hair design, esthetics,  
1526 master-level esthetics, electrology, or nail technology in the state:

1527 (i) solely to assist in the production of a motion picture; and

1528 (ii) for no more than 120 days per calendar year; and

1529 (12) a person who:

1530 (a) engages in hair braiding; and

1531 (b) unless it is expressly exempted under this section or Section [58-1-307](#), does not  
1532 engage in other activity requiring licensure under this chapter.

1533 Section 18. Section **58-11a-306** is amended to read:

1534 **58-11a-306. Apprenticeship.**

1535 (1) An approved barber apprenticeship shall:

1536 (a) consist of not less than 1,250 hours of training [~~in not less than eight months~~]; and

1537 (b) be conducted by a supervisor who:

1538 (i) is licensed under this chapter as a barber instructor or a cosmetology/barber  
1539 instructor; and

1540 (ii) provides one-on-one direct supervision of the barber apprentice during the  
1541 apprenticeship program.

1542 (2) An approved cosmetologist/barber apprenticeship shall:

1543 (a) consist of not less than 2,500 hours of training [~~in not less than 15 months~~]; and

1544 (b) be conducted by a supervisor who:

1545 (i) is licensed under this chapter as a cosmetologist/barber instructor; and  
1546 (ii) provides one-on-one direct supervision of the cosmetologist/barber apprentice  
1547 during the apprenticeship program.

1548 (3) An approved hair designer apprenticeship shall:

1549 (a) consist of not less than 1,600 hours of training; and

1550 (b) be conducted by a supervisor who:

1551 (i) is licensed under this chapter as a hair designer instructor or a cosmetologist/barber  
1552 instructor; and

1553 (ii) provides one-on-one direct supervision of the hair designer apprentice during the  
1554 apprenticeship program.

1555 [~~(3)~~] (4) An approved esthetician apprenticeship shall:

1556 (a) consist of not less than 800 hours of training [~~in not less than five months~~]; and

1557 (b) be conducted by a supervisor who:

1558 (i) is licensed under this chapter as an esthetician instructor; and

1559 (ii) provides one-on-one direct supervision of the esthetician apprentice during the  
1560 apprenticeship program.

1561 [~~(4)~~] (5) An approved master esthetician apprenticeship shall:

1562 (a) consist of not less than 1,500 hours of training [~~in not less than 10 months~~]; and

1563 (b) be conducted by a supervisor who:

1564 (i) is licensed under this chapter as a master-level esthetician instructor; and

1565 (ii) provides one-on-one direct supervision of the master esthetician apprentice during  
1566 the apprenticeship program.

1567 [~~(5)~~] (6) An approved nail technician apprenticeship shall:

1568 (a) consist of not less than 375 hours of training [~~in not less than three months~~]; and

1569 (b) be conducted by a supervisor who:

1570 (i) is licensed under this chapter as a nail technician instructor or a cosmetology/barber  
1571 instructor;

1572 (ii) provides direct supervision of the nail technician apprentice during the  
1573 apprenticeship program; and

1574 (iii) provides direct supervision to no more than two nail technician apprentices during  
1575 the apprentice program.

1576 [(6)] (7) A person seeking to qualify for licensure by apprenticing in an approved  
1577 apprenticeship under this chapter shall:

1578 (a) register with the division before beginning the training requirements by:

1579 (i) submitting a form prescribed by the division, which includes the name of the  
1580 licensed supervisor; and

1581 (ii) paying a fee determined by the department under Section 63J-1-504;

1582 (b) complete the apprenticeship within five years of the date on which the division  
1583 approves the registration; and

1584 (c) notify the division within 30 days if the licensed supervisor changes after the  
1585 registration is approved by the division.

1586 [(7)] (8) Notwithstanding Subsection [(6)] (7), if a person seeking to qualify for  
1587 licensure by apprenticing in an approved apprenticeship under this chapter registers with the  
1588 division before January 1, 2017, any training requirements completed by the person as an  
1589 apprentice in an approved apprenticeship before registration may be applied to successful  
1590 completion of the approved apprenticeship.

1591 Section 19. Section 58-11a-502 is amended to read:

1592 **58-11a-502. Unlawful conduct.**

1593 Unlawful conduct includes:

1594 (1) practicing or engaging in, or attempting to practice or engage in activity for which a  
1595 license is required under this chapter unless:

1596 (a) the person holds the appropriate license under this chapter; or

1597 (b) an exemption in Section 58-1-307 or 58-11a-304 applies;

1598 [(2) aiding or abetting a person engaging in the practice of, or attempting to engage in  
1599 the practice of, any occupation or profession licensed under this chapter if the employee is not  
1600 licensed to do so under this chapter or exempt from licensure;]

1601 [(3)] (2) touching, or applying an instrument or device to the following areas of a  
1602 client's body:

1603 (a) the genitals or the anus, except in cases where the patron states to a licensee that the  
1604 patron requests a hair removal procedure and signs a written consent form, which must also  
1605 include the witnessed signature of a legal guardian if the patron is a minor, authorizing the  
1606 licensee to perform a hair removal procedure; or

1607 (b) the breast of a female patron, except in cases in which the female patron states to a  
1608 licensee that the patron requests breast skin procedures and signs a written consent form, which  
1609 must also include the witnessed signature of a parent or legal guardian if the patron is a minor,  
1610 authorizing the licensee to perform breast skin procedures;

1611 [~~(4)~~] (3) using or possessing a solution composed of at least 10% methyl methacrylate  
1612 on a client;

1613 [~~(5)~~] (4) performing an ablative procedure as defined in Section 58-67-102;

1614 [~~(6)~~] (5) when acting as an instructor regarding a service requiring licensure under this  
1615 chapter, for a class or education program where attendees are not licensed under this chapter,  
1616 failing to inform each attendee in writing that:

1617 (a) taking the class or program without completing the requirements for licensure under  
1618 this chapter is insufficient to certify or qualify the attendee to perform a service for  
1619 compensation that requires licensure under this chapter; and

1620 (b) the attendee is required to obtain licensure under this chapter before performing the  
1621 service for compensation; or

1622 [~~(7)~~] (6) failing as a salon or school where nail technology is practiced or taught to  
1623 maintain a source capture system required under Title 15A, State Construction and Fire Codes  
1624 Act, including failing to maintain and clean a source capture system's air filter according to the  
1625 manufacturer's instructions.

1626 Section 20. Section 58-11a-503 is amended to read:

1627 **58-11a-503. Penalties.**

1628 (1) Unless Subsection (2) applies, an individual who commits an act of unlawful  
1629 conduct under Section 58-11a-502 or who fails to comply with a citation issued under this  
1630 section after it is final is guilty of a class A misdemeanor.

1631 (2) Sexual conduct that violates Section 58-11a-502 and Title 76, Utah Criminal Code,  
1632 shall be subject to the applicable penalties in Title 76, Utah Criminal Code.

1633 (3) Grounds for immediate suspension of a licensee's license by the division include  
1634 the issuance of a citation for violation of Subsection 58-11a-502(1), [~~(2), (4), (5), (6), or (7).~~]  
1635 (3), (4), (5), or (6).

1636 (4) (a) If upon inspection or investigation, the division concludes that a person has  
1637 violated the provisions of Subsection 58-11a-502(1), [~~(2), (4), (5), (6), or (7)~~] (3), (4), (5), or

1638 (6), or a rule or order issued with respect to Subsection 58-11a-502(1), [~~(2), (4), (5), (6), or (7)~~]  
1639 (3), (4), (5), or (6), and that disciplinary action is appropriate, the director or the director's  
1640 designee from within the division shall promptly issue a citation to the person according to this  
1641 chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person  
1642 to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4,  
1643 Administrative Procedures Act.

1644 (i) A person who is in violation of Subsection 58-11a-502(1), [~~(2), (4), (5), (6), or (7)~~]  
1645 (3), (4), (5), or (6), as evidenced by an uncontested citation, a stipulated settlement, or by a  
1646 finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this  
1647 Subsection (4) and may, in addition to or in lieu of, be ordered to cease and desist from  
1648 violating Subsection 58-11a-502(1), [~~(2), (4), (5), (6), or (7)~~] (3), (4), (5), or (6).

1649 (ii) Except for a cease and desist order, the licensure sanctions cited in Section  
1650 58-11a-401 may not be assessed through a citation.

1651 (b) (i) Each citation shall be in writing and describe with particularity the nature of the  
1652 violation, including a reference to the provision of the chapter, rule, or order alleged to have  
1653 been violated.

1654 (ii) The citation shall clearly state that the recipient must notify the division in writing  
1655 within 20 calendar days of service of the citation if the recipient wishes to contest the citation  
1656 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

1657 (iii) The citation shall clearly explain the consequences of failure to timely contest the  
1658 citation or to make payment of a fine assessed by the citation within the time specified in the  
1659 citation.

1660 (c) Each citation issued under this section, or a copy of each citation, may be served  
1661 upon a person upon whom a summons may be served in accordance with the Utah Rules of  
1662 Civil Procedure and may be made personally or upon the person's agent by a division  
1663 investigator or by a person specially designated by the director or by mail.

1664 (d) (i) If within 20 calendar days from the service of a citation, the person to whom the  
1665 citation was issued fails to request a hearing to contest the citation, the citation becomes the  
1666 final order of the division and is not subject to further agency review.

1667 (ii) The period to contest a citation may be extended by the division for cause.

1668 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation

1669 the license of a licensee who fails to comply with a citation after it becomes final.

1670 (f) The failure of an applicant for licensure to comply with a citation after it becomes  
1671 final is a ground for denial of license.

1672 (g) No citation may be issued under this section after the expiration of ~~[six months~~  
1673 ~~following the occurrence of a violation]~~ one year following the date on which the violation that  
1674 is the subject of the citation is reported to the division.

1675 (h) Fines shall be assessed by the director or the director's designee according to the  
1676 following:

1677 (i) for a first offense under Subsection (4)(a), a fine of up to \$1,000;

1678 (ii) for a second offense under Subsection (4)(a), a fine of up to \$2,000; and

1679 (iii) for any subsequent offense under Subsection (4)(a), a fine of up to \$2,000 for each  
1680 day of continued offense.

1681 (i) (i) For purposes of issuing a final order under this section and assessing a fine under  
1682 Subsection (4)(h), an offense constitutes a second or subsequent offense if:

1683 (A) the division previously issued a final order determining that a person committed a  
1684 first or second offense in violation of Subsection 58-11a-502(1), ~~[(2), (4), (5), (6), or (7)]~~ (3),  
1685 (4), (5), or (6); or

1686 (B) (I) the division initiated an action for a first or second offense;

1687 (II) no final order has been issued by the division in the action initiated under  
1688 Subsection (4)(i)(i)(B)(I);

1689 (III) the division determines during an investigation that occurred after the initiation of  
1690 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent  
1691 violation of Subsection 58-11a-502(1), ~~[(2), (4), (5), (6), or (7)]~~ (3), (4), (5), or (6); and

1692 (IV) after determining that the person committed a second or subsequent offense under  
1693 Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under  
1694 Subsection (4)(i)(i)(B)(I).

1695 (ii) In issuing a final order for a second or subsequent offense under Subsection  
1696 (4)(i)(i), the division shall comply with the requirements of this section.

1697 (5) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited  
1698 into the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician  
1699 Education and Enforcement Fund.

- 1700 (b) A penalty which is not paid may be collected by the director by either:
- 1701 (i) referring the matter to a collection agency; or
- 1702 (ii) bringing an action in the district court of the county in which the person against
- 1703 whom the penalty is imposed resides or in the county where the office of the director is located.
- 1704 (c) A county attorney or the attorney general of the state shall provide legal assistance
- 1705 and advice to the director in an action to collect a penalty.
- 1706 (d) A court shall award reasonable attorney fees and costs to the prevailing party in an
- 1707 action brought by the division to collect a penalty.

1708 Section 21. Section **58-15-11** is amended to read:

1709 **58-15-11. Exemptions to chapter.**

1710 (1) In addition to the exemptions described in Section [58-1-307](#), this chapter does not

1711 apply to [~~facilities of any~~]:

1712 (a) a facility of a recognized church or denomination that cares for the sick and

1713 suffering by mental or spiritual means if no drug or material remedy is used in the care

1714 provided[~~;~~]; or

1715 (b) the superintendent of the Utah State Developmental Center described in Section

1716 [62A-5-201](#).

1717 (2) Any [~~facilities~~] facility or person exempted under this section shall comply with

1718 each statute and rule on sanitation and life safety.

1719 Section 22. Section **58-16a-102** is amended to read:

1720 **58-16a-102. Definitions.**

1721 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

1722 (1) "Board" means the Optometrist Licensing Board created in Section [58-16a-201](#).

1723 (2) "Contact lens" means any lens that:

1724 (a) has a spherical, cylindrical, or prismatic power or curvature;

1725 (b) is made pursuant to a current prescription; and

1726 (c) is intended to be worn on the surface of the eye.

1727 (3) (a) "Contact lens prescription" means a written or verbal order for contact lenses

1728 that includes:

1729 (i) the commencement date of the prescription;

1730 (ii) the base curve, power, diameter, material or brand name, and expiration date;



- 1731 (iii) for a written order, the signature of the prescribing optometrist or physician; and  
1732 (iv) for a verbal order, a record maintained by the recipient of:  
1733 (A) the name of the prescribing optometrist or physician; and  
1734 (B) the date when the prescription was issued or ordered.  
1735 (b) A prescription may include:  
1736 (i) a limit on the quantity of lenses that may be ordered under the prescription if  
1737 required for medical reasons documented in the patient's files; and  
1738 (ii) the expiration date of the prescription, which shall be two years from the  
1739 commencement date, unless documented medical reasons require otherwise.  
1740 (c) When a provider prescribes a private label contact lens for a patient the prescription  
1741 shall include:  
1742 (i) the name of the manufacturer;  
1743 (ii) the trade name of the private label brand; and  
1744 (iii) if applicable, the trade name of the equivalent national brand.  
1745 (4) "Contact lens prescription verification" means a written request from a person who  
1746 sells or provides contact lenses that:  
1747 (a) is sent to the prescribing optometrist or physician; and  
1748 (b) seeks the confirmation of the accuracy of a patient's prescription.  
1749 (5) "Eye and its adnexa" means the human eye and all structures situated within the  
1750 orbit, including the conjunctiva, lids, lashes, and lacrimal system.  
1751 (6) "Fitting of a contact lens" means:  
1752 (a) the using of a keratometer to measure the human eye;  
1753 (b) utilizing refractive data provided by a licensed optometrist or ophthalmologist; and  
1754 (c) trial fitting of contact lenses, which includes a period of time for evaluation for fit  
1755 and performance, to determine a tentative contact lens prescription for a patient if the patient:  
1756 (i) has not worn contact lenses before; or  
1757 (ii) has changed to a different type or base curve.  
1758 (7) "Laser surgery" means surgery in which human tissue is cut, burned, or vaporized  
1759 by means of laser or ionizing radiation.  
1760 (8) "Ophthalmic lens" means any lens used to treat the eye and that:  
1761 (a) has a spherical, cylindrical, or prismatic power;

- 1762 (b) is made pursuant to an unexpired prescription; and  
1763 (c) is intended to be used in eyeglasses or spectacles.  
1764 (9) "Optometric assistant" means an unlicensed individual:  
1765 (a) working under the direct and immediate supervision of a licensed optometrist; and  
1766 (b) engaged in specific tasks assigned by the licensed optometrist in accordance with  
1767 the standards and ethics of the profession.  
1768 (10) "Optometrist" or "optometric physician" means an individual licensed under this  
1769 chapter.  
1770 (11) "Optometry" and "practice of optometry" mean any one or any combination of the  
1771 following practices:  
1772 (a) examination of the human eye and its adnexa to detect and diagnose defects or  
1773 abnormal conditions;  
1774 (b) determination or modification of the accommodative or refractive state of the  
1775 human eye or its range or power of vision by administration and prescription of pharmaceutical  
1776 agents or the use of diagnostic instruments;  
1777 (c) prescription, ordering, administration, or adaptation of ophthalmic lenses, contact  
1778 lenses, ophthalmic devices, pharmaceutical agents, laboratory tests, or ocular exercises to  
1779 diagnose and treat diseases, defects, or other abnormal conditions of the human eye and its  
1780 adnexa;  
1781 (d) display of any advertisement, circular, sign, or device offering to:  
1782 (i) examine the eyes;  
1783 (ii) fit glasses or contact lenses; or  
1784 (iii) adjust frames;  
1785 (e) removal of a foreign body from the eye or its adnexa, that is not deeper than the  
1786 anterior 1/2 of the cornea; and  
1787 (f) consultation regarding the eye and its adnexa with other appropriate health care  
1788 providers, including referral to other appropriate health care providers[; and].  
1789 [~~(g) a person, not licensed as an optometrist, directing a licensee under this chapter to~~  
1790 ~~withhold or alter the eye care services the licensee has ordered.~~]  
1791 (12) "Pharmaceutical agent" means any diagnostic or therapeutic drug or combination  
1792 of drugs that has the property of assisting in the diagnosis, prevention, treatment, or mitigation

1793 of abnormal conditions or symptoms of the eye and its adnexa.

1794 (13) "Physician" has the same meaning as defined in Sections 58-67-102 and  
1795 58-68-102.

1796 (14) "Prescription drug" has the same definition as in Section 58-17b-102.

1797 (15) "Unexpired" means a prescription that was issued:

1798 (a) for ophthalmic lenses which does not expire unless the optometrist or physician  
1799 includes an expiration date on the prescription based on medical reasons that are documented  
1800 in the patient's file; and

1801 (b) in accordance with Subsection (3) for a contact lens.

1802 Section 23. Section 58-16a-302 is amended to read:

1803 **58-16a-302. Qualifications for licensure.**

1804 (1) An applicant for licensure as an optometrist shall:

1805 (a) submit an application in a form prescribed by the division;

1806 (b) pay a fee as determined by the division under Section 63J-1-504;

1807 [~~e~~] be of good moral character;

1808 [~~d~~] (c) (i) be a doctoral graduate of a recognized school of optometry accredited by  
1809 the American Optometric Association's Accreditation Council on Optometric Education; or

1810 (ii) be a graduate of a school of optometry located outside the United States that meets  
1811 the criteria that would qualify the school for accreditation under Subsection [~~(1)(d)(i)~~] (1)(c)(i),  
1812 as demonstrated by the applicant for licensure;

1813 [~~e~~] (d) if the applicant graduated from a recognized school of optometry prior to July  
1814 1, 1996, have successfully completed a course of study satisfactory to the division, in  
1815 consultation with the board, in general and ocular pharmacology and emergency medical care;

1816 [~~f~~] (e) have passed examinations approved by the division in consultation with the  
1817 board that include:

1818 (i) a standardized national optometry examination;

1819 (ii) a standardized clinical examination; and

1820 (iii) a standardized national therapeutics examination; and

1821 [~~g~~] (f) meet with the board and representatives of the division, if requested by either  
1822 party, for the purpose of evaluating the applicant's qualifications for licensure.

1823 (2) Notwithstanding Subsection (1) and Section 58-1-302, the division shall issue a

1824 license under this chapter by endorsement to an individual who:

1825 (a) submits an application for licensure by endorsement on a form approved by the  
1826 division;

1827 (b) pays a fee established by the division in accordance with Section 63J-1-504;

1828 [~~(c) provides satisfactory evidence to the division that the individual is of good moral~~  
1829 ~~character;~~]

1830 [~~(d)~~] (c) verifies that the individual is licensed as an optometrist in good standing in  
1831 each state of the United States, or province of Canada, in which the individual is currently  
1832 licensed as an optometrist; and

1833 [~~(e)~~] (d) has been actively engaged in the legal practice of optometry for at least 3,200  
1834 hours during the immediately preceding two years in a manner consistent with the legal  
1835 practice of optometry in this state.

1836 Section 24. Section 58-16a-501 is amended to read:

1837 **58-16a-501. Unlawful conduct.**

1838 "Unlawful conduct" includes, in addition to the definition in Section 58-1-501:

1839 (1) buying, selling, or fraudulently obtaining, any optometry diploma, license,  
1840 certificate, or registration;

1841 [~~(2) aiding or abetting the buying, selling, or fraudulently obtaining, of any optometry~~  
1842 ~~diploma, license, certificate, or registration;~~]

1843 [~~(3)~~] (2) selling or providing contact lenses or ophthalmic lenses in a manner  
1844 inconsistent with Section 58-16a-801 or intentionally altering a prescription unless the person  
1845 selling or providing the lenses is a licensed optometrist or ophthalmologist; or

1846 [~~(4)~~] (3) representing oneself as or using the title of "optometrist," "optometric  
1847 physician," "doctor of optometry," or "O.D.," unless currently licensed under this chapter.

1848 Section 25. Section 58-16a-503 is amended to read:

1849 **58-16a-503. Penalty for unlawful conduct.**

1850 (1) Except as provided in Subsection (2), any person who violates the unlawful  
1851 conduct provision defined in Section 58-16a-501 or Subsection 58-1-501(1)(a) or (1)(c) is  
1852 guilty of a third degree felony.

1853 (2) A person who violates Subsection 58-16a-501 [~~(3)~~](2) is guilty of a class C  
1854 misdemeanor.

1855 Section 26. Section **58-17b-303** is amended to read:

1856 **58-17b-303. Qualifications for licensure as a pharmacist.**

1857 (1) An applicant for licensure as a pharmacist shall:

1858 (a) submit an application in a form prescribed by the division;

1859 (b) pay a fee as determined by the department under Section [63J-1-504](#);

1860 ~~[(c) produce satisfactory evidence of good moral character as it relates to the~~  
1861 ~~applicant's ability to practice pharmacy;]~~

1862 ~~[(d)]~~ (c) complete a criminal background check and be free from criminal convictions  
1863 as described in Section [58-1-501](#);

1864 ~~[(e)]~~ (d) have no physical or mental condition of a nature which prevents the applicant  
1865 from engaging in the practice of pharmacy with reasonable skill, competency, and safety to the  
1866 public;

1867 ~~[(f)]~~ (e) have graduated and received a professional entry degree from a school or  
1868 college of pharmacy which is accredited by the Accreditation Council on Pharmacy Education;

1869 ~~[(g)]~~ (f) have completed an internship meeting standards established by division rule  
1870 made in collaboration with the board; and

1871 ~~[(h)]~~ (g) have successfully passed examinations required by division rule made in  
1872 collaboration with the board.

1873 (2) An applicant for licensure as a pharmacist whose pharmacy education was  
1874 completed at a foreign pharmacy school shall, in addition to the requirements under  
1875 Subsections (1)(a) through ~~[(c), (g), and (h)]~~ (d), (f), and (g), obtain a certification of  
1876 equivalency from a credentialing agency required by division rule made in collaboration with  
1877 the board.

1878 (3) An applicant for a license by endorsement as a pharmacist under this section shall:

1879 (a) submit a written application in the form prescribed by the division;

1880 (b) pay the fee determined by the department under Section [63J-1-504](#);

1881 ~~[(c) be of good moral character as required of applicants for licensure as pharmacists~~  
1882 ~~under Subsection (1);]~~

1883 ~~[(d)]~~ (c) complete a criminal background check and be free from criminal convictions  
1884 as described in Section [58-1-501](#);

1885 ~~[(e)]~~ (d) have no physical or mental condition of a nature which prevents the applicant

1886 from engaging in the practice of pharmacy with reasonable skill, competency, and safety to the  
1887 public;

1888 ~~[(f)]~~ (e) have lawfully practiced as a licensed pharmacist a minimum of 2,000 hours in  
1889 the four years immediately preceding the date of application;

1890 ~~[(g)]~~ (f) produce satisfactory evidence of completing the professional education  
1891 required under Subsection (1);

1892 ~~[(h)]~~ (g) be currently licensed in good standing as a pharmacist in another state,  
1893 territory, or possession of the United States;

1894 ~~[(i)]~~ (h) produce satisfactory evidence that the examination requirements are or were at  
1895 the time the license was issued, equal to those of this state; and

1896 ~~[(j)]~~ (i) pass the jurisprudence examination prescribed by division rule made in  
1897 collaboration with the board.

1898 Section 27. Section **58-17b-304** is amended to read:

1899 **58-17b-304. Qualifications for licensure of pharmacy intern.**

1900 An applicant for licensure as a pharmacy intern shall:

1901 (1) submit an application in a form prescribed by the division;

1902 (2) pay a fee determined by the department under Section [63J-1-504](#);

1903 ~~[(3) produce satisfactory evidence of good moral character as it relates to the  
1904 applicant's ability to practice pharmacy;]~~

1905 ~~[(4)]~~ (3) complete a criminal background check and be free from criminal convictions  
1906 as described in Section [58-1-501](#);

1907 ~~[(5)]~~ (4) have no physical or mental condition of a nature which prevents the applicant  
1908 from engaging in the practice of pharmacy with reasonable skill, competency, and safety to the  
1909 public;

1910 ~~[(6)]~~ (5) meet the preliminary educational qualifications required by division rule made  
1911 in collaboration with the board; and

1912 ~~[(7)]~~ (6) meet one of the following educational criteria:

1913 (a) be a current pharmacy student, a resident, or fellow in a program approved by  
1914 division rule made in collaboration with the board; or

1915 (b) have graduated from a foreign pharmacy school and received certification of  
1916 equivalency from a credentialing agency approved by division rule made in collaboration with

1917 the board.

1918 Section 28. Section **58-17b-305** is amended to read:

1919 **58-17b-305. Qualifications for licensure of pharmacy technician.**

1920 (1) An applicant for licensure as a pharmacy technician shall:

1921 (a) submit an application in a form prescribed by the division;

1922 (b) pay a fee determined by the department under Section [63J-1-504](#);

1923 ~~[(c) produce satisfactory evidence of good moral character as it relates to the~~  
1924 ~~applicant's ability to practice pharmacy;]~~

1925 ~~[(d)]~~ (c) complete a criminal background check and be free from criminal convictions  
1926 as described in Section [58-1-501](#);

1927 ~~[(e)]~~ (d) have no physical or mental condition of a nature which prevents the applicant  
1928 from engaging in practice as a pharmacy technician with reasonable skill, competency, and  
1929 safety to the public;

1930 ~~[(f)]~~ (e) have completed a program and curriculum of education and training, meeting  
1931 standards established by division rule made in collaboration with the board; and

1932 ~~[(g)]~~ (f) successfully complete the examinations requirement within the time periods  
1933 established by division rule made in collaboration with the board.

1934 (2) A pharmacist whose license has been denied, revoked, suspended, or restricted for  
1935 disciplinary purposes is not eligible to be a licensed pharmacy technician while on probation  
1936 with the division.

1937 Section 29. Section **58-17b-305.1** is amended to read:

1938 **58-17b-305.1. Qualifications for licensure of pharmacy technician trainee.**

1939 (1) An applicant for licensure as a pharmacy technician trainee shall:

1940 (a) submit an application to the division on a form created by the division;

1941 (b) pay a fee established by the division in accordance with Section [63J-1-504](#);

1942 ~~[(c) submit satisfactory evidence, as determined by the division, of good moral~~  
1943 ~~character as it relates to the applicant's ability to practice pharmacy;]~~

1944 ~~[(d)]~~ (c) unless exempted by the division, submit a completed criminal background  
1945 check;

1946 ~~[(e)]~~ (d) demonstrate, as determined by the division, that the applicant does not have a  
1947 physical or mental condition that would prevent the applicant from engaging in practice as a

1948 pharmacy technician with reasonable skill, competency, and safety to the public; and  
1949        [(f)] (e) submit evidence that the applicant is enrolled in a training program approved  
1950 by the division.

1951        (2) A pharmacist whose license has been denied, revoked, suspended, or restricted for  
1952 disciplinary purposes is not eligible to be licensed as a pharmacy technician trainee during  
1953 division probation.

1954        Section 30. Section **58-17b-308** is amended to read:

1955        **58-17b-308. Term of license -- Expiration -- Renewal.**

1956        (1) Except as provided in Subsection (2), each license issued under this chapter shall be  
1957 issued in accordance with a two-year renewal cycle established by rule. A renewal period may  
1958 be extended or shortened by as much as one year to maintain established renewal cycles or to  
1959 change an established renewal cycle. Each license automatically expires on the expiration date  
1960 shown on the license unless renewed by the licensee in accordance with Section [58-1-308](#).

1961        (2) The duration of a pharmacy intern license may be no longer than:

1962        (a) one year for a license issued under Subsection [~~58-17b-304(7)(b)~~]

1963 [58-17b-304\(6\)\(b\)](#); or

1964        (b) five years for a license issued under Subsection [~~58-17b-304(7)(a)~~]

1965 [58-17b-304\(6\)\(b\)](#).

1966        (3) A pharmacy intern license issued under this chapter may not be renewed, but may  
1967 be extended by the division in collaboration with the board.

1968        (4) As a prerequisite for renewal of a class D pharmacy license of a pharmacy that  
1969 engages in compounding, a licensee shall submit the most recent inspection report:

1970        (a) conducted within two years before the application for renewal; and

1971        (b) (i) conducted as part of the National Association of Boards of Pharmacy Verified  
1972 Pharmacy Program; or

1973        (ii) performed by the state licensing agency of the state in which the applicant is a  
1974 resident and in accordance with the National Association of Boards of Pharmacy multistate  
1975 inspection blueprint program.

1976        Section 31. Section **58-17b-504** is amended to read:

1977        **58-17b-504. Penalty for unlawful or unprofessional conduct -- Fines -- Citations.**

1978        (1) Any person who violates any of the unlawful conduct provisions of Subsection



1979 58-1-501(1)(a)(i) and Subsections 58-17b-501(7) and (11) is guilty of a third degree felony.

1980 (2) Any person who violates any of the unlawful conduct provisions of Subsection  
1981 58-1-501(1)(a)(ii), Subsections 58-1-501(1)(b) through (e), and Section 58-17b-501, except  
1982 Subsections 58-17b-501(7) and (11), is guilty of a class A misdemeanor.

1983 (3) (a) Subject to Subsection (5) and in accordance with Section 58-17b-401, for acts  
1984 of unprofessional or unlawful conduct, the division may:

1985 (i) assess administrative penalties; and

1986 (ii) take any other appropriate administrative action.

1987 (b) An administrative penalty imposed pursuant to this section shall be deposited in the  
1988 General Fund as a dedicated credit to be used by the division for pharmacy licensee education  
1989 and enforcement as provided in Section 58-17b-505.

1990 (4) If a licensee has been convicted of violating Section 58-17b-501 prior to an  
1991 administrative finding of a violation of the same section, the licensee may not be assessed an  
1992 administrative fine under this chapter for the same offense for which the conviction was  
1993 obtained.

1994 (5) (a) If upon inspection or investigation, the division concludes that a person has  
1995 violated the provisions of Section 58-17b-501 or 58-17b-502, Chapter 37, Utah Controlled  
1996 Substances Act, Chapter 37f, Controlled Substance Database Act, Chapter 1, Division of  
1997 Occupational and Professional Licensing Act, or any rule or order issued with respect to these  
1998 provisions, and that disciplinary action is appropriate, the director or the director's designee  
1999 from within the division shall promptly issue a citation to the person according to this chapter  
2000 and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to  
2001 appear before an adjudicative proceeding conducted under Title 63G, Chapter 4,  
2002 Administrative Procedures Act.

2003 (b) Any person who is in violation of the provisions of Section 58-17b-501 or  
2004 58-17b-502, Chapter 37, Utah Controlled Substances Act, Chapter 37f, Controlled Substance  
2005 Database Act, Chapter 1, Division of Occupational and Professional Licensing Act, or any rule  
2006 or order issued with respect to these provisions, as evidenced by an uncontested citation, a  
2007 stipulated settlement, or a finding of violation in an adjudicative proceeding, may be assessed a  
2008 fine pursuant to this Subsection (5) of up to \$10,000 per single violation or up to \$2,000 per  
2009 day of ongoing violation, whichever is greater, in accordance with a fine schedule established

2010 by rule, and may, in addition to or in lieu of, be ordered to cease and desist from violating the  
2011 provisions of Section 58-17b-501 or 58-17b-502, Chapter 37, Utah Controlled Substances Act,  
2012 Chapter 1, Division of Occupational and Professional Licensing Act, or any rule or order issued  
2013 with respect to these provisions.

2014 (c) Except for an administrative fine and a cease and desist order, the licensure  
2015 sanctions cited in Section 58-17b-401 may not be assessed through a citation.

2016 (d) Each citation shall be in writing and specifically describe with particularity the  
2017 nature of the violation, including a reference to the provision of the chapter, rule, or order  
2018 alleged to have been violated. The citation shall clearly state that the recipient must notify the  
2019 division in writing within 20 calendar days of service of the citation in order to contest the  
2020 citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.  
2021 The citation shall clearly explain the consequences of failure to timely contest the citation or to  
2022 make payment of any fines assessed by the citation within the time specified in the citation.

2023 (e) Each citation issued under this section, or a copy of each citation, may be served  
2024 upon any person upon whom a summons may be served:

2025 (i) in accordance with the Utah Rules of Civil Procedure;

2026 (ii) personally or upon the person's agent by a division investigator or by any person  
2027 specially designated by the director; or

2028 (iii) by mail.

2029 (f) If within 20 calendar days from the service of a citation, the person to whom the  
2030 citation was issued fails to request a hearing to contest the citation, the citation becomes the  
2031 final order of the division and is not subject to further agency review. The period to contest the  
2032 citation may be extended by the division for cause.

2033 (g) The division may refuse to issue or renew, suspend, revoke, or place on probation  
2034 the license of a licensee who fails to comply with the citation after it becomes final.

2035 (h) The failure of an applicant for licensure to comply with a citation after it becomes  
2036 final is a ground for denial of license.

2037 (i) No citation may be issued under this section after the expiration of ~~six months~~  
2038 ~~following the occurrence of any violation]~~ one year following the date on which the violation  
2039 that is the subject of the citation is reported to the division.

2040 (6) (a) The director may collect a penalty that is not paid by:

2041 (i) referring the matter to a collection agency; or  
2042 (ii) bringing an action in the district court of the county where the person against whom  
2043 the penalty is imposed resides or in the county where the office of the director is located.

2044 (b) A county attorney or the attorney general of the state shall provide legal assistance  
2045 and advice to the director in an action to collect a penalty.

2046 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an  
2047 action brought by the division to collect a penalty.

2048 Section 32. Section **58-17b-614** is amended to read:

2049 **58-17b-614. Notification.**

2050 (1) A pharmacy shall report in writing to the division not later than 10 business days:

2051 (a) before the date of:

2052 ~~[(a)]~~ (i) a permanent closure of the pharmacy facility;

2053 ~~[(b)]~~ (ii) a change of name or ownership of the pharmacy facility;

2054 ~~[(c)]~~ (iii) a change of location of the pharmacy facility;

2055 ~~[(d)]~~ (iv) a sale or transfer of any controlled substance as a result of the permanent  
2056 closing or change of ownership of the pharmacy facility; or

2057 ~~[(e)]~~ (v) any matter or occurrence that the ~~[board]~~ division requires by rule to be  
2058 reported; or

2059 (b) after the day on which:

2060 ~~[(f)]~~ (i) a final administrative disciplinary order is issued against the pharmacy license  
2061 holder by the regulatory or licensing agency of the state in which the pharmacy is located if the  
2062 pharmacy is a class D pharmacy; ~~[(g)]~~

2063 ~~[(g)]~~ (ii) a final order against a pharmacist is issued who is designated as the  
2064 pharmacist-in-charge of the pharmacy by the regulatory or licensing agency of the state in  
2065 which the pharmacy is located if the pharmacy is a class D pharmacy~~[-];~~ or

2066 (iii) any matter or occurrence that the division requires by rule to be reported.

2067 (2) A pharmacy shall report in writing to the division a disaster, accident, or emergency  
2068 that may affect the purity or labeling of a drug, medication, device, or other material used in the  
2069 diagnosis or treatment of injury, illness, or disease immediately upon the occurrence of the  
2070 disaster, accident, or emergency as defined by rule.

2071 (3) A reporting pharmacy shall maintain a copy of any notification required by this

2072 section for two years and make a copy available for inspection.

2073 Section 33. Section **58-20b-302** is amended to read:

2074 **58-20b-302. Qualifications for licensure.**

2075 (1) Except as provided in Subsection (2), an applicant for licensure as an  
2076 environmental health scientist shall:

2077 (a) submit an application in a form prescribed by the division;

2078 (b) pay a fee determined by the department under Section [63J-1-504](#);

2079 [~~(c)~~ be of good moral character;]

2080 [~~(d)~~ (c) hold, at a minimum, a bachelor's degree from an accredited program in a  
2081 university or college, which degree includes completion of specific course work as defined by  
2082 rule;

2083 [~~(e)~~ (d) pass an examination as determined by division rule in collaboration with the  
2084 board; and

2085 [~~(f)~~ (e) pass the Utah Law and Rules Examination for Environmental Health Scientists  
2086 administered by the division.

2087 (2) An applicant for licensure as an environmental health scientist-in-training shall:

2088 (a) submit an application in a form prescribed by the division;

2089 (b) pay a fee determined by the department under Section [63J-1-504](#);

2090 [~~(c)~~ be of good moral character;]

2091 [~~(d)~~ (c) hold, at a minimum, a bachelor's degree from an accredited program in a  
2092 university or college, which degree includes completion of specific course work as defined by  
2093 rule;

2094 [~~(e)~~ (d) pass the Utah Law and Rules Examination for Environmental Health  
2095 Scientists administered by the division; and

2096 [~~(f)~~ (e) present evidence acceptable to the division and the board that the applicant,  
2097 when licensed, will practice as an environmental health scientist-in-training only under the  
2098 general supervision of a supervising environmental health scientist licensed under this chapter.

2099 Section 34. Section **58-22-102** is amended to read:

2100 **58-22-102. Definitions.**

2101 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

2102 (1) "Board" means the Professional Engineers and Professional Land Surveyors

2103 Licensing Board created in Section [58-22-201](#).

2104 (2) "Building" means a structure which has human occupancy or habitation as its  
2105 principal purpose, and includes the structural, mechanical, and electrical systems, utility  
2106 services, and other facilities required for the building, and is otherwise governed by the State  
2107 Construction Code or an approved code under Title 15A, State Construction and Fire Codes  
2108 Act.

2109 (3) "Complete construction plans" means a final set of plans, specifications, and reports  
2110 for a building or structure that normally includes:

- 2111 (a) floor plans;
- 2112 (b) elevations;
- 2113 (c) site plans;
- 2114 (d) foundation, structural, and framing detail;
- 2115 (e) electrical, mechanical, and plumbing design;
- 2116 (f) information required by the energy code;
- 2117 (g) specifications and related calculations as appropriate; and
- 2118 (h) all other documents required to obtain a building permit.

2119 (4) "EAC/ABET" means the Engineering Accreditation Commission/Accreditation  
2120 Board for Engineering and Technology.

2121 (5) "Fund" means the Professional Engineer, Professional Structural Engineer, and  
2122 Professional Land Surveyor Education and Enforcement Fund created in Section [58-22-103](#).

2123 (6) "NCEES" means the National Council of Examiners for Engineering and  
2124 Surveying.

2125 (7) "Principal" means a licensed professional engineer, professional structural engineer,  
2126 or professional land surveyor having responsible charge of an organization's professional  
2127 engineering, professional structural engineering, or professional land surveying practice.

2128 (8) "Professional engineer" means a person licensed under this chapter as a  
2129 professional engineer.

2130 (9) (a) "Professional engineering," "the practice of engineering," or "the practice of  
2131 professional engineering" means a service or creative work, the adequate performance of which  
2132 requires engineering education, training, and experience in the application of special  
2133 knowledge of the mathematical, physical, and engineering sciences to the service or creative

2134 work as consultation, investigation, evaluation, planning, design, and design coordination of  
2135 engineering works and systems, planning the use of land and water, facility programming,  
2136 performing engineering surveys and studies, and the review of construction for the purpose of  
2137 monitoring compliance with drawings and specifications; any of which embraces these services  
2138 or work, either public or private, in connection with any utilities, structures, buildings,  
2139 machines, equipment, processes, work systems, projects, and industrial or consumer products  
2140 or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, and  
2141 including other professional services as may be necessary to the planning, progress, and  
2142 completion of any engineering services.

2143 (b) "The practice of professional engineering" does not include the practice of  
2144 architecture as defined in Section 58-3a-102, but a licensed professional engineer may perform  
2145 architecture work as is incidental to the practice of engineering.

2146 (10) "Professional engineering intern" means a person who:

2147 (a) has completed the education requirements to become a professional engineer;

2148 (b) has passed the fundamentals of engineering examination; and

2149 (c) is engaged in obtaining the four years of qualifying experience for licensure under  
2150 the direct supervision of a licensed professional engineer.

2151 (11) "Professional land surveying" or "the practice of land surveying" means a service  
2152 or work, the adequate performance of which requires the application of special knowledge of  
2153 the principles of mathematics, the related physical and applied sciences, and the relevant  
2154 requirements of law for adequate evidence to the act of measuring and locating lines, angles,  
2155 elevations, natural and man-made features in the air, on the surface of the earth, within  
2156 underground workings, and on the beds of bodies of water for the purpose of determining areas  
2157 and volumes, for the monumenting or locating of property boundaries or points controlling  
2158 boundaries, and for the platting and layout of lands and subdivisions of lands, including the  
2159 topography, alignment and grades of streets, and for the preparation and perpetuation of maps,  
2160 record plats, field notes records, and property descriptions that represent these surveys and  
2161 other duties as sound surveying practices could direct.

2162 (12) "Professional land surveyor" means an individual licensed under this chapter as a  
2163 professional land surveyor.

2164 (13) "Professional structural engineer" means a person licensed under this chapter as a

2165 professional structural engineer.

2166 (14) (a) "Professional structural engineering" or "the practice of structural engineering"  
2167 means a service or creative work providing structural engineering services for significant  
2168 structures, including:

2169 (i) buildings and other structures representing a substantial hazard to human life, which  
2170 include:

2171 (A) buildings and other structures whose primary occupancy is public assembly with an  
2172 occupant load greater than 300;

2173 (B) buildings and other structures with elementary school, secondary school, or day  
2174 care facilities with an occupant load greater than 250;

2175 (C) buildings and other structures with an occupant load greater than 500 for colleges  
2176 or adult education facilities;

2177 (D) health care facilities with an occupant load of 50 or more resident patients, but not  
2178 having surgery or emergency treatment facilities;

2179 (E) jails and detention facilities with a gross area greater than 3,000 square feet; and

2180 (F) buildings and other structures with an occupant load greater than 5,000;

2181 (ii) buildings and other structures designated as essential facilities, including:

2182 (A) hospitals and other health care facilities having surgery or emergency treatment  
2183 facilities with a gross area greater than 3,000 square feet;

2184 (B) fire, rescue, and police stations and emergency vehicle garages with a mean height  
2185 greater than 24 feet or a gross area greater than 5,000 square feet;

2186 (C) designated earthquake, hurricane, or other emergency shelters with a gross area  
2187 greater than 3,000 square feet;

2188 (D) designated emergency preparedness, communication, and operation centers and  
2189 other buildings required for emergency response with a mean height more than 24 feet or a  
2190 gross area greater than 5,000 square feet;

2191 (E) power-generating stations and other public utility facilities required as emergency  
2192 backup facilities with a gross area greater than 3,000 square feet;

2193 (F) structures with a mean height more than 24 feet or a gross area greater than 5,000  
2194 square feet containing highly toxic materials as defined by the division by rule, where the  
2195 quantity of the material exceeds the maximum allowable quantities set by the division by rule;

2196 and

2197 (G) aviation control towers, air traffic control centers, and emergency aircraft hangars  
2198 at commercial service and cargo air services airports as defined by the Federal Aviation  
2199 Administration with a mean height greater than 35 feet or a gross area greater than 20,000  
2200 square feet; and

2201 (iii) buildings and other structures requiring special consideration, including:

2202 (A) structures or buildings that are normally occupied by human beings and are five  
2203 stories or more in height;

2204 (B) structures or buildings that are normally occupied by human beings and have an  
2205 average roof height more than 60 feet above the average ground level measured at the  
2206 perimeter of the structure; and

2207 (C) buildings that are over 200,000 aggregate gross square feet in area.

2208 (b) "Professional structural engineering" or "the practice of structural engineering":

2209 (i) includes the definition of professional engineering or the practice of professional  
2210 engineering as provided in Subsection (9); and

2211 (ii) may be further defined by rules made by the division in collaboration with the  
2212 board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2213 (15) "Structure" means that which is built or constructed, an edifice or building of any  
2214 kind, or a piece of work artificially built up or composed of parts joined together in a definite  
2215 manner, and as otherwise governed by the State Construction Code or an approved code under  
2216 Title 15A, State Construction and Fire Codes Act.

2217 (16) "Supervision of an employee, subordinate, associate, or drafter of a licensee"  
2218 means that a licensed professional engineer, professional structural engineer, or professional  
2219 land surveyor is responsible for and personally reviews, corrects when necessary, and approves  
2220 work performed by an employee, subordinate, associate, or drafter under the direction of the  
2221 licensee, and may be further defined by rule by the division in collaboration with the board.

2222 (17) "TAC/ABET" means the Technology Accreditation Commission/Accreditation  
2223 Board for Engineering and Technology.

2224 (18) "Unlawful conduct" means the same as that term is defined in Sections [58-1-501](#)  
2225 and [58-22-501](#).

2226 (19) "Unprofessional conduct" means the same as that term is defined in Sections



2227 58-1-501 and 58-22-502.5.

2228 Section 35. Section 58-22-104 is amended to read:

2229 **58-22-104. Surcharge fee.**

2230 (1) In addition to any other fees authorized by this chapter or by the division in  
2231 accordance with Section 63J-1-504, the division shall require each applicant for an initial  
2232 license, renewal of a license, or reinstatement of a license under this chapter to pay a \$1  
2233 surcharge fee.

2234 (2) The surcharge fee shall be deposited in the General Fund as a dedicated credit to be  
2235 used by the division to provide each licensee under this chapter with access to an electronic  
2236 reference library that provides web-based access to national, state, and local building codes and  
2237 standards.

2238 Section 36. Section 58-22-302 is amended to read:

2239 **58-22-302. Qualifications for licensure.**

2240 (1) Each applicant for licensure as a professional engineer shall:

2241 (a) submit an application in a form prescribed by the division;

2242 (b) pay a fee determined by the department under Section 63J-1-504;

2243 [~~(c) provide satisfactory evidence of good moral character;~~]

2244 [~~(d)~~] (c) (i) have graduated and received a bachelors or masters degree from an  
2245 engineering program meeting criteria established by rule by the division in collaboration with  
2246 the board; or

2247 (ii) have completed the Transportation Engineering Technology and Fundamental  
2248 Engineering College Program before July 1, 1998, under the direction of the Utah Department  
2249 of Transportation and as certified by the Utah Department of Transportation;

2250 [~~(e)~~] (d) have successfully completed a program of qualifying experience established  
2251 by rule by the division in collaboration with the board;

2252 [~~(f)~~] (e) have successfully passed examinations established by rule by the division in  
2253 collaboration with the board; and

2254 [~~(g)~~] (f) meet with the board or representative of the division upon request for the  
2255 purpose of evaluating the applicant's qualification for licensure.

2256 (2) Each applicant for licensure as a professional structural engineer shall:

2257 (a) submit an application in a form prescribed by the division;

2258 (b) pay a fee determined by the department under Section 63J-1-504;  
2259 [~~(e)~~ provide satisfactory evidence of good moral character;]  
2260 [~~(d)~~] (c) have graduated and received an earned bachelors or masters degree from an  
2261 engineering program meeting criteria established by rule by the division in collaboration with  
2262 the board;  
2263 [~~(e)~~] (d) have successfully completed three years of licensed professional engineering  
2264 experience established by rule by the division in collaboration with the board, except that prior  
2265 to January 1, 2009, an applicant for licensure may submit a signed affidavit in a form  
2266 prescribed by the division stating that the applicant is currently engaged in the practice of  
2267 structural engineering;  
2268 [~~(f)~~] (e) have successfully passed examinations established by rule by the division in  
2269 collaboration with the board, except that prior to January 1, 2009, an applicant for licensure  
2270 may submit a signed affidavit in a form prescribed by the division stating that the applicant is  
2271 currently engaged in the practice of structural engineering; and  
2272 [~~(g)~~] (f) meet with the board or representative of the division upon request for the  
2273 purpose of evaluating the applicant's qualification for licensure.  
2274 (3) Each applicant for licensure as a professional land surveyor shall:  
2275 (a) submit an application in a form prescribed by the division;  
2276 (b) pay a fee determined by the department under Section 63J-1-504;  
2277 [~~(e)~~ provide satisfactory evidence of good moral character;]  
2278 [~~(d)~~] (c) (i) have graduated and received an associates, bachelors, or masters degree  
2279 from a land surveying program, or an equivalent land surveying program, such as a program  
2280 offered by a technical college described in Section 53B-2a-105, as approved by the State Board  
2281 of Regents, established by rule by the division in collaboration with the board, and have  
2282 successfully completed a program of qualifying experience in land surveying established by  
2283 rule by the division in collaboration with the board; or  
2284 (ii) have successfully completed a program of qualifying experience in land surveying  
2285 prior to January 1, 2007, in accordance with rules established by the division in collaboration  
2286 with the board;  
2287 [~~(e)~~] (d) have successfully passed examinations established by rule by the division in  
2288 collaboration with the board; and

2289            [~~(f)~~] (e) meet with the board or representative of the division upon request for the  
2290 purpose of evaluating the applicant's qualification for licensure.

2291            (4) Each applicant for licensure by endorsement shall:

2292            (a) submit an application in a form prescribed by the division;

2293            (b) pay a fee determined by the department under Section 63J-1-504;

2294            [~~(c) provide satisfactory evidence of good moral character;~~]

2295            [~~(d)~~] (c) submit satisfactory evidence of:

2296            (i) current licensure in good standing in a jurisdiction recognized by rule by the  
2297 division in collaboration with the board;

2298            (ii) having successfully passed an examination established by rule by the division in  
2299 collaboration with the board; and

2300            (iii) full-time employment as a principal for at least five of the last seven years  
2301 immediately preceding the date of the application as a:

2302            (A) licensed professional engineer for licensure as a professional engineer;

2303            (B) licensed professional structural engineer for licensure as a structural engineer; or

2304            (C) licensed professional land surveyor for licensure as a professional land surveyor;

2305 and

2306            [~~(e)~~] (d) meet with the board or representative of the division upon request for the  
2307 purpose of evaluating the applicant's qualifications for license.

2308            (5) The rules made to implement this section shall be in accordance with Title 63G,  
2309 Chapter 3, Utah Administrative Rulemaking Act.

2310            Section 37. Section **58-22-305** is amended to read:

2311            **58-22-305. Exemption from licensure.**

2312            (1) In addition to the exemptions from licensure in Section 58-1-307, the following  
2313 may engage in the following acts or practices without being licensed under this chapter:

2314            (a) a person offering to render professional engineering, professional structural  
2315 engineering, or professional land surveying services in this state when not licensed under this  
2316 chapter if the person:

2317            (i) holds a current and valid professional engineer, professional structural engineer, or  
2318 professional land surveyor license issued by a licensing authority recognized by rule by the  
2319 division in collaboration with the board;

2320 (ii) discloses in writing to the potential client the fact that the professional engineer,  
2321 professional structural engineer, or professional land surveyor:

2322 (A) is not licensed in the state;

2323 (B) may not provide professional engineering, professional structural engineering, or  
2324 professional land surveying services in the state until licensed in the state; and

2325 (C) that such condition may cause a delay in the ability of the professional engineer,  
2326 professional structural engineer, or professional land surveyor to provide licensed services in  
2327 the state;

2328 (iii) notifies the division in writing of the person's intent to offer to render professional  
2329 engineering, professional structural engineering, or professional land surveying services in the  
2330 state; and

2331 (iv) does not provide professional engineering, professional structural engineering, or  
2332 professional land surveying services, or engage in the practice of professional engineering,  
2333 professional structural engineering, or professional land surveying in this state until licensed to  
2334 do so;

2335 (b) a person preparing a plan and specification for a one or two-family residence not  
2336 exceeding two stories in height;

2337 (c) a person licensed to practice architecture under Title 58, Chapter 3a, Architects  
2338 Licensing Act, performing architecture acts or incidental engineering or structural engineering  
2339 practices that do not exceed the scope of the education and training of the person performing  
2340 engineering or structural engineering;

2341 (d) unlicensed employees, subordinates, associates, or drafters of a person licensed  
2342 under this chapter while preparing plans, maps, sketches, drawings, documents, specifications,  
2343 plats, and reports under the supervision of a professional engineer, professional structural  
2344 engineer, or professional land surveyor;

2345 (e) a person preparing a plan or specification for, or supervising the alteration of or  
2346 repair to, an existing building affecting an area not exceeding 3,000 square feet when structural  
2347 elements of a building are not changed, such as foundations, beams, columns, and structural  
2348 slabs, joists, bearing walls, and trusses;

2349 (f) an employee of a communications, utility, railroad, mining, petroleum, or  
2350 manufacturing company, or an affiliate of such a company, if the professional engineering or

2351 professional structural engineering work is performed solely in connection with the products or  
2352 systems of the company and is not offered directly to the public;

2353 (g) an organization engaged in the practice of professional engineering, structural  
2354 engineering, or professional land surveying, provided that:

2355 (i) the organization employs a principal; and

2356 (ii) all individuals employed by the organization, who are engaged in the practice of  
2357 professional engineering, structural engineering, or land surveying, are licensed or exempt from  
2358 licensure under this chapter; and

2359 (h) a person licensed as a professional engineer, a professional structural engineer, or a  
2360 professional land surveyor in a state other than Utah serving as an expert witness, provided the  
2361 expert testimony meets one of the following:

2362 (i) oral testimony as an expert witness in an administrative, civil, or criminal  
2363 proceeding; or

2364 (ii) written documentation included as part of the testimony in a proceeding, including  
2365 designs, studies, plans, specifications, or similar documentation, provided that the purpose of  
2366 the written documentation is not to establish specifications, plans, designs, processes, or  
2367 standards to be used in the future in an industrial process, system, construction, design, or  
2368 repair.

2369 (2) Nothing in this section shall be construed to restrict a [draftsman] person from  
2370 preparing plans for a client under the exemption provided in Subsection (1)(b), or taking those  
2371 plans to a professional engineer for the engineer's review, approval, and subsequent fixing of  
2372 the engineer's seal to that set of plans[~~, if the plans meet the building code standards~~].

2373 Section 38. Section **58-22-503** is amended to read:

2374 **58-22-503. Penalties and administrative actions for unlawful or unprofessional**  
2375 **conduct.**

2376 (1) (a) If upon inspection or investigation, the division concludes that a person has  
2377 violated Section [58-1-501](#), [58-22-501](#), or [58-22-502.5](#), or any rule or order issued with respect  
2378 to Section [58-22-501](#) or [58-22-502.5](#), and that disciplinary action is appropriate, the director or  
2379 the director's designee from within the division for each alternative respectively, shall promptly  
2380 issue a citation to the person according to this chapter and any pertinent rules, attempt to  
2381 negotiate a stipulated settlement, or notify the person to appear before an adjudicative

2382 proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

2383 (i) A person who violates Section 58-1-501, 58-22-501, or 58-22-502.5, or any rule or  
2384 order issued with respect to Section 58-22-501 or 58-22-502.5, as evidenced by an uncontested  
2385 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may  
2386 be assessed a fine pursuant to this Subsection (1) and may, in addition to or in lieu of, be  
2387 ordered to cease and desist from violating Section 58-1-501, 58-22-501, or 58-22-502.5, or  
2388 any rule or order issued with respect to this section.

2389 (ii) Except for a cease and desist order, the licensure sanctions cited in Section  
2390 58-22-401 may not be assessed through a citation.

2391 (b) A citation shall:

2392 (i) be in writing;

2393 (ii) describe with particularity the nature of the violation, including a reference to the  
2394 provision of the chapter, rule, or order alleged to have been violated;

2395 (iii) clearly state that the recipient must notify the division in writing within 20  
2396 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing  
2397 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

2398 (iv) clearly explain the consequences of failure to timely contest the citation or to make  
2399 payment of any fines assessed by the citation within the time specified in the citation.

2400 (c) The division may issue a notice in lieu of a citation.

2401 (d) Each citation issued under this section, or a copy of each citation, may be served  
2402 upon a person upon whom a summons may be served in accordance with the Utah Rules of  
2403 Civil Procedure and may be made personally or upon the person's agent by a division  
2404 investigator or by any person specially designated by the director or by mail.

2405 (e) If within 20 calendar days from the service of the citation, the person to whom the  
2406 citation was issued fails to request a hearing to contest the citation, the citation becomes the  
2407 final order of the division and is not subject to further agency review. The period to contest a  
2408 citation may be extended by the division for cause.

2409 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation  
2410 the license of a licensee who fails to comply with a citation after it becomes final.

2411 (g) The failure of an applicant for licensure to comply with a citation after it becomes  
2412 final is a ground for denial of license.

2413 (h) No citation may be issued under this section after the expiration of [~~six months~~  
 2414 ~~following the occurrence of any violation~~] one year following the date on which the violation  
 2415 that is the subject of the citation is reported to the division.

2416 (i) The director or the director's designee shall assess fines according to the following:

2417 (i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to \$1,000;

2418 (ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000;

2419 and

2420 (iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to

2421 \$2,000 for each day of continued offense.

2422 (2) An action initiated for a first or second offense which has not yet resulted in a final

2423 order of the division shall not preclude initiation of any subsequent action for a second or

2424 subsequent offense during the pendency of any preceding action. The final order on a

2425 subsequent action shall be considered a second or subsequent offense, respectively, provided

2426 the preceding action resulted in a first or second offense, respectively.

2427 (3) (a) The director may collect a penalty that is not paid by:

2428 (i) referring the matter to a collection agency; or

2429 (ii) bringing an action in the district court of the county where the person against whom  
 2430 the penalty is imposed resides or in the county where the office of the director is located.

2431 (b) A county attorney or the attorney general of the state shall provide legal assistance  
 2432 and advice to the director in an action to collect a penalty.

2433 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an  
 2434 action brought by the division to collect a penalty.

2435 Section 39. Section **58-24b-302** is amended to read:

2436 **58-24b-302. Licensure.**

2437 (1) An applicant for a license as a physical therapist shall:

2438 [~~(a) be of good moral character;~~]

2439 [~~(b)~~] (a) complete the application process, including payment of fees;

2440 [~~(c)~~] (b) submit proof of graduation from a professional physical therapist education  
 2441 program that is accredited by a recognized accreditation agency;

2442 [~~(d)~~] (c) pass a licensing examination:

2443 (i) after complying with Subsection [~~(1)(c)~~] (1)(b); or

2444 (ii) if the applicant is in the final term of a professional physical therapist education  
2445 program that is accredited by a recognized accreditation agency;  
2446 ~~[(e)]~~ (d) be able to read, write, speak, understand, and be understood in the English  
2447 language and demonstrate proficiency to the satisfaction of the board if requested by the board;  
2448 ~~[(f) if the applicant is applying to participate in the Physical Therapy Licensure~~  
2449 ~~Compact under Chapter 24c, Physical Therapy Licensure Compact,]~~  
2450 (e) consent to a criminal background check in accordance with Section 58-24b-302.1  
2451 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah  
2452 Administrative Rulemaking Act; and  
2453 ~~[(g)]~~ (f) meet any other requirements established by the division, by rule made in  
2454 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.  
2455 (2) An applicant for a license as a physical therapist assistant shall:  
2456 ~~[(a) be of good moral character,]~~  
2457 ~~[(b)]~~ (a) complete the application process, including payment of fees set by the  
2458 division, in accordance with Section 63J-1-504, to recover the costs of administering the  
2459 licensing requirements relating to physical therapist assistants;  
2460 ~~[(c)]~~ (b) submit proof of graduation from a physical therapist assistant education  
2461 program that is accredited by a recognized accreditation agency;  
2462 ~~[(d)]~~ (c) pass a licensing examination approved by division rule made in collaboration  
2463 with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
2464 Act:  
2465 (i) after the applicant complies with Subsection ~~[(2)(c)]~~ (2)(b); or  
2466 (ii) if the applicant is in the final term of a physical therapist assistant education  
2467 program that is accredited by a recognized accreditation agency;  
2468 ~~[(e)]~~ (d) be able to read, write, speak, understand, and be understood in the English  
2469 language and demonstrate proficiency to the satisfaction of the board if requested by the board;  
2470 ~~[(f)]~~ (e) submit to, and pass, a criminal background check, in accordance with Section  
2471 58-24b-302.1 and standards established by rule made in accordance with Title 63G, Chapter 3,  
2472 Utah Administrative Rulemaking Act; and  
2473 ~~[(g)]~~ (f) meet any other requirements established by the division, by rule made in  
2474 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.



2475 (3) An applicant for a license as a physical therapist who is educated outside of the  
2476 United States shall:

2477 [~~(a) be of good moral character;~~]

2478 [~~(b)~~] (a) complete the application process, including payment of fees;

2479 [~~(c)~~] (b) (i) provide satisfactory evidence that the applicant graduated from a  
2480 professional physical therapist education program that is accredited by a recognized  
2481 accreditation agency; or

2482 (ii) (A) provide satisfactory evidence that the applicant graduated from a physical  
2483 therapist education program that prepares the applicant to engage in the practice of physical  
2484 therapy, without restriction;

2485 (B) provide satisfactory evidence that the education program described in Subsection  
2486 [~~(3)(c)(ii)(A)~~] (3)(b)(ii)(A) is recognized by the government entity responsible for recognizing  
2487 a physical therapist education program in the country where the program is located; and

2488 (C) pass a credential evaluation to ensure that the applicant has satisfied uniform  
2489 educational requirements;

2490 [~~(d)~~] (c) after complying with Subsection [~~(3)(c)~~] (3)(b), pass a licensing examination;

2491 [~~(e)~~] (d) be able to read, write, speak, understand, and be understood in the English  
2492 language and demonstrate proficiency to the satisfaction of the board if requested by the board;

2493 [~~(f) if the applicant is applying to participate in the Physical Therapy Licensure  
2494 Compact under Chapter 24c, Physical Therapy Licensure Compact;~~]

2495 (e) consent to a criminal background check in accordance with Section [58-24b-302.1](#)  
2496 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah  
2497 Administrative Rulemaking Act; and

2498 [~~(g)~~] (f) meet any other requirements established by the division, by rule made in  
2499 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2500 (4) The division shall issue a license to a person who holds a current unrestricted  
2501 license to practice physical therapy in a state, district, or territory of the United States of  
2502 America, other than Utah, if the person:

2503 [~~(a) is of good moral character;~~]

2504 [~~(b)~~] (a) completes the application process, including payment of fees;

2505 [~~(c)~~] (b) is able to read, write, speak, understand, and be understood in the English

2506 language and demonstrate proficiency to the satisfaction of the board if requested by the board;

2507 [~~(d)~~ if the applicant is applying to participate in the Physical Therapy Licensure

2508 Compact under Chapter 24c, Physical Therapy Licensure Compact,]

2509 (c) consents to a criminal background check in accordance with Section 58-24b-302.1

2510 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah

2511 Administrative Rulemaking Act; and

2512 [~~(e)~~] (d) meets any other requirements established by the division, by rule made in

2513 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2514 (5) (a) Notwithstanding Subsection 58-1-307(1)(c), an individual may not engage in an  
2515 internship in physical therapy, unless the person is:

2516 (i) certified by the division; or

2517 (ii) exempt from licensure under Section 58-24b-304.

2518 (b) The provisions of Subsection (5)(a) apply, regardless of whether the individual is  
2519 participating in the supervised clinical training program for the purpose of becoming a physical  
2520 therapist or a physical therapist assistant.

2521 Section 40. Section 58-26a-302 is amended to read:

2522 **58-26a-302. Qualifications for licensure and registration -- Licensure by**  
2523 **endorsement.**

2524 (1) Each applicant for licensure under this chapter as a certified public accountant  
2525 shall:

2526 (a) submit an application in a form prescribed by the division;

2527 (b) pay a fee determined by the department under Section 63J-1-504;

2528 [~~(c)~~ show evidence of good moral character;]

2529 [~~(d)~~] (c) submit a certified transcript of credits from an accredited institution acceptable  
2530 to the board showing:

2531 (i) successful completion of a total of 150 semester hours or 225 quarter hours of  
2532 collegiate level education with a concentration in accounting, auditing, and business;

2533 (ii) a baccalaureate degree or its equivalent at a college or university approved by the  
2534 board; and

2535 (iii) compliance with any other education requirements established by rule by the  
2536 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah

2537 Administrative Rulemaking Act;

2538 ~~[(e)]~~ (d) submit evidence of one year of accounting experience in a form prescribed by  
2539 the division;

2540 ~~[(f)]~~ (e) submit evidence of having successfully completed the qualifying examinations  
2541 in accordance with Section 58-26a-306; and

2542 ~~[(g)]~~ (f) submit to an interview by the board, if requested, for the purpose of examining  
2543 the applicant's competence and qualifications for licensure.

2544 (2) (a) The division may issue a license under this chapter to a person who holds a  
2545 license as a certified public accountant issued by any other state of the United States of  
2546 America if the applicant for licensure by endorsement:

2547 (i) submits an application in a form prescribed by the division;

2548 (ii) pays a fee determined by the department under Section 63J-1-504;

2549 ~~[(iii) shows evidence of good moral character;]~~

2550 ~~[(iv)]~~ (iii) submits to an interview by the board, if requested, for the purpose of  
2551 examining the applicant's competence and qualifications for licensure; and

2552 ~~[(v)]~~ (iv) (A) (I) shows evidence of having passed the qualifying examinations; and

2553 (II) (Aa) meets the requirements for licensure which were applicable in this state at the  
2554 time of the issuance of the applicant's license by the state from which the original licensure by  
2555 satisfactorily passing the AICPA Uniform CPA Examination was issued; or

2556 (Bb) had four years of professional experience after passing the AICPA Uniform CPA  
2557 Examination upon which the original license was based, within the 10 years immediately  
2558 preceding the application for licensure by endorsement; or

2559 (B) shows evidence that the applicant's education, examination record, and experience  
2560 are substantially equivalent to the requirements of Subsection (1), as provided by rule.

2561 (b) This Subsection (2) applies only to a person seeking to obtain a license issued by  
2562 this state and does not apply to a person practicing as a certified public accountant in the state  
2563 under Subsection 58-26a-305(1).

2564 (3) (a) Each applicant for registration as a Certified Public Accountant firm shall:

2565 (i) submit an application in a form prescribed by the division;

2566 (ii) pay a fee determined by the department under Section 63J-1-504;

2567 (iii) have, notwithstanding any other provision of law, a simple majority of the

2568 ownership of the Certified Public Accountant firm, in terms of financial interests and voting  
2569 rights of all partners, officers, shareholders, members, or managers, held by individuals who  
2570 are certified public accountants, licensed under this chapter or another state of the United States  
2571 of America, and the partners, officers, shareholders, members, or managers, whose principal  
2572 place of business is in this state, and who perform professional services in this state hold a  
2573 valid license issued under Subsection 58-26a-301(2) or the corresponding provisions of prior  
2574 law; and

2575 (iv) meet any other requirements established by rule by the division in collaboration  
2576 with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2577 (b) Each separate location of a qualified business entity within the state seeking  
2578 registration as a Certified Public Accountant firm shall register separately.

2579 (c) A Certified Public Accountant firm may include owners who are not licensed under  
2580 this chapter as outlined in Subsection (3)(a)(iii), provided that:

2581 (i) the firm designates a licensee of this state who is responsible for the proper  
2582 registration of the Certified Public Accountant firm and identifies that individual to the  
2583 division; and

2584 (ii) all nonlicensed owners are active individual participants in the CPA firm.

2585 Section 41. Section 58-26a-305 is amended to read:

2586 **58-26a-305. Exemptions from licensure.**

2587 (1) In addition to the exemptions from licensure in Section 58-1-307, the following  
2588 may engage in acts included within the definition of the practice of public accountancy, subject  
2589 to the stated circumstances and limitations, without being licensed under this chapter:

2590 (a) a person licensed by any other state, district, or territory of the United States as a  
2591 certified public accountant or its equivalent under any other title while practicing in this state  
2592 if:

2593 (i) the person's principal place of business is not in this state; and

2594 (A) the person's license as a certified public accountant is from any state which the  
2595 National Association of State Boards of Accountancy (NASBA) National Qualification  
2596 Appraisal Service has verified to be substantially equivalent to the CPA licensure requirements  
2597 of the Uniform Accountancy Act; or

2598 (B) the person's license as a certified public accountant is from a state which the

2599 NASBA National Qualification Appraisal Service has not verified to be substantially  
2600 equivalent to the CPA licensure requirements of the Uniform Accountancy Act and the person  
2601 obtains from the NASBA National Qualification Appraisal Service verification that the  
2602 person's CPA qualifications are substantially equivalent to the CPA licensure requirements of  
2603 the Uniform Accountancy Act and Subsection [~~58-26a-302(1)(d)(i)~~] 58-26a-302(1)(c)(i); and  
2604 (ii) the person consents, as a condition of the grant of this privilege:  
2605 (A) to personal and subject matter jurisdiction and disciplinary authority of the  
2606 division;  
2607 (B) to comply with this chapter and the rules made under this chapter;  
2608 (C) that in the event the license from the state of the person's principal place of  
2609 business becomes invalid, the person shall cease offering or rendering professional services in  
2610 this state both individually and on behalf of the firm; and  
2611 (D) to the appointment of the state board which issued the person's license as the  
2612 person's agent upon whom process may be served in an action or proceeding brought by the  
2613 division against the licensee;  
2614 (b) through December 31, 2012, a person licensed by any other state, district, or  
2615 territory of the United States as a certified public accountant or its equivalent under another  
2616 title while practicing in this state if:  
2617 (i) the person does not qualify for a practice privilege under Subsection (1)(a);  
2618 (ii) the practice is incidental to the person's regular practice outside of this state; and  
2619 (iii) the person's temporary practice within the state is in conformity with this chapter  
2620 and the rules established under this chapter;  
2621 (c) an officer, member, partner, or employee of any entity or organization who signs  
2622 any statement or report in reference to the financial affairs of the entity or organization with a  
2623 designation of that person's position within the entity or organization;  
2624 (d) a public official or employee while performing his official duties;  
2625 (e) a person using accounting or auditing skills, including the preparation of tax  
2626 returns, management advisory services, and the preparation of financial statements without the  
2627 issuance of reports; or  
2628 (f) an employee of a CPA firm registered under this chapter or an assistant to a person  
2629 licensed under this chapter, working under the supervision of a licensee, if:

2630 (i) neither the employee or assistant nor the licensed employer or registered CPA firm  
2631 represents that the unlicensed person is a certified public accountant; and

2632 (ii) no accounting or financial statements are issued over the unlicensed person's name.

2633 (2) (a) Notwithstanding any other provision of law, a person who qualifies under  
2634 Subsection (1)(a) has all the privileges of a licensee of this state and may engage in acts  
2635 included within the definition of the practice of public accountancy, whether in person or by  
2636 mail, telephone, or electronic means, based on a practice privilege in this state, and no notice,  
2637 fee, or other submission shall be provided by that person.

2638 (b) The division may revoke, suspend, or restrict an exemption granted under  
2639 Subsection (1)(a) or (b), or place on probation or issue a public or private reprimand to a  
2640 person exempted under those subsections for the reasons set forth in Subsection 58-1-401(2).

2641 Section 42. Section 58-26a-306 is amended to read:

2642 **58-26a-306. Examination requirements.**

2643 (1) Before taking the qualifying examinations, an applicant shall:

2644 (a) submit an application in a form approved by the division;

2645 (b) pay a fee determined by the department under Section 63J-1-504;

2646 (c) demonstrate completion of at least 120 semester hours or 180 quarter hours of the  
2647 education requirement described in Subsection [~~58-26a-302(1)(d)~~] 58-26a-302(1)(c); and

2648 (d) be approved by the board, or an organization designated by the board, to take the  
2649 qualifying examinations.

2650 (2) A person must sit for and meet the conditioning requirements of the AICPA  
2651 Uniform CPA Examination as established by the AICPA.

2652 Section 43. Section 58-28-301 is amended to read:

2653 **58-28-301. Licensure required.**

2654 (1) (a) A license is required to engage in the practice of veterinary medicine, except as  
2655 specifically provided in Sections 58-1-307 and 58-28-307.

2656 (b) Notwithstanding the provisions of Subsection 58-1-307(1)(c) an individual shall be  
2657 licensed under this chapter as a veterinary intern in order to engage in a program of indirectly  
2658 supervised clinical training with a veterinarian licensed under this chapter, and as necessary to  
2659 meet licensing requirements under Subsection [~~58-28-302(1)(d)~~] 58-28-302(1)(c).

2660 (2) The division shall issue to a person who qualifies under this chapter a license in the

2661 classification of:

2662 (a) veterinarian; or

2663 (b) veterinarian intern.

2664 Section 44. Section **58-28-302** is amended to read:

2665 **58-28-302. License qualifications.**

2666 (1) Every applicant for a license to practice veterinary medicine, surgery, and dentistry  
2667 shall:

2668 [~~(a)~~ be of good moral character as it relates to the functions and duties of a licensed  
2669 veterinarian;]

2670 [~~(b)~~] (a) pass an examination approved by the board on the theory and practice of the  
2671 science of veterinary medicine, surgery, dentistry, and other subjects determined by the board,  
2672 knowledge of which is generally required of veterinarians;

2673 [~~(c)~~] (b) (i) graduate from a veterinary college accredited by the AVMA; or

2674 (ii) obtain a certificate issued by the Educational Commission for Foreign Veterinary  
2675 Graduates issued by the AVMA;

2676 [~~(d)~~] (c) (i) have practiced under the supervision of a veterinarian licensed to practice  
2677 in this state for a period of at least six months;

2678 (ii) have participated in veterinary investigational, educational, or sanitary control work  
2679 of a nature and duration as to be the equivalent of the experience of Subsection [~~(1)(d)~~]  
2680 (1)(c)(i);

2681 (iii) have practiced as a licensed veterinarian outside Utah for a period of at least six  
2682 months; or

2683 (iv) have practiced as a veterinarian while employed by the United States government,  
2684 its agencies, or the state or its political subdivisions for a period of at least six months; and

2685 [~~(e)~~] (d) pay a fee to the Department of Commerce determined [~~by it pursuant to~~] in  
2686 accordance with Section 63J-1-504 for the examination, for an initial license, and for a renewal  
2687 license.

2688 (2) (a) An applicant for licensure as a veterinary intern shall comply with the  
2689 provisions of [~~Subsections (1)(a) and (c)~~] Subsection (1)(b).

2690 (b) An applicant's license as a veterinary intern is limited to the period of time  
2691 necessary to complete clinical training as described in Subsection [~~(1)(d)~~] (1)(c) and extends

2692 not more than one year from the date the minimum requirement for training is completed,  
2693 unless the individual presents satisfactory evidence to the division and the board that the  
2694 individual is making reasonable progress toward passing the qualifying examination or is  
2695 otherwise on a course reasonably expected to lead to licensure as a veterinarian, but the period  
2696 of time under this Subsection (2)(b) may not exceed two years past the date the minimum  
2697 supervised clinical training has been completed.

2698 Section 45. Section **58-28-304** is amended to read:

2699 **58-28-304. Temporary license -- License reciprocity.**

2700 (1) The division may issue a temporary license to practice veterinary medicine, surgery,  
2701 and dentistry to any person not qualified for licensure under Subsection (4) who meets all  
2702 requirements of Section **58-28-302** with the exception of Subsections [~~58-28-302(1)(b) and (d)~~]  
2703 **58-28-302(1)(a) and (c)**, except that the temporary license shall by its terms expire at the date  
2704 examination results are available for the examination next following the date of the issuance of  
2705 the temporary license.

2706 (2) The temporary license shall permit the holder to practice under the indirect  
2707 supervision of a veterinarian licensed to practice in this state.

2708 (3) The division may extend the expiration date of the temporary license until the  
2709 following examination date if:

2710 (a) the applicant shows to the board good cause for failing to take or pass the  
2711 examination; and

2712 (b) the majority of the board members recommend the extension.

2713 (4) Upon the recommendation of the board, the division may issue a license without  
2714 examination to a person who:

2715 (a) has been licensed or registered to practice veterinary medicine, surgery, and  
2716 dentistry in any state, district, or territory of the United States or in any foreign country, whose  
2717 educational, examination, and experience requirements are or were at the time the license was  
2718 issued equal to those of this state;

2719 (b) has engaged in the practice of veterinary medicine, dentistry, and surgery while  
2720 licensed by another jurisdiction for at least two years;

2721 (c) obtained the license in another jurisdiction after passing an examination component  
2722 acceptable to the division and the board;



2723 (d) produces satisfactory evidence of having practiced veterinary medicine competently  
2724 and in accordance with the standards and ethics of the profession while practicing in another  
2725 jurisdiction; and

2726 (e) produces satisfactory evidence of identity and good moral character as it relates to  
2727 the applicant's functions and practice as a licensed veterinarian.

2728 Section 46. Section **58-31b-503** is amended to read:

2729 **58-31b-503. Penalties and administrative actions for unlawful conduct and**  
2730 **unprofessional conduct.**

2731 (1) Any person who violates the unlawful conduct provision specifically defined in  
2732 Subsection **58-1-501**(1)(a) is guilty of a third degree felony.

2733 (2) Any person who violates any of the unlawful conduct provisions specifically  
2734 defined in Subsections **58-1-501**(1)(b) through (f) and **58-31b-501**(1)(d) is guilty of a class A  
2735 misdemeanor.

2736 (3) Any person who violates any of the unlawful conduct provisions specifically  
2737 defined in this chapter and not set forth in Subsection (1) or (2) is guilty of a class B  
2738 misdemeanor.

2739 (4) (a) Subject to Subsection (6) and in accordance with Section **58-31b-401**, for acts  
2740 of unprofessional or unlawful conduct, the division may:

2741 (i) assess administrative penalties; and

2742 (ii) take any other appropriate administrative action.

2743 (b) An administrative penalty imposed pursuant to this section shall be deposited in the  
2744 "Nurse Education and Enforcement Account" as provided in Section **58-31b-103**.

2745 (5) If a licensee has been convicted of violating Section **58-31b-501** prior to an  
2746 administrative finding of a violation of the same section, the licensee may not be assessed an  
2747 administrative fine under this chapter for the same offense for which the conviction was  
2748 obtained.

2749 (6) (a) If upon inspection or investigation, the division concludes that a person has  
2750 violated the provisions of Section **58-31b-401**, **58-31b-501**, or **58-31b-502**, Chapter 1, Division  
2751 of Occupational and Professional Licensing Act, Chapter 37, Utah Controlled Substances Act,  
2752 or any rule or order issued with respect to these provisions, and that disciplinary action is  
2753 appropriate, the director or the director's designee from within the division shall:

2754 (i) promptly issue a citation to the person according to this chapter and any pertinent  
2755 administrative rules;

2756 (ii) attempt to negotiate a stipulated settlement; or

2757 (iii) notify the person to appear before an adjudicative proceeding conducted under  
2758 Title 63G, Chapter 4, Administrative Procedures Act.

2759 (b) Any person who is in violation of a provision described in Subsection (6)(a), as  
2760 evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an  
2761 adjudicative proceeding may be assessed a fine:

2762 (i) pursuant to this Subsection (6) of up to \$10,000 per single violation or up to \$2,000  
2763 per day of ongoing violation, whichever is greater, in accordance with a fine schedule  
2764 established by rule; and

2765 (ii) in addition to or in lieu of the fine imposed under Subsection (6)(b)(i), be ordered  
2766 to cease and desist from violating a provision of Sections 58-31b-501 and 58-31b-502, Chapter  
2767 1, Division of Occupational and Professional Licensing Act, Chapter 37, Utah Controlled  
2768 Substances Act, or any rule or order issued with respect to those provisions.

2769 (c) Except for an administrative fine and a cease and desist order, the licensure  
2770 sanctions cited in Section 58-31b-401 may not be assessed through a citation.

2771 (d) Each citation issued under this section shall:

2772 (i) be in writing; and

2773 (ii) clearly describe or explain:

2774 (A) the nature of the violation, including a reference to the provision of the chapter,  
2775 rule, or order alleged to have been violated;

2776 (B) that the recipient must notify the division in writing within 20 calendar days of  
2777 service of the citation in order to contest the citation at a hearing conducted under Title 63G,  
2778 Chapter 4, Administrative Procedures Act; and

2779 (C) the consequences of failure to timely contest the citation or to make payment of  
2780 any fines assessed by the citation within the time specified in the citation; and

2781 (iii) be served upon any person upon whom a summons may be served:

2782 (A) in accordance with the Utah Rules of Civil Procedure;

2783 (B) personally or upon the person's agent by a division investigator or by any person  
2784 specially designated by the director; or

2785 (C) by mail.

2786 (e) If within 20 calendar days from the service of a citation, the person to whom the  
2787 citation was issued fails to request a hearing to contest the citation, the citation becomes the  
2788 final order of the division and is not subject to further agency review. The period to contest the  
2789 citation may be extended by the division for cause.

2790 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation  
2791 the license of a licensee who fails to comply with the citation after it becomes final.

2792 (g) The failure of an applicant for licensure to comply with a citation after it becomes  
2793 final is a ground for denial of license.

2794 (h) No citation may be issued under this section after the expiration of [~~six months~~  
2795 ~~following the occurrence of any violation~~] one year following the date on which the violation  
2796 that is the subject of the citation is reported to the division.

2797 (7) (a) The director may collect a penalty that is not paid by:

2798 (i) referring the matter to a collection agency; or

2799 (ii) bringing an action in the district court of the county where the person against whom  
2800 the penalty is imposed resides or in the county where the office of the director is located.

2801 (b) A county attorney or the attorney general of the state shall provide legal assistance  
2802 and advice to the director in an action to collect a penalty.

2803 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an  
2804 action brought by the division to collect a penalty.

2805 Section 47. Section **58-31b-803** is amended to read:

2806 **58-31b-803. Limitations on prescriptive authority for advanced practice**  
2807 **registered nurses.**

2808 (1) This section does not apply to an advanced practice registered nurse specializing as  
2809 a certified registered nurse anesthetist under Subsection [58-31b-102\(14\)\(d\)](#).

2810 (2) Except as provided in Subsections (3) and [~~58-31b-502(1)(r)~~] [58-31b-502\(1\)\(q\)](#), an  
2811 advanced practice registered nurse may prescribe or administer a Schedule II controlled  
2812 substance without a consultation and referral plan.

2813 (3) An advanced practice registered nurse described in Subsection (4) may not  
2814 prescribe or administer a Schedule II controlled substance unless the advanced practice  
2815 registered nurse prescribes or administers Schedule II controlled substances in accordance with

2816 a consultation and referral plan.

2817 (4) Subsection (3) applies to an advanced practice registered nurse who:

2818 (a) (i) is engaged in independent solo practice; and

2819 (ii) (A) has been licensed as an advanced practice registered nurse for less than one  
2820 year; or

2821 (B) has less than 2,000 hours of experience practicing as a licensed advanced practice  
2822 registered nurse; or

2823 (b) owns or operates a pain clinic.

2824 (5) Notwithstanding Subsection 58-31b-102(5), an advanced practice registered nurse  
2825 with at least three years of experience as a licensed advanced practice registered nurse may  
2826 supervise a consultation and referral plan for an advanced practice registered nurse described in  
2827 Subsection (4)(a).

2828 Section 48. Section 58-37f-203 is amended to read:

2829 **58-37f-203. Submission, collection, and maintenance of data.**

2830 (1) (a) The division shall implement on a statewide basis, including non-resident  
2831 pharmacies as defined in Section 58-17b-102, the following two options for a pharmacist to  
2832 submit information:

2833 (i) real-time submission of the information required to be submitted under this part to  
2834 the controlled substance database; and

2835 (ii) 24-hour daily or next business day, whichever is later, batch submission of the  
2836 information required to be submitted under this part to the controlled substance database.

2837 (b) ~~[(i) On and after January 1, 2016, a]~~ A pharmacist shall comply with either:

2838 ~~[(A)]~~ (i) the submission time requirements established by the division under  
2839 Subsection (1)(a)(i); or

2840 ~~[(B)]~~ (ii) the submission time requirements established by the division under  
2841 Subsection (1)(a)(ii).

2842 ~~[(ii) Prior to January 1, 2016, a pharmacist may submit information using either option  
2843 under this Subsection (1).]~~

2844 (c) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code.

2845 (2) (a) The pharmacist-in-charge and the pharmacist of the drug outlet where a  
2846 controlled substance is dispensed shall submit the data described in this section to the division

2847 in accordance with:

2848 (i) the requirements of this section;

2849 (ii) the procedures established by the division;

2850 (iii) additional types of information or data fields established by the division; and

2851 (iv) the format established by the division.

2852 (b) A dispensing medical practitioner licensed under Chapter 17b, Part 8, Dispensing

2853 Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, shall comply with

2854 the provisions of this section and the dispensing medical practitioner shall assume the duties of

2855 the pharmacist under this chapter.

2856 (3) (a) The pharmacist-in-charge and the pharmacist described in Subsection (2)~~(b)~~(a)

2857 shall, for each controlled substance dispensed by a pharmacist under the pharmacist's

2858 supervision other than those dispensed for an inpatient at a health care facility, submit to the

2859 division any type of information or data field established by the division by rule in accordance

2860 with Subsection (6) regarding:

2861 (i) each controlled substance that is dispensed by the pharmacist or under the

2862 pharmacist's supervision; and

2863 (ii) each noncontrolled substance that is:

2864 (A) designated by the division under Subsection (8)(a); and

2865 (B) dispensed by the pharmacist or under the pharmacist's supervision.

2866 (b) Subsection (3)(a) does not apply to a drug that is dispensed for an inpatient at a

2867 health care facility.

2868 (4) An individual whose records are in the database may obtain those records upon

2869 submission of a written request to the division.

2870 (5) (a) A patient whose record is in the database may contact the division in writing to

2871 request correction of any of the patient's database information that is incorrect. [~~The patient~~

2872 ~~shall provide a postal address for the division's response.~~]

2873 (b) The division shall grant or deny the request within 30 days from receipt of the

2874 request and shall advise the requesting patient of its decision [~~by mail postmarked~~] within 35

2875 days of receipt of the request.

2876 (c) If the division denies a request under this Subsection (5) or does not respond within

2877 35 days, the patient may submit an appeal to the Department of Commerce, within 60 days

2878 after the [~~postmark date of the patient's letter making a~~] patient's written request for a  
2879 correction under this Subsection (5).

2880 (6) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah  
2881 Administrative Rulemaking Act, to establish submission requirements under this part,  
2882 including:

- 2883 (a) electronic format;
- 2884 (b) submission procedures; and
- 2885 (c) required information and data fields.

2886 (7) The division shall ensure that the database system records and maintains for  
2887 reference:

- 2888 (a) the identification of each individual who requests or receives information from the  
2889 database;
- 2890 (b) the information provided to each individual; and
- 2891 (c) the date and time that the information is requested or provided.

2892 (8) (a) The division, in collaboration with the Utah Controlled Substance Advisory  
2893 Committee created in Section [58-38a-201](#), shall designate a list of noncontrolled substances  
2894 described in Subsection (8)(b) by rule made in accordance with Title 63G, Chapter 3, Utah  
2895 Administrative Rulemaking Act.

2896 (b) To determine whether a prescription drug should be designated in the schedules of  
2897 controlled substances under this chapter, the division may collect information about a  
2898 prescription drug as defined in Section [58-17b-102](#) that is not designated in the schedules of  
2899 controlled substances under this chapter.

2900 Section 49. Section **58-37f-301** is amended to read:

2901 **58-37f-301. Access to database.**

2902 (1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah  
2903 Administrative Rulemaking Act, to:

- 2904 (a) effectively enforce the limitations on access to the database as described in this  
2905 part; and
- 2906 (b) establish standards and procedures to ensure accurate identification of individuals  
2907 requesting information or receiving information without request from the database.

2908 (2) The division shall make information in the database and information obtained from

2909 other state or federal prescription monitoring programs by means of the database available only  
2910 to the following individuals, in accordance with the requirements of this chapter and division  
2911 rules:

2912 (a) (i) personnel of the division specifically assigned to conduct investigations related  
2913 to controlled substance laws under the jurisdiction of the division; and

2914 (ii) the following law enforcement officers, but the division may only provide  
2915 nonidentifying information, limited to gender, year of birth, and postal ZIP code, regarding  
2916 individuals for whom a controlled substance has been prescribed or to whom a controlled  
2917 substance has been dispensed:

2918 (A) a law enforcement agency officer who is engaged in a joint investigation with the  
2919 division; and

2920 (B) a law enforcement agency officer to whom the division has referred a suspected  
2921 criminal violation of controlled substance laws;

2922 (b) authorized division personnel engaged in analysis of controlled substance  
2923 prescription information as a part of the assigned duties and responsibilities of their  
2924 employment;

2925 (c) a board member if:

2926 (i) the board member is assigned to monitor a licensee on probation; and

2927 (ii) the board member is limited to obtaining information from the database regarding  
2928 the specific licensee on probation;

2929 (d) a member of a diversion committee established in accordance with Subsection  
2930 58-1-404(2) if:

2931 (i) the diversion committee member is limited to obtaining information from the  
2932 database regarding the person whose conduct is the subject of the committee's consideration;  
2933 and

2934 (ii) the conduct that is the subject of the committee's consideration includes a violation  
2935 or a potential violation of Chapter 37, Utah Controlled Substances Act, or another relevant  
2936 violation or potential violation under this title;

2937 (e) in accordance with a written agreement entered into with the department,  
2938 employees of the Department of Health:

2939 (i) whom the director of the Department of Health assigns to conduct scientific studies

2940 regarding the use or abuse of controlled substances, if the identity of the individuals and  
2941 pharmacies in the database are confidential and are not disclosed in any manner to any  
2942 individual who is not directly involved in the scientific studies;

2943       (ii) when the information is requested by the Department of Health in relation to a  
2944 person or provider whom the Department of Health suspects may be improperly obtaining or  
2945 providing a controlled substance; or

2946       (iii) in the medical examiner's office;

2947       (f) in accordance with a written agreement entered into with the department, a designee  
2948 of the director of the Department of Health, who is not an employee of the Department of  
2949 Health, whom the director of the Department of Health assigns to conduct scientific studies  
2950 regarding the use or abuse of controlled substances pursuant to an application process  
2951 established in rule by the Department of Health, if:

2952       (i) the designee provides explicit information to the Department of Health regarding  
2953 the purpose of the scientific studies;

2954       (ii) the scientific studies to be conducted by the designee:

2955       (A) fit within the responsibilities of the Department of Health for health and welfare;

2956       (B) are reviewed and approved by an Institutional Review Board that is approved for  
2957 human subject research by the United States Department of Health and Human Services; and

2958       (C) are not conducted for profit or commercial gain; and

2959       (D) are conducted in a research facility, as defined by division rule, that is associated  
2960 with a university or college accredited by one or more regional or national accrediting agencies  
2961 recognized by the United States Department of Education;

2962       (iii) the designee protects the information as a business associate of the Department of  
2963 Health; and

2964       (iv) the identity of the prescribers, patients, and pharmacies in the database are  
2965 de-identified, confidential, not disclosed in any manner to the designee or to any individual  
2966 who is not directly involved in the scientific studies;

2967       (g) in accordance with the written agreement entered into with the department and the  
2968 Department of Health, authorized employees of a managed care organization, as defined in 42  
2969 C.F.R. Sec. 438, if:

2970       (i) the managed care organization contracts with the Department of Health under the



2971 provisions of Section 26-18-405 and the contract includes provisions that:

2972 (A) require a managed care organization employee who will have access to information  
2973 from the database to submit to a criminal background check; and

2974 (B) limit the authorized employee of the managed care organization to requesting  
2975 either the division or the Department of Health to conduct a search of the database regarding a  
2976 specific Medicaid enrollee and to report the results of the search to the authorized employee;  
2977 and

2978 (ii) the information is requested by an authorized employee of the managed care  
2979 organization in relation to a person who is enrolled in the Medicaid program with the managed  
2980 care organization, and the managed care organization suspects the person may be improperly  
2981 obtaining or providing a controlled substance;

2982 (h) a licensed practitioner having authority to prescribe controlled substances, to the  
2983 extent the information:

2984 (i) (A) relates specifically to a current or prospective patient of the practitioner; and

2985 (B) is provided to or sought by the practitioner for the purpose of:

2986 (I) prescribing or considering prescribing any controlled substance to the current or  
2987 prospective patient;

2988 (II) diagnosing the current or prospective patient;

2989 (III) providing medical treatment or medical advice to the current or prospective  
2990 patient; or

2991 (IV) determining whether the current or prospective patient:

2992 (Aa) is attempting to fraudulently obtain a controlled substance from the practitioner;

2993 or

2994 (Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled  
2995 substance from the practitioner;

2996 (ii) (A) relates specifically to a former patient of the practitioner; and

2997 (B) is provided to or sought by the practitioner for the purpose of determining whether  
2998 the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a  
2999 controlled substance from the practitioner;

3000 (iii) relates specifically to an individual who has access to the practitioner's Drug  
3001 Enforcement Administration identification number, and the practitioner suspects that the

3002 individual may have used the practitioner's Drug Enforcement Administration identification  
3003 number to fraudulently acquire or prescribe a controlled substance;

3004 (iv) relates to the practitioner's own prescribing practices, except when specifically  
3005 prohibited by the division by administrative rule;

3006 (v) relates to the use of the controlled substance database by an employee of the  
3007 practitioner, described in Subsection (2)(i); or

3008 (vi) relates to any use of the practitioner's Drug Enforcement Administration  
3009 identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a  
3010 controlled substance;

3011 (i) in accordance with Subsection (3)(a), an employee of a practitioner described in  
3012 Subsection (2)(h), for a purpose described in Subsection (2)(h)(i) or (ii), if:

3013 (i) the employee is designated by the practitioner as an individual authorized to access  
3014 the information on behalf of the practitioner;

3015 (ii) the practitioner provides written notice to the division of the identity of the  
3016 employee; and

3017 (iii) the division:

3018 (A) grants the employee access to the database; and

3019 (B) provides the employee with a password that is unique to that employee to access  
3020 the database in order to permit the division to comply with the requirements of Subsection  
3021 [58-37f-203\(5\)](#) with respect to the employee;

3022 (j) an employee of the same business that employs a licensed practitioner under  
3023 Subsection (2)(h) if:

3024 (i) the employee is designated by the practitioner as an individual authorized to access  
3025 the information on behalf of the practitioner;

3026 (ii) the practitioner and the employing business provide written notice to the division of  
3027 the identity of the designated employee; and

3028 (iii) the division:

3029 (A) grants the employee access to the database; and

3030 (B) provides the employee with a password that is unique to that employee to access  
3031 the database in order to permit the division to comply with the requirements of Subsection  
3032 [58-37f-203\(5\)](#) with respect to the employee;

- 3033 (k) a licensed pharmacist having authority to dispense a controlled substance to the  
3034 extent the information is provided or sought for the purpose of:
- 3035 (i) dispensing or considering dispensing any controlled substance; or
  - 3036 (ii) determining whether a person:
    - 3037 (A) is attempting to fraudulently obtain a controlled substance from the pharmacist; or
    - 3038 (B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled  
3039 substance from the pharmacist;
  - 3040 (l) in accordance with Subsection (3)(a), a licensed pharmacy technician and pharmacy  
3041 intern who is an employee of a pharmacy as defined in Section 58-17b-102, for the purposes  
3042 described in Subsection ~~[(2)(j)]~~ (2)(k)(i) or (ii), if:
    - 3043 (i) the employee is designated by the pharmacist-in-charge as an individual authorized  
3044 to access the information on behalf of a licensed pharmacist employed by the pharmacy;
    - 3045 (ii) the pharmacist-in-charge provides written notice to the division of the identity of  
3046 the employee; and
    - 3047 (iii) the division:
      - 3048 (A) grants the employee access to the database; and
      - 3049 (B) provides the employee with a password that is unique to that employee to access  
3050 the database in order to permit the division to comply with the requirements of Subsection  
3051 58-37f-203(5) with respect to the employee;
    - 3052 (m) pursuant to a valid search warrant, federal, state, and local law enforcement  
3053 officers and state and local prosecutors who are engaged in an investigation related to:
      - 3054 (i) one or more controlled substances; and
      - 3055 (ii) a specific person who is a subject of the investigation;
    - 3056 (n) subject to Subsection (7), a probation or parole officer, employed by the  
3057 Department of Corrections or by a political subdivision, to gain access to database information  
3058 necessary for the officer's supervision of a specific probationer or parolee who is under the  
3059 officer's direct supervision;
    - 3060 (o) employees of the Office of Internal Audit and Program Integrity within the  
3061 Department of Health who are engaged in their specified duty of ensuring Medicaid program  
3062 integrity under Section 26-18-2.3;
    - 3063 (p) a mental health therapist, if:

3064 (i) the information relates to a patient who is:  
3065 (A) enrolled in a licensed substance abuse treatment program; and  
3066 (B) receiving treatment from, or under the direction of, the mental health therapist as  
3067 part of the patient's participation in the licensed substance abuse treatment program described  
3068 in Subsection (2)(p)(i)(A);  
3069 (ii) the information is sought for the purpose of determining whether the patient is  
3070 using a controlled substance while the patient is enrolled in the licensed substance abuse  
3071 treatment program described in Subsection (2)(p)(i)(A); and  
3072 (iii) the licensed substance abuse treatment program described in Subsection  
3073 (2)(p)(i)(A) is associated with a practitioner who:  
3074 (A) is a physician, a physician assistant, an advance practice registered nurse, or a  
3075 pharmacist; and  
3076 (B) is available to consult with the mental health therapist regarding the information  
3077 obtained by the mental health therapist, under this Subsection (2)(p), from the database;  
3078 (q) an individual who is the recipient of a controlled substance prescription entered into  
3079 the database, upon providing evidence satisfactory to the division that the individual requesting  
3080 the information is in fact the individual about whom the data entry was made;  
3081 (r) an individual under Subsection (2)(q) for the purpose of obtaining a list of the  
3082 persons and entities that have requested or received any information from the database  
3083 regarding the individual, except if the individual's record is subject to a pending or current  
3084 investigation as authorized under this Subsection (2);  
3085 (s) the inspector general, or a designee of the inspector general, of the Office of  
3086 Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in  
3087 Title 63A, Chapter 13, Part 2, Office and Powers;  
3088 (t) the following licensed physicians for the purpose of reviewing and offering an  
3089 opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter  
3090 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:  
3091 (i) a member of the medical panel described in Section [34A-2-601](#);  
3092 (ii) a physician employed as medical director for a licensed workers' compensation  
3093 insurer or an approved self-insured employer; or  
3094 (iii) a physician offering a second opinion regarding treatment; and

3095 (u) members of Utah's Opioid Fatality Review Committee, for the purpose of  
3096 reviewing a specific fatality due to opioid use and recommending policies to reduce the  
3097 frequency of opioid use fatalities.

3098 (3) (a) (i) A practitioner described in Subsection (2)(h) may designate one or more  
3099 employees to access information from the database under Subsection (2)(i), (2)(j), or (4)(c).

3100 (ii) A pharmacist described in Subsection (2)(k) who is a pharmacist-in-charge may  
3101 designate up to five employees to access information from the database under Subsection (2)(l).

3102 (b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah  
3103 Administrative Rulemaking Act, to:

3104 (i) establish background check procedures to determine whether an employee  
3105 designated under Subsection (2)(i), (2)(j), or (4)(c) should be granted access to the database;  
3106 and

3107 (ii) establish the information to be provided by an emergency department employee  
3108 under Subsection (4); and

3109 (iii) facilitate providing controlled substance prescription information to a third party  
3110 under Subsection (5).

3111 (c) The division shall grant an employee designated under Subsection (2)(i), (2)(j), or  
3112 (4)(c) access to the database, unless the division determines, based on a background check, that  
3113 the employee poses a security risk to the information contained in the database.

3114 (4) (a) An individual who is employed in the emergency department of a hospital may  
3115 exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if  
3116 the individual is designated under Subsection (4)(c) and the licensed practitioner:

3117 (i) is employed in the emergency department;

3118 (ii) is treating an emergency department patient for an emergency medical condition;

3119 and

3120 (iii) requests that an individual employed in the emergency department and designated  
3121 under Subsection (4)(c) obtain information regarding the patient from the database as needed in  
3122 the course of treatment.

3123 (b) The emergency department employee obtaining information from the database  
3124 shall, when gaining access to the database, provide to the database the name and any additional  
3125 identifiers regarding the requesting practitioner as required by division administrative rule

3126 established under Subsection (3)(b).

3127 (c) An individual employed in the emergency department under this Subsection (4)  
3128 may obtain information from the database as provided in Subsection (4)(a) if:

3129 (i) the employee is designated by the practitioner as an individual authorized to access  
3130 the information on behalf of the practitioner;

3131 (ii) the practitioner and the hospital operating the emergency department provide  
3132 written notice to the division of the identity of the designated employee; and

3133 (iii) the division:

3134 (A) grants the employee access to the database; and

3135 (B) provides the employee with a password that is unique to that employee to access  
3136 the database in order to permit the division to comply with the requirements of Subsection  
3137 [58-37f-203\(5\)](#) with respect to the employee.

3138 (d) The division may impose a fee, in accordance with Section [63J-1-504](#), on a  
3139 practitioner who designates an employee under Subsection (2)(i), (2)(j), or (4)(c) to pay for the  
3140 costs incurred by the division to conduct the background check and make the determination  
3141 described in Subsection (3)(b).

3142 (5) (a) (i) An individual may request that the division provide the information under  
3143 Subsection (5)(b) to a third party who is designated by the individual each time a controlled  
3144 substance prescription for the individual is dispensed.

3145 (ii) The division shall upon receipt of the request under this Subsection (5)(a) advise  
3146 the individual in writing that the individual may direct the division to discontinue providing the  
3147 information to a third party and that notice of the individual's direction to discontinue will be  
3148 provided to the third party.

3149 (b) The information the division shall provide under Subsection (5)(a) is:

3150 (i) the fact a controlled substance has been dispensed to the individual, but without  
3151 identifying the controlled substance; and

3152 (ii) the date the controlled substance was dispensed.

3153 (c) (i) An individual who has made a request under Subsection (5)(a) may direct that  
3154 the division discontinue providing information to the third party.

3155 (ii) The division shall:

3156 (A) notify the third party that the individual has directed the division to no longer

3157 provide information to the third party; and

3158 (B) discontinue providing information to the third party.

3159 (6) (a) An individual who is granted access to the database based on the fact that the  
3160 individual is a licensed practitioner or a mental health therapist shall be denied access to the  
3161 database when the individual is no longer licensed.

3162 (b) An individual who is granted access to the database based on the fact that the  
3163 individual is a designated employee of a licensed practitioner shall be denied access to the  
3164 database when the practitioner is no longer licensed.

3165 (7) A probation or parole officer is not required to obtain a search warrant to access the  
3166 database in accordance with Subsection (2)(n).

3167 (8) The division shall review and adjust the database programming which  
3168 automatically logs off an individual who is granted access to the database under Subsections  
3169 (2)(h), (2)(i), (2)(j), and (4)(c) to maximize the following objectives:

3170 (a) to protect patient privacy;

3171 (b) to reduce inappropriate access; and

3172 (c) to make the database more useful and helpful to a person accessing the database  
3173 under Subsections (2)(h), (2)(i), (2)(j), and (4)(c), especially in high usage locations such as an  
3174 emergency department.

3175 Section 50. Section **58-37f-302** is amended to read:

3176 **58-37f-302. Other restrictions on access to database.**

3177 (1) A person who is a relative of a deceased individual is not entitled to access  
3178 information from the database relating to the deceased individual based on the fact or claim  
3179 that the person is:

3180 (a) related to the deceased individual; or

3181 (b) subrogated to the rights of the deceased individual.

3182 (2) Except as provided in [~~Subsection~~] Subsections (3) and (4), data provided to,  
3183 maintained in, or accessed from the database that may be identified to, or with, a particular  
3184 person is not subject to discovery, subpoena, or similar compulsory process in any civil,  
3185 judicial, administrative, or legislative proceeding, nor shall any individual or organization with  
3186 lawful access to the data be compelled to testify with regard to the data.

3187 (3) The restrictions described in Subsection (2) do not apply to a civil, judicial, or

3188 administrative action brought to enforce the provisions of this chapter.

3189 (4) (a) Subject to the requirements of this Subsection (4), in a state criminal proceeding  
3190 a court may:

3191 (i) order the release of information contained in the database if the court determines  
3192 good cause has been shown in accordance with Rule 16, Utah Rules of Criminal Procedure;  
3193 and

3194 (ii) at any time order that information released under this Subsection (4) be restricted,  
3195 limited, or restrained from further dissemination as the court determines is appropriate.

3196 (b) Upon the motion of a defendant, a court may only issue an order compelling the  
3197 production of database information under this Subsection (4) that pertains to a victim if the  
3198 court finds upon notice as provided in Subsection (4)(c), and after a hearing, that the defendant  
3199 is entitled to production of the information under applicable state and federal law.

3200 (c) A motion by a defendant for database information pertaining to a victim shall be  
3201 served by the defendant on:

3202 (i) the prosecutor and on counsel for the victim or victim's representative; or

3203 (ii) the prosecutor if the victim is unrepresented by counsel.

3204 (d) Upon a defendant's motion for database information pertaining to a victim, if the  
3205 court determines that good cause exists to order release of database information pertaining to  
3206 the victim, the court shall conduct an in camera review of the database information and may  
3207 only disclose to the defense and prosecution those portions of database information that are  
3208 relevant to the state criminal proceeding.

3209 Section 51. Section **58-37f-303** is amended to read:

3210 **58-37f-303. Access to opioid prescription information via an electronic data**  
3211 **system.**

3212 (1) As used in this section:

3213 (a) "Dispense" means the same as that term is defined in Section [58-17b-102](#).

3214 (b) "EDS user":

3215 (i) means:

3216 (A) a prescriber;

3217 (B) a pharmacist; or

3218 (C) an individual granted access to the database under Subsection [58-37f-301\(3\)\(c\)](#);



3219 and

3220 (ii) does not mean an individual whose access to the database has been revoked by the  
3221 division pursuant to Subsection 58-37f-301(5)(~~(b)~~)(c).

3222 (c) "Electronic data system" means a software product or an electronic service used by:

3223 (i) a prescriber to manage electronic health records; or

3224 (ii) a pharmacist to manage the dispensing of prescription drugs.

3225 (d) "Opioid" means any substance listed in Subsection 58-37-4(2)(b)(i) or (2)(b)(ii).

3226 (e) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

3227 (f) "Prescriber" means a practitioner, as that term is defined in Section 58-37-2, who is  
3228 licensed under Section 58-37-6 to prescribe an opioid.

3229 (g) "Prescription drug" means the same as that term is defined in Section 58-17b-102.

3230 (2) Subject to Subsections (3) through (6), no later than January 1, 2017, the division  
3231 shall make opioid prescription information in the database available to an EDS user via the  
3232 user's electronic data system.

3233 (3) An electronic data system may be used to make opioid prescription information in  
3234 the database available to an EDS user only if the electronic data system complies with rules  
3235 established by the division under Subsection (4).

3236 (4) (a) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah  
3237 Administrative Rulemaking Act, specifying:

3238 (i) an electronic data system's:

3239 (A) allowable access to and use of opioid prescription information in the database; and

3240 (B) minimum actions that must be taken to ensure that opioid prescription information  
3241 accessed from the database is protected from inappropriate disclosure or use; and

3242 (ii) an EDS user's:

3243 (A) allowable access to opioid prescription information in the database via an  
3244 electronic data system; and

3245 (B) allowable use of the information.

3246 (b) The rules shall establish:

3247 (i) minimum user identification requirements that in substance are the same as the  
3248 database identification requirements in Section 58-37f-301;

3249 (ii) user access restrictions that in substance are the same as the database identification

3250 requirements in Section 58-37f-301; and

3251 (iii) any other requirements necessary to ensure that in substance the provisions of  
3252 Sections 58-37f-301 and 58-37f-302 apply to opioid prescription information in the database  
3253 that has been made available to an EDS user via an electronic data system.

3254 (5) The division may not make opioid prescription information in the database  
3255 available to an EDS user via the user's electronic data system if:

3256 (a) the electronic data system does not comply with the rules established by the  
3257 division under Subsection (4); or

3258 (b) the EDS user does not comply with the rules established by the division under  
3259 Subsection (4).

3260 (6) (a) The division shall periodically audit the use of opioid prescription information  
3261 made available to an EDS user via the user's electronic data system.

3262 (b) The audit shall review compliance by:

3263 (i) the electronic data system with rules established by the division under Subsection  
3264 (4); and

3265 (ii) the EDS user with rules established by the division under Subsection (4).

3266 (c) (i) If the division determines by audit or other means that an electronic data system  
3267 is not in compliance with rules established by the division under Subsection (4), the division  
3268 shall immediately suspend or revoke the electronic data system's access to opioid prescription  
3269 information in the database.

3270 (ii) If the division determines by audit or other means that an EDS user is not in  
3271 compliance with rules established by the division under Subsection (4), the division shall  
3272 immediately suspend or revoke the EDS user's access to opioid prescription information in the  
3273 database via an electronic data system.

3274 (iii) If the division suspends or revokes access to opioid prescription information in the  
3275 database under Subsection (6)(c)(i) or (6)(c)(ii), the division shall also take any other  
3276 appropriate corrective or disciplinary action authorized by this chapter or title.

3277 Section 52. Section 58-40-302 is amended to read:

3278 **58-40-302. Qualifications for licensure.**

3279 (1) An applicant for licensure under this chapter shall:

3280 (a) submit an application in a form prescribed by the division; and

- 3281 (b) pay a fee determined by the department under Section 63J-1-504[; and].  
3282 [~~(c) be of good moral character.~~]
- 3283 (2) In addition to the requirements of Subsection (1), an applicant for licensure as a  
3284 master therapeutic recreation specialist under this chapter shall as defined by division rule:
- 3285 (a) complete an approved graduate degree;  
3286 (b) complete 4,000 qualifying hours of paid experience as:  
3287 (i) a licensed therapeutic recreation specialist if completed in the state; or  
3288 (ii) a certified therapeutic recreation specialist certified by the National Council for  
3289 Therapeutic Recreation Certification if completed outside of the state; and  
3290 (c) pass an approved examination.
- 3291 (3) In addition to the requirements of Subsection (1), an applicant for licensure as a  
3292 therapeutic recreation specialist under this chapter shall, as defined by division rule:
- 3293 (a) complete an approved:  
3294 (i) bachelor's degree in therapeutic recreation or recreational therapy;  
3295 (ii) bachelor's degree with an approved emphasis, option, or concentration in  
3296 therapeutic recreation or recreational therapy; or  
3297 (iii) graduate degree;  
3298 (b) complete an approved practicum; and  
3299 (c) pass an approved examination.
- 3300 (4) In addition to the requirements of Subsection (1), an applicant for licensure as a  
3301 therapeutic recreation technician under this chapter shall, as defined by division rule:
- 3302 (a) have a high school diploma or GED equivalent;  
3303 (b) complete an approved:  
3304 (i) educational course in therapeutic recreation taught by a licensed master therapeutic  
3305 recreation specialist; or  
3306 (ii) six semester hours or nine quarter hours in therapeutic recreation or recreational  
3307 therapy from an accredited college or university;  
3308 (c) complete an approved practicum under the supervision of:  
3309 (i) a licensed master therapeutic recreation specialist; or  
3310 (ii) an on-site, full-time, employed therapeutic recreation specialist;  
3311 (d) pass an approved examination; and

3312 (e) complete a minimum of two hours of training in suicide prevention via a course that  
3313 the division designates as approved.

3314 Section 53. Section **58-40-501** is amended to read:

3315 **58-40-501. Unlawful conduct.**

3316 "Unlawful conduct" includes:

3317 (1) providing, leading, facilitating, teaching, or offering to provide or teach recreational  
3318 therapy services unless licensed under this chapter or exempted from licensure under Section  
3319 [58-1-307](#) or [58-40-305](#); and

3320 (2) using the initials MTRS, TRS, or TRT, or other abbreviation, term, title, or sign  
3321 relating to the practice of recreational therapy services unless licensed under this chapter~~;~~ and].

3322 [~~(3) employing or aiding and abetting the employment of an unqualified or unlicensed~~  
3323 ~~person to:]~~

3324 [~~(a) practice as a recreational therapist; or]~~

3325 [~~(b) provide recreational therapy services:]~~

3326 Section 54. Section **58-41-5** is amended to read:

3327 **58-41-5. Licensure requirements.**

3328 (1) To obtain and maintain a license as an audiologist beginning July 1, 2010, an  
3329 applicant must:

3330 (a) submit a completed application in the form and content prescribed by the division  
3331 and pay a fee to the department in accordance with Section [63J-1-504](#);

3332 [~~(b) be of good moral character;]~~

3333 [~~(c)~~] (b) provide the committee with verification that the applicant is the legal holder of  
3334 a clinical doctor's degree or AuD, in audiology, from an accredited university or college, based  
3335 on a program of studies primarily in the field of audiology;

3336 [~~(d)~~] (c) be in compliance with the regulations of conduct and codes of ethics for the  
3337 profession of audiology;

3338 [~~(e)~~] (d) submit to the board certified evidence of having completed at least one year of  
3339 professional experience, at least 30 hours per week for an academic year, of direct clinical  
3340 experience in treatment and management of patients, supervised and attested to by one holding  
3341 an audiologist license under this chapter, the CCC, or their full equivalent; and

3342 [~~(f)~~] (e) pass a nationally standardized examination in audiology which is the same as

3343 or equivalent to the examination required for the CCC and with pass-fail criteria equivalent to  
3344 current ASHA standards, and the board may require the applicant to pass an acceptable  
3345 practical demonstration of clinical skills to an examining committee of licensed audiologists  
3346 appointed by the board.

3347 (2) To obtain and maintain a license as an audiologist prior to July 1, 2010, an  
3348 applicant shall:

3349 (a) comply with Subsections (1)(a), [~~(b), (d), (e), and (f)~~] (c), (d), and (e); and

3350 (b) provide the committee with verification that the applicant has received at least a  
3351 master's degree in the area of audiology from an accredited university or college, based on a  
3352 program of studies primarily in the field of audiology, and holds the CCC or its full equivalent.

3353 (3) An individual who, prior to July 1, 2010, is licensed as an audiologist under this  
3354 chapter is, on or after July 1, 2010, considered to hold a current license under this chapter as an  
3355 audiologist and is subject to this chapter.

3356 (4) To obtain and maintain a license as a speech-language pathologist, an applicant  
3357 must:

3358 (a) comply with [~~Subsections (1)(a) and (b)~~] Subsection (1)(a);

3359 (b) provide the committee with verification that the applicant has received at least a  
3360 master's degree in speech-language pathology from an accredited university or college, based  
3361 on a program of studies primarily in the field of speech-language pathology;

3362 (c) be in compliance with the regulations of conduct and code of ethics for the  
3363 profession of speech-language pathology;

3364 (d) comply with Subsection [~~(1)(a)~~] (1)(b), except that the supervision and attestation  
3365 requirement shall be from a licensed speech-language pathologist rather than a licensed  
3366 audiologist; and

3367 (e) pass a nationally standardized examination in speech-language pathology which is  
3368 the same as or equivalent to the examination required for the CCC and with pass-fail criteria  
3369 equivalent to current ASHA standards, and the board may require the applicant to pass an  
3370 acceptable practical demonstration of clinical skills to an examining committee of licensed  
3371 speech-language pathologists appointed by the board.

3372 Section 55. Section **58-42a-302** is amended to read:

3373 **58-42a-302. Qualifications for licensure.**

- 3374 (1) An applicant for licensure as an occupational therapist shall:
- 3375 (a) submit an application in a form as prescribed by the division;
- 3376 (b) pay a fee as determined by the department under Section [63J-1-504](#);
- 3377 ~~[(c) be of good moral character as it relates to the functions and responsibilities of the~~
- 3378 ~~practice of occupational therapy;]~~
- 3379 ~~[(d)]~~ (c) graduate with a bachelor's or graduate degree for the practice of occupational
- 3380 therapy from an education program accredited by the American Occupational Therapy
- 3381 Association's Accreditation Council for Occupational Therapy Education, a predecessor
- 3382 organization, or an equivalent organization as determined by division rule;
- 3383 ~~[(e)]~~ (d) if applying for licensure on or after July 1, 2015, complete a minimum of 24
- 3384 weeks of supervised fieldwork experience; and
- 3385 ~~[(f)]~~ (e) pass an examination approved by the division in consultation with the board
- 3386 and administered by the National Board for Certification in Occupational Therapy, or by
- 3387 another nationally recognized credentialing body as approved by division rule, to demonstrate
- 3388 knowledge of the practice, skills, theory, and professional ethics related to occupational
- 3389 therapy.
- 3390 (2) All applicants for licensure as an occupational therapy assistant shall:
- 3391 (a) submit an application in a form as prescribed by the division;
- 3392 (b) pay a fee as determined by the department under Section [63J-1-504](#);
- 3393 ~~[(c) be of good moral character as it relates to the functions and responsibilities of the~~
- 3394 ~~practice of occupational therapy;]~~
- 3395 ~~[(d)]~~ (c) graduate from an educational program for the practice of occupational therapy
- 3396 as an occupational therapy assistant that is accredited by the American Occupational Therapy
- 3397 Association's Accreditation Council for Occupational Therapy Education, a predecessor
- 3398 organization, or an equivalent organization as determined by division rule;
- 3399 ~~[(e)]~~ (d) if applying for licensure on or after July 1, 2015, complete a minimum of 16
- 3400 weeks of supervised fieldwork experience; and
- 3401 ~~[(f)]~~ (e) pass an examination approved by the division in consultation with the board
- 3402 and administered by the National Board for Certification in Occupational Therapy, or by
- 3403 another nationally recognized credentialing body as approved by division rule, to demonstrate
- 3404 knowledge of the practice, skills, theory, and professional ethics related to occupational

3405 therapy.

3406 (3) Notwithstanding the other requirements of this section, the division may issue a  
3407 license as an occupational therapist or as an occupational therapy assistant to an applicant who:

3408 (a) meets the requirements of receiving a license by endorsement under Section  
3409 [58-1-302](#); or

3410 (b) has been licensed in a state, district, or territory of the United States, or in a foreign  
3411 country, where the education, experience, or examination requirements are not substantially  
3412 equal to the requirements of this state, if the applicant passes the applicable examination  
3413 described in Subsection ~~[(1)(f) or (2)(f)]~~ (1)(e) or (2)(e).

3414 Section 56. Section **58-42a-501** is amended to read:

3415 **58-42a-501. Unlawful conduct.**

3416 "Unlawful conduct," as defined in Section [58-1-501](#) and as may be further defined by  
3417 division rule, includes:

3418 (1) engaging or offering to engage in the practice of occupational therapy unless  
3419 licensed under this chapter or exempted from licensure under Section [58-1-307](#) or [58-42a-304](#);

3420 (2) using the title occupational therapist or occupational therapy assistant unless  
3421 licensed under this chapter; and

3422 ~~[(3) employing or aiding and abetting an unqualified or unlicensed person to engage or~~  
3423 ~~offer to engage in the practice of occupational therapy unless the person is exempted from~~  
3424 ~~licensure under Section [58-1-307](#) or [58-42a-304](#); and]~~

3425 ~~[(4)]~~ (3) obtaining a license under this chapter by means of fraud, misrepresentation, or  
3426 concealment of a material fact.

3427 Section 57. Section **58-46a-302** is amended to read:

3428 **58-46a-302. Qualifications for licensure.**

3429 (1) Each applicant for licensure as a hearing instrument specialist shall:

3430 (a) submit to the division an application in a form prescribed by the division;

3431 (b) pay a fee as determined by the division pursuant to Section [63J-1-504](#);

3432 ~~[(c) be of good moral character;]~~

3433 ~~[(d)]~~ (c) have qualified for and currently hold board certification by the National Board  
3434 for Certification - Hearing Instrument Sciences, or an equivalent certification approved by the  
3435 division in collaboration with the board;

3436            [~~(e)~~] (d) have passed the Utah Law and Rules Examination for Hearing Instrument  
3437 Specialists; and

3438            [~~(f)~~] (e) if the applicant holds a hearing instrument intern license, surrender the hearing  
3439 instrument intern license at the time of licensure as a hearing instrument specialist.

3440            (2) Each applicant for licensure as a hearing instrument intern shall:

3441            (a) submit to the division an application in a form prescribed by the division;

3442            (b) pay a fee as determined by the division pursuant to Section 63J-1-504;

3443            [~~(c) be of good moral character;~~]

3444            [~~(d)~~] (c) have passed the Utah Law and Rules Examination for Hearing Instrument  
3445 Specialists; and

3446            [~~(e)~~] (d) present evidence acceptable to the division and the board that the applicant,  
3447 when licensed, will practice as a hearing instrument intern only under the supervision of a  
3448 supervising hearing instrument specialist in accordance with:

3449            (i) Section 58-46a-302.5; and

3450            (ii) the supervision requirements for obtaining board certification by the National  
3451 Board for Certification - Hearing Instrument Sciences, or an equivalent certification approved  
3452 by the division in collaboration with the board.

3453            Section 58. Section 58-47b-302 is amended to read:

3454            **58-47b-302. License classifications -- Qualifications for licensure.**

3455            (1) The division shall issue licenses under this chapter in the classifications of:

3456            (a) massage therapist; and

3457            (b) massage apprentice.

3458            (2) Each applicant for licensure as a massage therapist shall:

3459            (a) submit an application in a form prescribed by the division;

3460            (b) pay a fee determined by the department under Section 63J-1-504;

3461            [~~(c) be of good moral character;~~]

3462            [~~(d)~~] (c) be 18 years of age or older;

3463            [~~(e)~~] (d) have either:

3464            (i) (A) graduated from a school of massage having a curriculum which meets standards  
3465 established by division rule made in collaboration with the board; or

3466            (B) completed equivalent education and training in compliance with division rule; or



- 3467 (ii) completed a massage apprenticeship program consisting of a minimum of 1,000  
3468 hours of supervised training over a minimum of 12 months and in accordance with standards  
3469 established by the division by rule made in collaboration with the board; and  
3470 ~~[(f)]~~ (e) pass examinations established by rule by the division in collaboration with the  
3471 board.
- 3472 (3) Each applicant for licensure as a massage apprentice shall:  
3473 (a) submit an application in a form prescribed by the division;  
3474 (b) pay a fee determined by the department under Section [63J-1-504](#);  
3475 ~~[(c) be of good moral character;]~~  
3476 ~~[(d)]~~ (c) be 18 years of age or older;  
3477 ~~[(e)]~~ (d) provide satisfactory evidence to the division that the individual will practice as  
3478 a massage apprentice only under the direct supervision of a licensed massage therapist in good  
3479 standing and who has engaged in the lawful practice of massage therapy as a licensed massage  
3480 therapist for not less than 6,000 hours; and  
3481 ~~[(f)]~~ (e) successfully complete an examination as required by division rule.
- 3482 (4) (a) Any new massage therapist or massage apprentice applicant shall submit  
3483 fingerprint cards in a form acceptable to the division at the time the license application is filed  
3484 and shall consent to a fingerprint background check by the Utah Bureau of Criminal  
3485 Identification and the Federal Bureau of Investigation regarding the application.  
3486 (b) The division shall request the Department of Public Safety to complete a Federal  
3487 Bureau of Investigation criminal background check for each new massage therapist or  
3488 apprentice applicant through the national criminal history system (NCIC) or any successor  
3489 system.  
3490 (c) The cost of the background check and the fingerprinting shall be borne by the  
3491 applicant.
- 3492 (5) (a) Any new massage therapist or massage apprentice license issued under this  
3493 section shall be conditional, pending completion of the criminal background check. If the  
3494 criminal background check discloses the applicant has failed to accurately disclose a criminal  
3495 history, the license shall be immediately and automatically revoked.  
3496 (b) Any person whose conditional license has been revoked under Subsection (5)(a)  
3497 shall be entitled to a post-revocation hearing to challenge the revocation. The hearing shall be

3498 conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

3499 (6) An applicant who successfully completes a fingerprint background check under  
3500 Subsection (4) may not be required by any other state or local government body to submit to a  
3501 second fingerprint background check as a condition of lawfully practicing massage therapy in  
3502 this state.

3503 Section 59. Section ~~58-49-4~~ is amended to read:

3504 **58-49-4. Qualifications for certification -- Fee.**

3505 Each applicant for certification under this chapter shall provide proof satisfactory to the  
3506 division that the applicant:

3507 [~~(1)~~] ~~is of good moral character as it relates to the practice of dietetics;~~

3508 [~~(2)~~] (1) holds a baccalaureate or post-baccalaureate degree conferred by a college or  
3509 university approved by the division at the time the degree was conferred with a major course of  
3510 study in the sciences of food, dietetics, food systems management, or an equivalent major  
3511 course of study;

3512 [~~(3)~~] (2) has completed an internship or preplanned professional baccalaureate or  
3513 post-baccalaureate experience in a dietetic program under the supervision of a certified  
3514 dietitian who is certified under this chapter or certified, registered, or licensed under the laws of  
3515 another state or territory of the United States;

3516 [~~(4)~~] (3) has satisfactorily passed a competency examination, approved by or given at  
3517 the direction of the board in collaboration with the division; and

3518 [~~(5)~~] (4) has paid the appropriate fees determined by the Department of Commerce.

3519 The fee assessed by the Department of Commerce shall be fair and reasonable and shall reflect  
3520 the cost of services provided.

3521 Section 60. Section ~~58-49-5~~ is amended to read:

3522 **58-49-5. Certification of persons currently qualified.**

3523 The requirements of Subsections [~~58-49-4(2), (3), and (4)~~] 58-49-4(1), (2), and (3) are  
3524 waived and a certificate shall be issued by the division upon application and payment of the  
3525 appropriate fees by any person who, [~~prior to~~] before December 31, 1986, has provided to the  
3526 division proof that on May 1, 1985, [~~he~~] the person was and is currently registered by the  
3527 Commission on Dietetic Registration.

3528 Section 61. Section ~~58-49-9~~ is amended to read:

3529 **58-49-9. Use of titles by uncertified person.**

3530 No person, without first being certified under this chapter may:

3531 (1) assume or use the title or designation "dietitian," [~~"dietician,"~~] "certified dietitian,"  
3532 "registered dietitian," "registered dietitian nutritionist," the letters "C.D.," the letter "D.," or any  
3533 other title, words, letters, abbreviations, or insignia indicating or implying that the person is a  
3534 certified dietitian, including by using any of the preceding terms with the alternative spelling  
3535 "dietician"; or

3536 (2) represent in any way, whether orally, in writing, in print, or by signature, directly or  
3537 by implication, that [~~he~~] the person is a certified dietitian.

3538 Section 62. Section **58-53-502** is amended to read:

3539 **58-53-502. Citations -- Penalty for unlawful conduct.**

3540 (1) (a) If upon inspection or investigation, the division concludes that a person has  
3541 violated Subsections **58-1-501**(1)(a) through (d), Section **58-53-501**, or Section **58-53-603** or  
3542 any rule or order issued with respect to Section **58-53-501**, and that disciplinary action is  
3543 appropriate, the director or the director's designee from within the division for each alternative  
3544 respectively, shall promptly issue a citation to the person according to this chapter and any  
3545 pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear  
3546 before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative  
3547 Procedures Act.

3548 (i) A person who violates Subsections **58-1-501**(1)(a) through (d) or Section **58-53-501**  
3549 or any rule or order issued with respect to Section **58-53-501**, as evidenced by an uncontested  
3550 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may  
3551 be assessed a fine pursuant to Subsection (1)(i) and may, in addition to or in lieu of, be ordered  
3552 to cease and desist from violating Subsections **58-1-501**(1)(a) through (d) or Section **58-53-501**  
3553 or any rule or order issued with respect to Section **58-53-501**.

3554 (ii) Except for a cease and desist order, the licensure sanctions cited in Section  
3555 **58-53-401** may not be assessed through a citation.

3556 (b) A citation shall:

3557 (i) be in writing;

3558 (ii) describe with particularity the nature of the violation, including a reference to the  
3559 provision of the chapter, rule, or order alleged to have been violated;

3560 (iii) clearly state that the recipient must notify the division in writing within 20  
3561 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing  
3562 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

3563 (iv) clearly explain the consequences of failure to timely contest the citation or to make  
3564 payment of any fines assessed by the citation within the time specified in the citation.

3565 (c) The division may issue a notice in lieu of a citation.

3566 (d) Each citation issued under this section, or a copy of each citation, may be served  
3567 upon any person whom a summons may be served in accordance with the Utah Rules of Civil  
3568 Procedure and may be made personally or upon the person's agent by a division investigator or  
3569 by any person specially designated by the director or by mail.

3570 (e) If within 20 calendar days from the service of the citation, the person to whom the  
3571 citation was issued fails to request a hearing to contest the citation, the citation becomes the  
3572 final order of the division and is not subject to further agency review. The period to contest a  
3573 citation may be extended by the division for cause.

3574 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation  
3575 the license of a licensee who fails to comply with a citation after it becomes final.

3576 (g) The failure of an applicant for licensure to comply with a citation after it becomes  
3577 final is a ground for denial of license.

3578 (h) No citation may be issued under this section after the expiration of [~~six months~~  
3579 ~~following the occurrence of any violation~~] one year following the date on which the violation  
3580 that is the subject of the citation is reported to the division.

3581 (i) The director or the director's designee shall assess fines according to the following:

3582 (i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to \$1,000;

3583 (ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000;

3584 and

3585 (iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to  
3586 \$2,000 for each day of continued offense.

3587 (2) An action initiated for a first or second offense which has not yet resulted in a final  
3588 order of the division does not preclude initiation of any subsequent action for a second or  
3589 subsequent offense during the pendency of any preceding action. The final order on a  
3590 subsequent action shall be considered a second or subsequent offense, respectively, provided

3591 the preceding action resulted in a first or second offense, respectively.

3592 (3) (a) The director may collect a penalty that is not paid by:

3593 (i) referring the matter to a collection agency; or

3594 (ii) bringing an action in the district court of the county where the person against whom  
3595 the penalty is imposed resides or in the county where the office of the director is located.

3596 (b) A county attorney or the attorney general of the state shall provide legal assistance  
3597 and advice to the director in an action to collect a penalty.

3598 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an  
3599 action brought by the division to collect a penalty.

3600 Section 63. Section ~~58-54-302~~ is amended to read:

3601 **58-54-302. Requirements for licensure.**

3602 (1) Each applicant for licensure as a radiologic technologist, radiology assistant, or  
3603 radiology practical technician shall:

3604 (a) submit an application in a form prescribed by the division in collaboration with the  
3605 board; and

3606 (b) pay a fee as determined by the department pursuant to Section ~~63J-1-504~~~~[-and]~~.  
3607 [~~(c) be of good moral character.~~]

3608 (2) Each applicant for licensure as a radiologic technologist shall, in addition to the  
3609 requirements of Subsection (1):

3610 (a) be a graduate of an accredited educational program in radiologic technology or  
3611 certified by the American Registry of Radiologic Technologists or any equivalent educational  
3612 program approved by the division in collaboration with the board; and

3613 (b) have passed an examination approved by the division in collaboration with the  
3614 board.

3615 (3) Each applicant for licensure as a radiology practical technician shall, in addition to  
3616 the requirements of Subsection (1), have passed a basic examination and one or more specialty  
3617 examinations that are competency based, using a task analysis of the scope of practice of  
3618 radiology practical technicians in the state. The basic examination and the specialty  
3619 examination shall be approved by the division in collaboration with the board and the licensing  
3620 board of the profession within which the radiology practical technician will be practicing.

3621 (4) The division shall provide for administration of the radiology practical technician

3622 examination not less than monthly at offices designated by the division and located:

3623 (a) in Salt Lake City; and

3624 (b) within each local health department jurisdictional area.

3625 (5) (a) Except as provided in Subsection (5)(b), each applicant for licensure as a  
3626 radiologist assistant shall:

3627 (i) meet the requirements of Subsections (1) and (2);

3628 (ii) have a Bachelor of Science degree; and

3629 (iii) be certified as:

3630 (A) a radiologist assistant by the American Registry of Radiologic Technologists; or

3631 (B) a radiology practitioner assistant by the Certification Board of Radiology

3632 Practitioner Assistants.

3633 (b) An individual who meets the requirements of Subsections (5)(a)(i) and (iii), but not  
3634 Subsection (5)(a)(ii), may be licensed as a radiologist assistant under this chapter until May 31,  
3635 2013, at which time, the individual must have completed the Bachelor of Science degree in  
3636 order to retain the license of radiologist assistant.

3637 Section 64. Section **58-55-103** is amended to read:

3638 **58-55-103. Construction Services Commission created -- Functions --**

3639 **Appointment -- Qualifications and terms of members -- Vacancies -- Expenses -- Meetings**  
3640 **-- Concurrence.**

3641 (1) (a) There is created within the division the Construction Services Commission.

3642 (b) The commission shall:

3643 (i) with the concurrence of the director, make reasonable rules under Title 63G,

3644 Chapter 3, Utah Administrative Rulemaking Act, to administer and enforce this chapter which  
3645 are consistent with this chapter including:

3646 (A) licensing of various licensees;

3647 (B) examination requirements and administration of the examinations, to include  
3648 approving and establishing a passing score for applicant examinations;

3649 (C) standards of supervision for students or persons in training to become qualified to  
3650 obtain a license in the trade they represent; and

3651 (D) standards of conduct for various licensees;

3652 (ii) approve or disapprove fees adopted by the division under Section [63J-1-504](#);

3653 (iii) except where the boards conduct them, conduct all administrative hearings not  
3654 delegated to an administrative law judge relating to the licensing of any applicant;

3655 (iv) except as otherwise provided in Sections 38-11-207 and 58-55-503, with the  
3656 concurrence of the director, impose sanctions against licensees and certificate holders with the  
3657 same authority as the division under Section 58-1-401;

3658 (v) advise the director on the administration and enforcement of any matters affecting  
3659 the division and the construction industry;

3660 (vi) advise the director on matters affecting the division budget;

3661 (vii) advise and assist trade associations in conducting construction trade seminars and  
3662 industry education and promotion; and

3663 (viii) perform other duties as provided by this chapter.

3664 (2) (a) Initially the commission shall be comprised of the five members of the  
3665 Contractors Licensing Board and two of the three chair persons from the Plumbers Licensing  
3666 Board, the Alarm System Security and Licensing Board, and the Electricians Licensing Board.

3667 (b) The terms of office of the commission members who are serving on the Contractors  
3668 Licensing Board shall continue as they serve on the commission.

3669 (c) Beginning July 1, 2004, the commission shall be comprised of nine members  
3670 appointed by the executive director with the approval of the governor from the following  
3671 groups:

3672 (i) one member shall be a licensed general engineering contractor;

3673 (ii) one member shall be a licensed general building contractor;

3674 (iii) two members shall be licensed residential and small commercial contractors;

3675 (iv) three members shall be the three chair persons from the Plumbers Licensing Board,  
3676 the Alarm System Security and Licensing Board, and the Electricians Licensing Board; and

3677 (v) two members shall be from the general public~~[-provided, however that the certified~~  
3678 ~~public accountant on the Contractors Licensing Board will continue to serve until the current~~  
3679 ~~term expires, after which both members under this Subsection (2)(c)(v) shall be appointed from~~  
3680 ~~the general public].~~

3681 (3) (a) Except as required by Subsection (3)(b), as terms of current commission  
3682 members expire, the executive director with the approval of the governor shall appoint each  
3683 new member or reappointed member to a four-year term ending June 30.

3684 (b) Notwithstanding the requirements of Subsection (3)(a), the executive director with  
3685 the approval of the governor shall, at the time of appointment or reappointment, adjust the  
3686 length of terms to stagger the terms of commission members so that approximately 1/2 of the  
3687 commission members are appointed every two years.

3688 (c) A commission member may not serve more than two consecutive terms.

3689 (4) The commission shall elect annually one of its members as chair, for a term of one  
3690 year.

3691 (5) When a vacancy occurs in the membership for any reason, the replacement shall be  
3692 appointed for the unexpired term.

3693 (6) A member may not receive compensation or benefits for the member's service, but  
3694 may receive per diem and travel expenses in accordance with:

3695 (a) Section 63A-3-106;

3696 (b) Section 63A-3-107; and

3697 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
3698 63A-3-107.

3699 (7) (a) The commission shall meet at least monthly unless the director determines  
3700 otherwise.

3701 (b) The director may call additional meetings at the director's discretion, upon the  
3702 request of the chair, or upon the written request of four or more commission members.

3703 (8) (a) Five members constitute a quorum for the transaction of business.

3704 (b) If a quorum is present when a vote is taken, the affirmative vote of commission  
3705 members present is the act of the commission.

3706 (9) The commission shall comply with the procedures and requirements of Title 13,  
3707 Chapter 1, Department of Commerce, and Title 63G, Chapter 4, Administrative Procedures  
3708 Act, in all of its adjudicative proceedings.

3709 (10) (a) For purposes of this Subsection (10), "concurrence" means the entities given a  
3710 concurring role must jointly agree for the action to be taken.

3711 (b) If a provision of this chapter requires concurrence between the director or division  
3712 and the commission and no concurrence can be reached, the director or division has final  
3713 authority.

3714 (c) When this chapter requires concurrence between the director or division and the



3715 commission:

3716 (i) the director or division shall report to and update the commission on a regular basis  
3717 related to matters requiring concurrence; and

3718 (ii) the commission shall review the report submitted by the director or division under  
3719 this Subsection (10)(c) and concur with the report, or:

3720 (A) provide a reason for not concurring with the report; and

3721 (B) provide recommendations to the director or division.

3722 Section 65. Section **58-55-106** is amended to read:

3723 **58-55-106. Surcharge fee.**

3724 (1) In addition to any other fees authorized by this chapter or by the division in  
3725 accordance with Section **63J-1-504**, the division shall require each applicant for an initial  
3726 license, renewal of a license, or reinstatement of a license under this chapter to pay a \$1  
3727 surcharge fee.

3728 (2) The surcharge fee shall be deposited in the General Fund as a dedicated credit to be  
3729 used by the division to provide each licensee under this chapter with access to an electronic  
3730 reference library that provides web-based access to national, state, and local building codes and  
3731 standards.

3732 Section 66. Section **58-55-201** is amended to read:

3733 **58-55-201. Boards created -- Duties.**

3734 (1) There is created a Plumbers Licensing Board, an Alarm System Security and  
3735 Licensing Board, and an Electricians Licensing Board. Members of the boards shall be  
3736 selected to provide representation as follows:

3737 (a) The Plumbers Licensing Board consists of [~~five~~] seven members as follows:

3738 (i) [~~two~~] three members shall be licensed from among the license classifications of  
3739 master or journeyman plumber, of whom at least one shall represent a union organization and  
3740 at least one shall be selected having no union affiliation;

3741 (ii) [~~two~~] three members shall be licensed plumbing contractors, of whom at least one  
3742 shall represent a union organization and at least one shall be selected having no union  
3743 affiliation; and

3744 (iii) one member shall be from the public at large with no history of involvement in the  
3745 construction trades.

3746 (b) (i) The Alarm System Security and Licensing Board consists of five members as  
3747 follows:

- 3748 (A) three individuals who are officers or owners of a licensed alarm business;
- 3749 (B) one individual from among nominees of the Utah Peace Officers Association; and
- 3750 (C) one individual representing the general public.

3751 (ii) The Alarm System Security and Licensing Board shall designate one of its  
3752 members on a permanent or rotating basis to:

- 3753 (A) assist the division in reviewing complaints concerning the unlawful or  
3754 unprofessional conduct of a licensee; and
- 3755 (B) advise the division in its investigation of these complaints.
- 3756 (iii) A board member who has, under this Subsection (1)(b)(iii), reviewed a complaint  
3757 or advised in its investigation is disqualified from participating with the board when the board  
3758 serves as a presiding officer in an adjudicative proceeding concerning the complaint.

3759 (c) The Electricians Licensing Board consists of [~~five~~] seven members as follows:

3760 (i) [~~two~~] three members shall be licensed from among the license classifications of  
3761 master or journeyman electrician, of whom at least one shall represent a union organization and  
3762 at least one shall be selected having no union affiliation;

3763 (ii) [~~two~~] three members shall be licensed electrical contractors, of whom at least one  
3764 shall represent a union organization and at least one shall be selected having no union  
3765 affiliation; and

3766 (iii) one member shall be from the public at large with no history of involvement in the  
3767 construction trades or union affiliation.

3768 (2) The duties, functions, and responsibilities of each board include the following:

- 3769 (a) recommending to the commission appropriate rules;
- 3770 (b) recommending to the commission policy and budgetary matters;
- 3771 (c) approving and establishing a passing score for applicant examinations;
- 3772 (d) overseeing the screening of applicants for licensing, renewal, reinstatement, and  
3773 relicensure;
- 3774 (e) assisting the commission in establishing standards of supervision for students or  
3775 persons in training to become qualified to obtain a license in the occupation or profession it  
3776 represents; and

3777 (f) acting as presiding officer in conducting hearings associated with the adjudicative  
3778 proceedings and in issuing recommended orders when so authorized by the commission.

3779 (3) The division in collaboration with the Plumbers Licensing Board and the  
3780 Electricians Licensing Board shall provide a preliminary report on or before October 1, 2019,  
3781 and a final written report on or before June 1, 2020, to the Business and Labor Interim  
3782 Committee and the Occupational and Professional Licensure Review Committee that provides  
3783 recommendations for consistent educational and training standards for plumber and electrician  
3784 apprentice programs in the state, including recommendations for education and training  
3785 provided by all providers, including institutions of higher education and technical colleges.

3786 Section 67. Section **58-55-302** is amended to read:

3787 **58-55-302. Qualifications for licensure.**

3788 (1) Each applicant for a license under this chapter shall:

3789 (a) submit an application prescribed by the division;

3790 (b) pay a fee as determined by the department under Section [63J-1-504](#);

3791 (c) meet the examination requirements established by this section and by rule by the  
3792 commission with the concurrence of the director, which requirements include:

3793 (i) for licensure as an apprentice electrician, apprentice plumber, or specialty  
3794 contractor, no division-administered examination is required;

3795 (ii) for licensure as a general building contractor, general engineering contractor,  
3796 residential and small commercial contractor, general plumbing contractor, residential plumbing  
3797 contractor, general electrical contractor, or residential electrical contractor, the only required  
3798 division-administered examination is a division-administered examination that covers  
3799 information from the 25-hour course described in Subsection (1)(e)(iii), which course may  
3800 have been previously completed as part of applying for any other license under this chapter,  
3801 and, if the 25-hour course was completed on or after July 1, 2019, the five-hour business law  
3802 course described in Subsection (1)(e)(iv); and

3803 (iii) if required in Section [58-55-304](#), an individual qualifier must pass the required  
3804 division-administered examination if the applicant is a business entity;

3805 (d) if an apprentice, identify the proposed supervisor of the apprenticeship;

3806 (e) if an applicant for a contractor's license:

3807 (i) produce satisfactory evidence of financial responsibility, except for a construction

3808 trades instructor for whom evidence of financial responsibility is not required;

3809 (ii) produce satisfactory evidence of:

3810 (A) except as provided in Subsection (2)(a), and except that no employment experience

3811 is required for licensure as a specialty contractor, two years full-time paid employment

3812 experience in the construction industry, which employment experience, unless more

3813 specifically described in this section, may be related to any contracting classification and does

3814 not have to include supervisory experience; and

3815 (B) knowledge of the principles of the conduct of business as a contractor, reasonably

3816 necessary for the protection of the public health, safety, and welfare;

3817 (iii) except as otherwise provided by rule by the commission with the concurrence of

3818 the director, complete a 25-hour course established by rule by the commission with the

3819 concurrence of the director, which is taught by an approved prelicensure course provider, and

3820 which course may include:

3821 (A) construction business practices;

3822 (B) bookkeeping fundamentals;

3823 (C) mechanics lien fundamentals;

3824 (D) other aspects of business and construction principles considered important by the

3825 commission with the concurrence of the director; and

3826 (E) for no additional fee, a provider-administered examination at the end of the

3827 25-hour course;

3828 (iv) complete a five-hour business and law course established by rule by the

3829 commission with the concurrence of the director, which is taught by an approved prelicensure

3830 course provider, if an applicant for licensure as a general building contractor, general

3831 engineering contractor, residential and small commercial contractor, general plumbing

3832 contractor, residential plumbing contractor, general electrical contractor, or residential

3833 electrical contractor, except that if the 25-hour course described in Subsection (1)(e)(iii) was

3834 completed before July 1, 2019, the applicant does not need to take the business and law course;

3835 (v) (A) be a licensed master electrician if an applicant for an electrical contractor's

3836 license or a licensed master residential electrician if an applicant for a residential electrical

3837 contractor's license;

3838 (B) be a licensed master plumber if an applicant for a plumbing contractor's license or

3839 a licensed master residential plumber if an applicant for a residential plumbing contractor's  
3840 license; or

3841 (C) be a licensed elevator mechanic and produce satisfactory evidence of three years  
3842 experience as an elevator mechanic if an applicant for an elevator contractor's license; and

3843 (vi) when the applicant is an unincorporated entity, provide a list of the one or more  
3844 individuals who hold an ownership interest in the applicant as of the day on which the  
3845 application is filed that includes for each individual:

3846 (A) the individual's name, address, birth date, and social security number; and

3847 (B) whether the individual will engage in a construction trade; and

3848 (f) if an applicant for a construction trades instructor license, satisfy any additional  
3849 requirements established by rule.

3850 (2) (a) If the applicant for a contractor's license described in Subsection (1) is a  
3851 building inspector, the applicant may satisfy Subsection (1)(e)(ii)(A) by producing satisfactory  
3852 evidence of two years full-time paid employment experience as a building inspector, which  
3853 shall include at least one year full-time experience as a licensed combination inspector.

3854 (b) ~~[After approval of an applicant for a contractor's license by the applicable board~~  
3855 ~~and the division, the] The applicant shall file the following with the division before the division~~  
3856 issues the license:

3857 (i) proof of workers' compensation insurance which covers employees of the applicant  
3858 in accordance with applicable Utah law;

3859 (ii) proof of public liability insurance in coverage amounts and form established by rule  
3860 except for a construction trades instructor for whom public liability insurance is not required;  
3861 and

3862 (iii) proof of registration as required by applicable law with the:

3863 (A) Department of Commerce;

3864 (B) Division of Corporations and Commercial Code;

3865 (C) Unemployment Insurance Division in the Department of Workforce Services, for  
3866 purposes of Title 35A, Chapter 4, Employment Security Act;

3867 (D) State Tax Commission; and

3868 (E) Internal Revenue Service.

3869 (3) In addition to the general requirements for each applicant in Subsection (1),

3870 applicants shall comply with the following requirements to be licensed in the following  
3871 classifications:

3872 (a) (i) A master plumber shall produce satisfactory evidence that the applicant:

3873 (A) has been a licensed journeyman plumber for at least two years and had two years of  
3874 supervisory experience as a licensed journeyman plumber in accordance with division rule;

3875 (B) has received at least an associate of applied science degree or similar degree  
3876 following the completion of a course of study approved by the division and had one year of  
3877 supervisory experience as a licensed journeyman plumber in accordance with division rule; or

3878 (C) meets the qualifications for expedited licensure as established by rules made by the  
3879 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
3880 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
3881 and skills to be a licensed master plumber.

3882 (ii) An individual holding a valid Utah license as a journeyman plumber, based on at  
3883 least four years of practical experience as a licensed apprentice under the supervision of a  
3884 licensed journeyman plumber and four years as a licensed journeyman plumber, in effect  
3885 immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current  
3886 master plumber license under this chapter, and satisfies the requirements of this Subsection  
3887 (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

3888 (iii) An individual holding a valid plumbing contractor's license or residential  
3889 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,  
3890 2008:

3891 (A) considered to hold a current master plumber license under this chapter if licensed  
3892 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this  
3893 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section  
3894 58-55-303; and

3895 (B) considered to hold a current residential master plumber license under this chapter if  
3896 licensed as a residential plumbing contractor and a residential journeyman plumber, and  
3897 satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of  
3898 that license under Section 58-55-303.

3899 (b) A master residential plumber applicant shall produce satisfactory evidence that the  
3900 applicant:

3901 (i) has been a licensed residential journeyman plumber for at least two years and had  
3902 two years of supervisory experience as a licensed residential journeyman plumber in  
3903 accordance with division rule; or

3904 (ii) meets the qualifications for expedited licensure as established by rules made by the  
3905 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
3906 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
3907 and skills to be a licensed master residential plumber.

3908 (c) A journeyman plumber applicant shall produce satisfactory evidence of:

3909 (i) successful completion of the equivalent of at least four years of full-time training  
3910 and instruction as a licensed apprentice plumber under supervision of a licensed master  
3911 plumber or journeyman plumber and in accordance with a planned program of training  
3912 approved by the division;

3913 (ii) at least eight years of full-time experience approved by the division in collaboration  
3914 with the Plumbers Licensing Board; or

3915 (iii) meeting the qualifications for expedited licensure as established by rules made by  
3916 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
3917 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
3918 and skills to be a licensed journeyman plumber.

3919 (d) A residential journeyman plumber shall produce satisfactory evidence of:

3920 (i) completion of the equivalent of at least three years of full-time training and  
3921 instruction as a licensed apprentice plumber under the supervision of a licensed residential  
3922 master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in  
3923 accordance with a planned program of training approved by the division;

3924 (ii) completion of at least six years of full-time experience in a maintenance or repair  
3925 trade involving substantial plumbing work; or

3926 (iii) meeting the qualifications for expedited licensure as established by rules made by  
3927 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
3928 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
3929 and skills to be a licensed residential journeyman plumber.

3930 (e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be  
3931 in accordance with the following:

3932 (i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be  
3933 under the immediate supervision of a licensed master plumber, licensed residential master  
3934 plumber, licensed journeyman plumber, or licensed residential journeyman plumber;

3935 (ii) beginning in a licensed apprentice plumber's fourth year of training, a licensed  
3936 apprentice plumber may work without supervision for a period not to exceed eight hours in any  
3937 24-hour period; and

3938 (iii) rules made by the commission, with the concurrence of the director, in accordance  
3939 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of  
3940 apprentices allowed under the immediate supervision of a licensed supervisor, including the  
3941 ratio of apprentices in their fourth year of training or later that are allowed to be under the  
3942 immediate supervision of a licensed supervisor.

3943 (f) A master electrician applicant shall produce satisfactory evidence that the applicant:

3944 (i) is a graduate electrical engineer of an accredited college or university approved by  
3945 the division and has one year of practical electrical experience as a licensed apprentice  
3946 electrician;

3947 (ii) is a graduate of an electrical trade school, having received an associate of applied  
3948 sciences degree following successful completion of a course of study approved by the division,  
3949 and has two years of practical experience as a licensed journeyman electrician;

3950 (iii) has four years of practical experience as a journeyman electrician; or

3951 (iv) meets the qualifications for expedited licensure as established by rules made by the  
3952 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
3953 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
3954 and skills to be a licensed master electrician.

3955 (g) A master residential electrician applicant shall produce satisfactory evidence that  
3956 the applicant:

3957 (i) has at least two years of practical experience as a residential journeyman electrician;  
3958 or

3959 (ii) meets the qualifications for expedited licensure as established by rules made by the  
3960 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
3961 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
3962 and skills to be a master residential electrician.



3963 (h) A journeyman electrician applicant shall produce satisfactory evidence that the  
3964 applicant:

3965 (i) has successfully completed at least four years of full-time training and instruction as  
3966 a licensed apprentice electrician under the supervision of a master electrician or journeyman  
3967 electrician and in accordance with a planned training program approved by the division;

3968 (ii) has at least eight years of full-time experience approved by the division in  
3969 collaboration with the Electricians Licensing Board; or

3970 (iii) meets the qualifications for expedited licensure as established by rules made by the  
3971 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
3972 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
3973 and skills to be a licensed journeyman electrician.

3974 (i) A residential journeyman electrician applicant shall produce satisfactory evidence  
3975 that the applicant:

3976 (i) has successfully completed two years of training in an electrical training program  
3977 approved by the division;

3978 (ii) has four years of practical experience in wiring, installing, and repairing electrical  
3979 apparatus and equipment for light, heat, and power under the supervision of a licensed master,  
3980 journeyman, residential master, or residential journeyman electrician; or

3981 (iii) meets the qualifications for expedited licensure as established by rules made by the  
3982 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
3983 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
3984 and skills to be a licensed residential journeyman electrician.

3985 (j) The conduct of licensed apprentice electricians and their licensed supervisors shall  
3986 be in accordance with the following:

3987 (i) A licensed apprentice electrician shall be under the immediate supervision of a  
3988 licensed master, journeyman, residential master, or residential journeyman electrician;

3989 (ii) beginning in a licensed apprentice electrician's fourth year of training, a licensed  
3990 apprentice electrician may work without supervision for a period not to exceed eight hours in  
3991 any 24-hour period;

3992 (iii) rules made by the commission, with the concurrence of the director, in accordance  
3993 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of

3994 apprentices allowed under the immediate supervision of a licensed supervisor, including the  
3995 ratio of apprentices in their fourth year of training or later that are allowed to be under the  
3996 immediate supervision of a licensed supervisor; and

3997 (iv) a licensed supervisor may have up to three licensed apprentice electricians on a  
3998 residential project, or more if established by rules made by the commission, in concurrence  
3999 with the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
4000 Act.

4001 (k) An alarm company applicant shall:

4002 (i) have a qualifying agent who is an officer, director, partner, proprietor, or manager of  
4003 the applicant who:

4004 (A) demonstrates 6,000 hours of experience in the alarm company business;

4005 (B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm  
4006 company business or in a construction business; and

4007 (C) passes an examination component established by rule by the commission with the  
4008 concurrence of the director;

4009 (ii) if a corporation, provide:

4010 (A) the names, addresses, dates of birth, social security numbers, and fingerprint cards  
4011 of all corporate officers, directors, and those responsible management personnel employed  
4012 within the state or having direct responsibility for managing operations of the applicant within  
4013 the state; and

4014 (B) the names, addresses, dates of birth, social security numbers, and fingerprint cards  
4015 of all shareholders owning 5% or more of the outstanding shares of the corporation, except this  
4016 shall not be required if the stock is publicly listed and traded;

4017 (iii) if a limited liability company, provide:

4018 (A) the names, addresses, dates of birth, social security numbers, and fingerprint cards  
4019 of all company officers, and those responsible management personnel employed within the  
4020 state or having direct responsibility for managing operations of the applicant within the state;  
4021 and

4022 (B) the names, addresses, dates of birth, social security numbers, and fingerprint cards  
4023 of all individuals owning 5% or more of the equity of the company;

4024 (iv) if a partnership, provide the names, addresses, dates of birth, social security

4025 numbers, and fingerprint cards of all general partners, and those responsible management  
4026 personnel employed within the state or having direct responsibility for managing operations of  
4027 the applicant within the state;

4028 (v) if a proprietorship, provide the names, addresses, dates of birth, social security  
4029 numbers, and fingerprint cards of the proprietor, and those responsible management personnel  
4030 employed within the state or having direct responsibility for managing operations of the  
4031 applicant within the state;

4032 (vi) if a trust, provide the names, addresses, dates of birth, social security numbers, and  
4033 fingerprint cards of the trustee, and those responsible management personnel employed within  
4034 the state or having direct responsibility for managing operations of the applicant within the  
4035 state;

4036 (vii) be of good moral character in that officers, directors, shareholders described in  
4037 Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel  
4038 have not been convicted of a felony, a misdemeanor involving moral turpitude, or any other  
4039 crime that when considered with the duties and responsibilities of an alarm company is  
4040 considered by the board to indicate that the best interests of the public are served by granting  
4041 the applicant a license;

4042 (viii) document that none of the applicant's officers, directors, shareholders described  
4043 in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management  
4044 personnel have been declared by any court of competent jurisdiction incompetent by reason of  
4045 mental defect or disease and not been restored;

4046 (ix) document that none of the applicant's officers, directors, shareholders described in  
4047 Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel are  
4048 currently suffering from habitual drunkenness or from drug addiction or dependence;

4049 (x) file and maintain with the division evidence of:

4050 (A) comprehensive general liability insurance in form and in amounts to be established  
4051 by rule by the commission with the concurrence of the director;

4052 (B) workers' compensation insurance that covers employees of the applicant in  
4053 accordance with applicable Utah law; and

4054 (C) registration as is required by applicable law with the:

4055 (I) Division of Corporations and Commercial Code;

4056 (II) Unemployment Insurance Division in the Department of Workforce Services, for  
4057 purposes of Title 35A, Chapter 4, Employment Security Act;

4058 (III) State Tax Commission; and

4059 (IV) Internal Revenue Service; and

4060 (xi) meet with the division and board.

4061 (l) Each applicant for licensure as an alarm company agent shall:

4062 (i) submit an application in a form prescribed by the division accompanied by  
4063 fingerprint cards;

4064 (ii) pay a fee determined by the department under Section [63J-1-504](#);

4065 (iii) be of good moral character in that the applicant has not been convicted of a felony,  
4066 a misdemeanor involving moral turpitude, or any other crime that when considered with the  
4067 duties and responsibilities of an alarm company agent is considered by the board to indicate  
4068 that the best interests of the public are served by granting the applicant a license;

4069 (iv) not have been declared by any court of competent jurisdiction incompetent by  
4070 reason of mental defect or disease and not been restored;

4071 (v) not be currently suffering from habitual drunkenness or from drug addiction or  
4072 dependence; and

4073 (vi) meet with the division and board if requested by the division or the board.

4074 (m) (i) Each applicant for licensure as an elevator mechanic shall:

4075 (A) provide documentation of experience and education credits of not less than three  
4076 years work experience in the elevator industry, in construction, maintenance, or service and  
4077 repair; and

4078 (B) satisfactorily complete a written examination administered by the division  
4079 established by rule under Section [58-1-203](#); or

4080 (C) provide certificates of completion of an apprenticeship program for elevator  
4081 mechanics, having standards substantially equal to those of this chapter and registered with the  
4082 United States Department of Labor Bureau Apprenticeship and Training or a state  
4083 apprenticeship council.

4084 (ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed  
4085 elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing,  
4086 repairing, or maintaining an elevator, the contractor may:

- 4087 (I) notify the division of the unavailability of licensed personnel; and
- 4088 (II) request the division issue a temporary elevator mechanic license to an individual
- 4089 certified by the contractor as having an acceptable combination of documented experience and
- 4090 education to perform the work described in this Subsection (3)(m)(ii)(A).
- 4091 (B) (I) The division may issue a temporary elevator mechanic license to an individual
- 4092 certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by
- 4093 the appropriate fee as determined by the department under Section [63J-1-504](#).
- 4094 (II) The division shall specify the time period for which the license is valid and may
- 4095 renew the license for an additional time period upon its determination that a shortage of
- 4096 licensed elevator mechanics continues to exist.
- 4097 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4098 division may make rules establishing when Federal Bureau of Investigation records shall be
- 4099 checked for applicants as an alarm company or alarm company agent.
- 4100 (5) To determine if an applicant meets the qualifications of Subsections (3)(k)(vii) and
- 4101 (3)(l)(iii), the division shall provide an appropriate number of copies of fingerprint cards to the
- 4102 Department of Public Safety with the division's request to:
- 4103 (a) conduct a search of records of the Department of Public Safety for criminal history
- 4104 information relating to each applicant for licensure as an alarm company or alarm company
- 4105 agent and each applicant's officers, directors, shareholders described in Subsection
- 4106 (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and
- 4107 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
- 4108 requiring a check of records of the Federal Bureau of Investigation for criminal history
- 4109 information under this section.
- 4110 (6) The Department of Public Safety shall send to the division:
- 4111 (a) a written record of criminal history, or certification of no criminal history record, as
- 4112 contained in the records of the Department of Public Safety in a timely manner after receipt of
- 4113 a fingerprint card from the division and a request for review of Department of Public Safety
- 4114 records; and
- 4115 (b) the results of the Federal Bureau of Investigation review concerning an applicant in
- 4116 a timely manner after receipt of information from the Federal Bureau of Investigation.
- 4117 (7) (a) The division shall charge each applicant for licensure as an alarm company or

4118 alarm company agent a fee, in accordance with Section 63J-1-504, equal to the cost of  
4119 performing the records reviews under this section.

4120 (b) The division shall pay the Department of Public Safety the costs of all records  
4121 reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the  
4122 costs of records reviews under this section.

4123 (8) Information obtained by the division from the reviews of criminal history records of  
4124 the Department of Public Safety and the Federal Bureau of Investigation shall be used or  
4125 disseminated by the division only for the purpose of determining if an applicant for licensure as  
4126 an alarm company or alarm company agent is qualified for licensure.

4127 (9) (a) An application for licensure under this chapter shall be denied if:

4128 (i) the applicant has had a previous license, which was issued under this chapter,  
4129 suspended or revoked within two years before the date of the applicant's application;

4130 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

4131 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the  
4132 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar  
4133 status, performing similar functions, or directly or indirectly controlling the applicant has  
4134 served in any similar capacity with any person or entity which has had a previous license,  
4135 which was issued under this chapter, suspended or revoked within two years before the date of  
4136 the applicant's application;

4137 (iii) (A) the applicant is an individual or sole proprietorship; and

4138 (B) any owner or agent acting as a qualifier has served in any capacity listed in  
4139 Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under  
4140 this chapter, suspended or revoked within two years before the date of the applicant's  
4141 application; or

4142 (iv) (A) the applicant includes an individual who was an owner, director, or officer of  
4143 an unincorporated entity at the time the entity's license under this chapter was revoked; and

4144 (B) the application for licensure is filed within 60 months after the revocation of the  
4145 unincorporated entity's license.

4146 (b) An application for licensure under this chapter shall be reviewed by the appropriate  
4147 licensing board prior to approval if:

4148 (i) the applicant has had a previous license, which was issued under this chapter,

4149 suspended or revoked more than two years before the date of the applicant's application;

4150 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

4151 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the  
4152 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar  
4153 status, performing similar functions, or directly or indirectly controlling the applicant has  
4154 served in any similar capacity with any person or entity which has had a previous license,  
4155 which was issued under this chapter, suspended or revoked more than two years before the date  
4156 of the applicant's application; or

4157 (iii) (A) the applicant is an individual or sole proprietorship; and

4158 (B) any owner or agent acting as a qualifier has served in any capacity listed in  
4159 Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under  
4160 this chapter, suspended or revoked more than two years before the date of the applicant's  
4161 application.

4162 (10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status  
4163 report with the division every 30 days after the day on which the license is issued if the licensee  
4164 has more than five owners who are individuals who:

4165 (A) own an interest in the contractor that is an unincorporated entity;

4166 (B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the  
4167 division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the  
4168 unincorporated entity; and

4169 (C) engage, or will engage, in a construction trade in the state as owners of the  
4170 contractor described in Subsection (10)(a)(i)(A).

4171 (ii) If the licensee has five or fewer owners described in Subsection (10)(a)(i), the  
4172 licensee shall provide the ownership status report with an application for renewal of licensure.

4173 (b) An ownership status report required under this Subsection (10) shall:

4174 (i) specify each addition or deletion of an owner:

4175 (A) for the first ownership status report, after the day on which the unincorporated  
4176 entity is licensed under this chapter; and

4177 (B) for a subsequent ownership status report, after the day on which the previous  
4178 ownership status report is filed;

4179 (ii) be in a format prescribed by the division that includes for each owner, regardless of

4180 the owner's percentage ownership in the unincorporated entity, the information described in  
4181 Subsection(1)(e)(vi);  
4182 (iii) list the name of:  
4183 (A) each officer or manager of the unincorporated entity; and  
4184 (B) each other individual involved in the operation, supervision, or management of the  
4185 unincorporated entity; and  
4186 (iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504  
4187 if the ownership status report indicates there is a change described in Subsection (10)(b)(i).  
4188 (c) The division may, at any time, audit an ownership status report under this  
4189 Subsection (10):  
4190 (i) to determine if financial responsibility has been demonstrated or maintained as  
4191 required under Section 58-55-306; and  
4192 (ii) to determine compliance with Subsection 58-55-501(23), (24), [~~(25)~~, or (27)] or  
4193 (26) or Subsection 58-55-502(8) or (9).  
4194 (11) (a) An unincorporated entity that provides labor to an entity licensed under this  
4195 chapter by providing an individual who owns an interest in the unincorporated entity to engage  
4196 in a construction trade in Utah shall file with the division:  
4197 (i) before the individual who owns an interest in the unincorporated entity engages in a  
4198 construction trade in Utah, a current list of the one or more individuals who hold an ownership  
4199 interest in the unincorporated entity that includes for each individual:  
4200 (A) the individual's name, address, birth date, and social security number; and  
4201 (B) whether the individual will engage in a construction trade; and  
4202 (ii) every 30 days after the day on which the unincorporated entity provides the list  
4203 described in Subsection (11)(a)(i), an ownership status report containing the information that  
4204 would be required under Subsection (10) if the unincorporated entity were a licensed  
4205 contractor.  
4206 (b) When filing an ownership list described in Subsection (11)(a)(i) or an ownership  
4207 status report described in Subsection (11)(a)(ii), an unincorporated entity shall pay a fee set by  
4208 the division in accordance with Section 63J-1-504.  
4209 (12) This chapter may not be interpreted to create or support an express or implied  
4210 independent contractor relationship between an unincorporated entity described in Subsection



4211 (10) or (11) and the owners of the unincorporated entity for any purpose, including income tax  
4212 withholding.

4213 (13) A social security number provided under Subsection (1)(e)(vi) is a private record  
4214 under Subsection 63G-2-302(1)(i).

4215 Section 68. Section 58-55-305 is amended to read:

4216 **58-55-305. Exemptions from licensure.**

4217 (1) In addition to the exemptions from licensure in Section 58-1-307, the following  
4218 persons may engage in acts or practices included within the practice of construction trades,  
4219 subject to the stated circumstances and limitations, without being licensed under this chapter:

4220 (a) an authorized representative of the United States government or an authorized  
4221 employee of the state or any of its political subdivisions when working on construction work of  
4222 the state or the subdivision, and when acting within the terms of the person's trust, office, or  
4223 employment;

4224 (b) a person engaged in construction or operation incidental to the construction and  
4225 repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation  
4226 districts, and drainage districts or construction and repair relating to farming, dairying,  
4227 agriculture, livestock or poultry raising, metal and coal mining, quarries, sand and gravel  
4228 excavations, well drilling, as defined in Section 73-3-25, hauling to and from construction  
4229 sites, and lumbering;

4230 (c) public utilities operating under the rules of the Public Service Commission on work  
4231 incidental to their own business;

4232 (d) a sole [owners] owner of property engaged in building:

4233 (i) no more than one residential structure per year on the sole owner's property and no  
4234 more than three residential structures per five years on ~~[their]~~ the sole owner's property for  
4235 ~~[their own]~~ the sole owner's noncommercial, nonpublic use~~[-except], except that~~ a person  
4236 other than the property owner or ~~[individuals]~~ a person described in Subsection (1)(e), who  
4237 engages in building ~~[the]~~ a residential structure must be licensed under this chapter if the  
4238 person is otherwise required to be licensed under this chapter; or

4239 (ii) structures on ~~[their]~~ the sole owner's property for ~~[their own]~~ the sole owner's  
4240 noncommercial, nonpublic use ~~[which]~~ that are incidental to a residential structure on the  
4241 property, including ~~[sheds, carports, or detached garages]~~ a shed, carport, or detached garage;

4242 (e) (i) a person engaged in construction or renovation of a residential building for  
4243 noncommercial, nonpublic use if that person:

4244 (A) works without compensation other than token compensation that is not considered  
4245 salary or wages; and

4246 (B) works under the direction of the property owner who engages in building the  
4247 structure; and

4248 (ii) as used in this Subsection (1)(e), "token compensation" means compensation paid  
4249 by a sole owner of property exempted from licensure under Subsection (1)(d) to a person  
4250 exempted from licensure under this Subsection (1)(e), that is:

4251 (A) minimal in value when compared with the fair market value of the services  
4252 provided by the person;

4253 (B) not related to the fair market value of the services provided by the person; and

4254 (C) is incidental to the providing of services by the person including paying for or  
4255 providing meals or refreshment while services are being provided, or paying reasonable  
4256 transportation costs incurred by the person in travel to the site of construction;

4257 (f) a person engaged in the sale or merchandising of personal property that by its design  
4258 or manufacture may be attached, installed, or otherwise affixed to real property who has  
4259 contracted with a person, firm, or corporation licensed under this chapter to install, affix, or  
4260 attach that property;

4261 (g) a contractor submitting a bid on a federal aid highway project, if, before  
4262 undertaking construction under that bid, the contractor is licensed under this chapter;

4263 (h) (i) subject to Subsection 58-1-401(2) and Sections 58-55-501 and 58-55-502, a  
4264 person engaged in the alteration, repair, remodeling, or addition to or improvement of a  
4265 building with a contracted or agreed value of less than \$3,000, including both labor and  
4266 materials, and including all changes or additions to the contracted or agreed upon work; and

4267 (ii) notwithstanding Subsection (1)(h)(i) and except as otherwise provided in this  
4268 section:

4269 (A) work in the plumbing and electrical trades on a Subsection (1)(h)(i) project within  
4270 any six month period of time:

4271 (I) must be performed by a licensed electrical or plumbing contractor, if the project  
4272 involves an electrical or plumbing system; and

4273 (II) may be performed by a licensed journeyman electrician or plumber or an individual  
4274 referred to in Subsection (1)(h)(ii)(A)(I), if the project involves a component of the system  
4275 such as a faucet, toilet, fixture, device, outlet, or electrical switch;

4276 (B) installation, repair, or replacement of a residential or commercial gas appliance or a  
4277 combustion system on a Subsection (1)(h)(i) project must be performed by a person who has  
4278 received certification under Subsection 58-55-308(2) except as otherwise provided in  
4279 Subsection 58-55-308(2)(d) or 58-55-308(3);

4280 (C) installation, repair, or replacement of water-based fire protection systems on a  
4281 Subsection (1)(h)(i) project must be performed by a licensed fire suppression systems  
4282 contractor or a licensed journeyman plumber;

4283 (D) work as an alarm business or company or as an alarm company agent shall be  
4284 performed by a licensed alarm business or company or a licensed alarm company agent, except  
4285 as otherwise provided in this chapter;

4286 (E) installation, repair, or replacement of an alarm system on a Subsection (1)(h)(i)  
4287 project must be performed by a licensed alarm business or company or a licensed alarm  
4288 company agent;

4289 (F) installation, repair, or replacement of a heating, ventilation, or air conditioning  
4290 system (HVAC) on a Subsection (1)(h)(i) project must be performed by an HVAC contractor  
4291 licensed by the division;

4292 (G) installation, repair, or replacement of a radon mitigation system or a soil  
4293 depressurization system must be performed by a licensed contractor; and

4294 (H) if the total value of the project is greater than \$1,000, the person shall file with the  
4295 division a one-time affirmation, subject to periodic reaffirmation as established by division  
4296 rule, that the person has:

4297 (I) public liability insurance in coverage amounts and form established by division  
4298 rule; and

4299 (II) if applicable, workers compensation insurance which would cover an employee of  
4300 the person if that employee worked on the construction project;

4301 (i) a person practicing a specialty contractor classification or construction trade which  
4302 the director does not classify by administrative rule as significantly impacting the public's  
4303 health, safety, and welfare;

4304 (j) owners and lessees of property and persons regularly employed for wages by owners  
4305 or lessees of property or their agents for the purpose of maintaining the property, are exempt  
4306 from this chapter when doing work upon the property;

4307 (k) (i) a person engaged in minor plumbing work that is incidental, as defined by the  
4308 division by rule, to the replacement or repair of a fixture or an appliance in a residential or  
4309 small commercial building, or structure used for agricultural use, as defined in Section  
4310 [15A-1-202](#), provided that no modification is made to:

4311 (A) existing culinary water, soil, waste, or vent piping; or

4312 (B) a gas appliance or combustion system; and

4313 (ii) except as provided in Subsection (1)(e), installation for the first time of a fixture or  
4314 an appliance is not included in the exemption provided under Subsection (1)(k)(i);

4315 (l) a person who ordinarily would be subject to the plumber licensure requirements  
4316 under this chapter when installing or repairing a water conditioner or other water treatment  
4317 apparatus if the conditioner or apparatus:

4318 (i) meets the appropriate state construction codes or local plumbing standards; and

4319 (ii) is installed or repaired under the direction of a person authorized to do the work  
4320 under an appropriate specialty contractor license;

4321 (m) a person who ordinarily would be subject to the electrician licensure requirements  
4322 under this chapter when employed by:

4323 (i) railroad corporations, telephone corporations or their corporate affiliates, elevator  
4324 contractors or constructors, or street railway systems; or

4325 (ii) public service corporations, rural electrification associations, or municipal utilities  
4326 who generate, distribute, or sell electrical energy for light, heat, or power;

4327 (n) a person involved in minor electrical work incidental to a mechanical or service  
4328 installation, including the outdoor installation of an above-ground, prebuilt hot tub;

4329 (o) a person who ordinarily would be subject to the electrician licensure requirements  
4330 under this chapter but who during calendar years 2009, 2010, or 2011 was issued a specialty  
4331 contractor license for the electrical work associated with the installation, repair, or maintenance  
4332 of solar energy panels, may continue the limited electrical work for solar energy panels under a  
4333 specialty contractor license;

4334 (p) a student participating in construction trade education and training programs

4335 approved by the commission with the concurrence of the director under the condition that:

4336 (i) all work intended as a part of a finished product on which there would normally be  
4337 an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed  
4338 building inspector; and

4339 (ii) a licensed contractor obtains the necessary building permits;

4340 (q) a delivery person when replacing any of the following existing equipment with a  
4341 new gas appliance, provided there is an existing gas shutoff valve at the appliance:

4342 (i) gas range;

4343 (ii) gas dryer;

4344 (iii) outdoor gas barbeque; or

4345 (iv) outdoor gas patio heater;

4346 (r) a person performing maintenance on an elevator as defined in Section 58-55-102, if  
4347 the maintenance is not related to the operating integrity of the elevator; and

4348 (s) an apprentice or helper of an elevator mechanic licensed under this chapter when  
4349 working under the general direction of the licensed elevator mechanic.

4350 (2) A compliance agency as defined in Section 15A-1-202 that issues a building permit  
4351 to a person requesting a permit as a sole owner of property referred to in Subsection (1)(d) shall  
4352 notify the division, in writing or through electronic transmission, of the issuance of the permit.

4353 Section 69. Section 58-55-308 is amended to read:

4354 **58-55-308. Scope of practice -- Installation, repair, maintenance, or replacement**  
4355 **of gas appliance, combustion system, or automatic five sprinkler system -- Rules.**

4356 (1) (a) The commission, with the concurrence of the director, may adopt reasonable  
4357 rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define and  
4358 limit the scope of practice and operating standards of the classifications and subclassifications  
4359 licensed under this chapter in a manner consistent with established practice in the relevant  
4360 industry.

4361 (b) The commission and the director may limit the field and scope of operations of a  
4362 licensee under this chapter in accordance with the rules and the public health, safety, and  
4363 welfare, based on the licensee's education, training, experience, knowledge, and financial  
4364 responsibility.

4365 (2) (a) The work and scope of practice covered by this Subsection (2) and Subsection

4366 (3) is the installation, repair, maintenance, cleaning, or replacement of a residential or  
4367 commercial gas appliance or combustion system.

4368 (b) The provisions of this Subsection (2) apply to any:

4369 (i) licensee under this chapter whose license authorizes the licensee to perform the  
4370 work described in Subsection (2)(a); and

4371 (ii) person exempt from licensure under Subsection 58-55-305~~[(1)(h)]~~.

4372 (c) Any person described in Subsection (2)(b) that performs work described in  
4373 Subsection (2)(a):

4374 (i) must first receive training and certification as specified in rules adopted by the  
4375 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
4376 Utah Administrative Rulemaking Act; and

4377 (ii) shall ensure that any employee authorized under other provisions of this chapter to  
4378 perform work described in Subsection (2)(a) has first received training and certification as  
4379 specified in rules adopted by the division.

4380 (d) The division may exempt from the training requirements adopted under Subsection  
4381 (2)(c) a person that has adequate experience, as determined by the division.

4382 (3) The division may exempt the following individuals from the certification  
4383 requirements adopted under Subsection (2)(c):

4384 (a) a person who has passed a test equivalent to the level of testing required by the  
4385 division for certification, or has completed an apprenticeship program that teaches the  
4386 installation of gas line appliances and is approved by the Federal Bureau of Apprenticeship  
4387 Training; and

4388 (b) a person working under the immediate one-to-one supervision of a certified natural  
4389 gas technician or a person exempt from certification.

4390 (4) (a) The work and scope of practice covered by this Subsection (4) is the  
4391 installation, repair, maintenance, or replacement of an automatic fire sprinkler system.

4392 (b) The provisions of this Subsection (4) apply to an individual acting as a qualifier for  
4393 a business entity in accordance with Section 58-55-304, where the business entity seeks to  
4394 perform the work described in Subsection (4)(a).

4395 (c) Before a business entity described in Subsection (4)(b) may perform the work  
4396 described in Subsection (4)(a), the qualifier for the business entity shall:

4397 (i) be a licensed general building contractor; or

4398 (ii) obtain a certification in fire sprinkler fitting from the division by providing

4399 evidence to the division that the qualifier has met the following requirements:

4400 (A) completing a Department of Labor federally approved apprentice training program

4401 or completing two-years experience under the immediate supervision of a licensee who has

4402 obtained a certification in fire sprinkler fitting; and

4403 (B) passing the Star fire sprinklerfitting mastery examination offered by the National

4404 Inspection Testing and Certification Corporation or an equivalent examination approved by the

4405 division.

4406 (d) The division may also issue a certification in fire sprinkler fitting to a qualifier for a

4407 business entity who has received training and experience equivalent to the requirements of

4408 Subsection (4)(c), as specified in rules adopted by the commission, with the concurrence of the

4409 director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

4410 (5) This section does not prohibit a licensed specialty contractor from accepting and

4411 entering into a contract involving the use of two or more crafts or trades if the performance of

4412 the work in the crafts or trades, other than that in which the contractor is licensed, is incidental

4413 and supplemental to the work for which the contractor is licensed.

4414 Section 70. Section **58-55-401** is amended to read:

4415 **58-55-401. Grounds for denial of license and disciplinary proceedings.**

4416 (1) In accordance with Section **58-1-401**, the division may:

4417 (a) refuse to issue a license to an applicant;

4418 (b) refuse to renew the license of a licensee;

4419 (c) revoke the right of a licensee to recover from the Residence Lien Recovery Fund

4420 created by Section **38-11-201**;

4421 (d) revoke, suspend, restrict, or place on probation the license of a licensee;

4422 (e) issue a public or private reprimand to a licensee; and

4423 (f) issue a cease and desist order.

4424 (2) In addition to an action taken under Subsection (1), the division may take an action

4425 described in Subsection **58-1-401**(2) in relation to a license as a contractor, if:

4426 (a) the applicant or licensee is an unincorporated entity; and

4427 (b) an individual who holds an ownership interest in or is the qualifier under Section

4428 [58-55-304](#) of the applicant or licensee engages in:

4429 (i) unlawful conduct as described in Section [58-55-501](#); or

4430 (ii) unprofessional conduct as described in Section [58-55-502](#).

4431 Section 71. Section **58-55-501** is amended to read:

4432 **58-55-501. Unlawful conduct.**

4433 Unlawful conduct includes:

4434 (1) engaging in a construction trade, acting as a contractor, an alarm business or  
4435 company, or an alarm company agent, or representing oneself to be engaged in a construction  
4436 trade or to be acting as a contractor in a construction trade requiring licensure, unless the  
4437 person doing any of these is appropriately licensed or exempted from licensure under this  
4438 chapter;

4439 (2) acting in a construction trade, as an alarm business or company, or as an alarm  
4440 company agent beyond the scope of the license held;

4441 (3) hiring or employing a person who is not licensed under this chapter to perform  
4442 work on a project, unless the person:

4443 (a) is an employee of a person licensed under this chapter for wages; and

4444 (b) is not required to be licensed under this chapter;

4445 (4) applying for or obtaining a building permit either for oneself or another when not  
4446 licensed or exempted from licensure as a contractor under this chapter;

4447 (5) issuing a building permit to any person for whom there is no evidence of a current  
4448 license or exemption from licensure as a contractor under this chapter;

4449 (6) applying for or obtaining a building permit for the benefit of or on behalf of any  
4450 other person who is required to be licensed under this chapter but who is not licensed or is  
4451 otherwise not entitled to obtain or receive the benefit of the building permit;

4452 (7) failing to obtain a building permit when required by law or rule;

4453 (8) submitting a bid for any work for which a license is required under this chapter by a  
4454 person not licensed or exempted from licensure as a contractor under this chapter;

4455 (9) willfully or deliberately misrepresenting or omitting a material fact in connection  
4456 with an application to obtain or renew a license under this chapter;

4457 (10) allowing one's license to be used by another except as provided by statute or rule;

4458 (11) doing business under a name other than the name appearing on the license, except



4459 as permitted by statute or rule;

4460 (12) if licensed as a contractor in the electrical trade or plumbing trade, journeyman  
4461 plumber, residential journeyman plumber, journeyman electrician, master electrician, or  
4462 residential electrician, failing to directly supervise an apprentice under one's supervision or  
4463 exceeding the number of apprentices one is allowed to have under the contractor's supervision;

4464 (13) if licensed as a contractor or representing oneself to be a contractor, receiving any  
4465 funds in payment for a specific project from an owner or any other person, which funds are to  
4466 pay for work performed or materials and services furnished for that specific project, and after  
4467 receiving the funds to exercise unauthorized control over the funds by failing to pay the full  
4468 amounts due and payable to persons who performed work or furnished materials or services  
4469 within a reasonable period of time;

4470 (14) employing an unlicensed alarm business or company or an unlicensed individual  
4471 as an alarm company agent, except as permitted under the exemption from licensure provisions  
4472 under Section 58-1-307;

4473 (15) if licensed as an alarm company or alarm company agent, filing with the division  
4474 fingerprint cards for an applicant which are not those of the applicant, or are in any other way  
4475 false or fraudulent and intended to mislead the division in its consideration of the applicant for  
4476 licensure;

4477 (16) if licensed under this chapter, willfully or deliberately disregarding or violating:

4478 (a) the building or construction laws of this state or any political subdivision;

4479 (b) the safety and labor laws applicable to a project;

4480 (c) any provision of the health laws applicable to a project;

4481 (d) the workers' compensation insurance laws of the state applicable to a project;

4482 (e) the laws governing withholdings for employee state and federal income taxes,  
4483 unemployment taxes, Social Security payroll taxes, or other required withholdings; or

4484 (f) reporting, notification, and filing laws of this state or the federal government;

4485 ~~[(17) aiding or abetting any person in evading the provisions of this chapter or rules~~  
4486 ~~established under the authority of the division to govern this chapter;]~~

4487 ~~[(18)]~~ (17) engaging in the construction trade or as a contractor for the construction of  
4488 residences of up to two units when not currently registered or exempt from registration as a  
4489 qualified beneficiary under Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery

4490 Fund Act;

4491 ~~[(19)]~~ (18) failing, as an original contractor, as defined in Section 38-11-102, to

4492 include in a written contract the notification required in Section 38-11-108;

4493 ~~[(20)]~~ (19) wrongfully filing a preconstruction or construction lien in violation of

4494 Section 38-1a-308;

4495 ~~[(21)]~~ (20) if licensed as a contractor, not completing the approved continuing

4496 education required under Section 58-55-302.5;

4497 ~~[(22)]~~ (21) an alarm company allowing an employee with a temporary license under

4498 Section 58-55-312 to engage in conduct on behalf of the company outside the scope of the

4499 temporary license, as provided in Subsection 58-55-312(3)(a)(ii);

4500 ~~[(23)]~~ (22) an alarm company agent under a temporary license under Section 58-55-312

4501 engaging in conduct outside the scope of the temporary license, as provided in Subsection

4502 58-55-312(3)(a)(ii);

4503 ~~[(24)]~~ (23) (a) an unincorporated entity licensed under this chapter having an individual

4504 who owns an interest in the unincorporated entity engage in a construction trade in Utah while

4505 not lawfully present in the United States; or

4506 (b) an unincorporated entity providing labor to an entity licensed under this chapter by

4507 providing an individual who owns an interest in the unincorporated entity to engage in a

4508 construction trade in Utah while not lawfully present in the United States;

4509 ~~[(25)]~~ (24) an unincorporated entity failing to provide the following for an individual

4510 who engages, or will engage, in a construction trade in Utah for the unincorporated entity, or

4511 for an individual who engages, or will engage, in a construction trade in Utah for a separate

4512 entity for which the unincorporated entity provides the individual as labor:

4513 (a) workers' compensation coverage:

4514 (i) to the extent required by Title 34A, Chapter 2, Workers' Compensation Act, and

4515 Title 34A, Chapter 3, Utah Occupational Disease Act; or

4516 (ii) that would be required under the chapters listed in Subsection ~~[(25)]~~ (24)(a)(i) if

4517 the unincorporated entity were licensed under this chapter; and

4518 (b) unemployment compensation in accordance with Title 35A, Chapter 4,

4519 Employment Security Act, for an individual who owns, directly or indirectly, less than an 8%

4520 interest in the unincorporated entity, as defined by rule made by the division in accordance with

4521 Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

4522 [~~(26)~~] (25) the failure of a sign installation contractor or nonelectrical outdoor  
4523 advertising sign contractor, as classified and defined in division rules, to:

4524 (a) display the contractor's license number prominently on a vehicle that:

4525 (i) the contractor uses; and

4526 (ii) displays the contractor's business name; or

4527 (b) carry a copy of the contractor's license in any other vehicle that the contractor uses  
4528 at a job site, whether or not the vehicle is owned by the contractor;

4529 [~~(27)~~] (26) (a) an unincorporated entity licensed under this chapter having an individual  
4530 who owns an interest in the unincorporated entity engage in a construction trade in the state  
4531 while the individual is using a Social Security number that does not belong to that individual;  
4532 or

4533 (b) an unincorporated entity providing labor to an entity licensed under this chapter by  
4534 providing an individual, who owns an interest in the unincorporated entity, to engage in a  
4535 construction trade in the state while the individual is using a Social Security number that does  
4536 not belong to that individual;

4537 [~~(28)~~] (27) a contractor failing to comply with a requirement imposed by a political  
4538 subdivision, state agency, or board of education under Section 58-55-310; or

4539 [~~(29)~~] (28) failing to timely comply with the requirements described in Section  
4540 58-55-605.

4541 Section 72. Section 58-55-503 is amended to read:

4542 **58-55-503. Penalty for unlawful conduct -- Citations.**

4543 (1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1),  
4544 (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (21), (22), (23), (24), (25), (26), (27), or  
4545 (28), [~~or (29);~~] or Subsection 58-55-504(2), or who fails to comply with a citation issued under  
4546 this section after it is final, is guilty of a class A misdemeanor.

4547 (ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an  
4548 individual and does not include a sole proprietorship, joint venture, corporation, limited  
4549 liability company, association, or organization of any type.

4550 (b) A person who violates the provisions of Subsection 58-55-501(8) may not be  
4551 awarded and may not accept a contract for the performance of the work.

4552 (2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an  
4553 infraction unless the violator did so with the intent to deprive the person to whom money is to  
4554 be paid of the money received, in which case the violator is guilty of theft, as classified in  
4555 Section 76-6-412.

4556 (3) Grounds for immediate suspension of a licensee's license by the division and the  
4557 commission include:

4558 (a) the issuance of a citation for violation of Subsection 58-55-308(2), Section  
4559 58-55-501, or Subsection 58-55-504(2); and

4560 (b) the failure by a licensee to make application to, report to, or notify the division with  
4561 respect to any matter for which application, notification, or reporting is required under this  
4562 chapter or rules adopted under this chapter, including:

4563 (i) applying to the division for a new license to engage in a new specialty classification  
4564 or to do business under a new form of organization or business structure;

4565 (ii) filing a current financial statement with the division; and

4566 (iii) notifying the division concerning loss of insurance coverage or change in qualifier.

4567 (4) (a) If upon inspection or investigation, the division concludes that a person has  
4568 violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),  
4569 (10), (12), (14), ~~[(19)]~~ (18), (20), (21), (22), (23), (24), (25), (26), (27), or (28), ~~[or (29)];~~  
4570 Subsection 58-55-504(2), or any rule or order issued with respect to these subsections, and that  
4571 disciplinary action is appropriate, the director or the director's designee from within the  
4572 division shall promptly issue a citation to the person according to this chapter and any pertinent  
4573 rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an  
4574 adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

4575 (i) A person who is in violation of the provisions of Subsection 58-55-308(2),  
4576 Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), ~~[(19)]~~ (18), (20), (21), (22), (23), (24),  
4577 (25), (26), (27), or (28), ~~[or (29)];~~ or Subsection 58-55-504(2), as evidenced by an uncontested  
4578 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may  
4579 be assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be  
4580 ordered to cease and desist from violating Subsection 58-55-308(2), Subsection 58-55-501(1),  
4581 (2), (3), (9), (10), (12), ~~[(14)]~~ (18), (20), (19), (21), (24), (25), (26), (27), or (28), ~~[or (29)];~~ or  
4582 Subsection 58-55-504(2).

4583 (ii) Except for a cease and desist order, the licensure sanctions cited in Section  
4584 58-55-401 may not be assessed through a citation.

4585 (b) (i) A citation shall be in writing and describe with particularity the nature of the  
4586 violation, including a reference to the provision of the chapter, rule, or order alleged to have  
4587 been violated.

4588 (ii) A citation shall clearly state that the recipient must notify the division in writing  
4589 within 20 calendar days of service of the citation if the recipient wishes to contest the citation  
4590 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

4591 (iii) A citation shall clearly explain the consequences of failure to timely contest the  
4592 citation or to make payment of any fines assessed by the citation within the time specified in  
4593 the citation.

4594 (c) A citation issued under this section, or a copy of a citation, may be served upon a  
4595 person upon whom a summons may be served:

4596 (i) in accordance with the Utah Rules of Civil Procedure;

4597 (ii) personally or upon the person's agent by a division investigator or by a person  
4598 specially designated by the director; or

4599 (iii) by mail.

4600 (d) (i) If within 20 calendar days after the day on which a citation is served, the person  
4601 to whom the citation was issued fails to request a hearing to contest the citation, the citation  
4602 becomes the final order of the division and is not subject to further agency review.

4603 (ii) The period to contest a citation may be extended by the division for cause.

4604 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation  
4605 the license of a licensee who fails to comply with a citation after it becomes final.

4606 (f) The failure of an applicant for licensure to comply with a citation after it becomes  
4607 final is a ground for denial of license.

4608 (g) A citation may not be issued under this section after the expiration of [~~six months~~  
4609 ~~following the occurrence of a violation~~] one year following the date on which the violation that  
4610 is the subject of the citation is reported to the division.

4611 (h) Except as provided in Subsection (5), the director or the director's designee shall  
4612 assess a fine in accordance with the following:

4613 (i) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;

4614 (ii) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000;  
4615 and

4616 (iii) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to  
4617 \$2,000 for each day of continued offense.

4618 (i) (i) For purposes of issuing a final order under this section and assessing a fine under  
4619 Subsection (4)(h), an offense constitutes a second or subsequent offense if:

4620 (A) the division previously issued a final order determining that a person committed a  
4621 first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2),  
4622 (3), (9), (10), (12), (14), [~~(19)~~] (18), (23), (24), (25), (26), (27), or (28), [~~or (29)~~]; or Subsection  
4623 58-55-504(2); or

4624 (B) (I) the division initiated an action for a first or second offense;

4625 (II) a final order has not been issued by the division in the action initiated under  
4626 Subsection (4)(i)(i)(B)(I);

4627 (III) the division determines during an investigation that occurred after the initiation of  
4628 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent  
4629 violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),  
4630 (10), (12), (14), [~~(19)~~] (18), (23), (24), (25), (26), (27), or (28), [~~or (29)~~]; or Subsection  
4631 58-55-504(2); and

4632 (IV) after determining that the person committed a second or subsequent offense under  
4633 Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under  
4634 Subsection (4)(i)(i)(B)(I).

4635 (ii) In issuing a final order for a second or subsequent offense under Subsection  
4636 (4)(i)(i), the division shall comply with the requirements of this section.

4637 (j) In addition to any other licensure sanction or fine imposed under this section, the  
4638 division shall revoke the license of a licensee that violates Subsection 58-55-501(23) or (24)  
4639 [~~or (25)~~] two or more times within a 12-month period, unless, with respect to a violation of  
4640 Subsection 58-55-501[~~(24)~~](23), the licensee can demonstrate that the licensee successfully  
4641 verified the federal legal working status of the individual who was the subject of the violation  
4642 using a status verification system, as defined in Section 13-47-102.

4643 (k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24)  
4644 [~~or (25)~~] for each individual is considered a separate violation.

4645 (5) If a person violates Section 58-55-501, the division may not treat the violation as a  
4646 subsequent violation of a previous violation if the violation occurs five years or more after the  
4647 day on which the person committed the previous violation.

4648 (6) If, after an investigation, the division determines that a person has committed  
4649 multiple of the same type of violation of Section 58-55-501, the division may treat each  
4650 violation as a separate violation of Section 58-55-501 and apply a penalty under this section to  
4651 each violation.

4652 (7) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited  
4653 into the Commerce Service Account created by Section 13-1-2.

4654 (b) A penalty that is not paid may be collected by the director by either referring the  
4655 matter to a collection agency or bringing an action in the district court of the county in which  
4656 the person against whom the penalty is imposed resides or in the county where the office of the  
4657 director is located.

4658 (c) A county attorney or the attorney general of the state shall provide legal assistance  
4659 and advice to the director in an action to collect a penalty.

4660 (d) In an action brought to collect a penalty, the court shall award reasonable attorney  
4661 fees and costs to the prevailing party.

4662 Section 73. Section 58-56-9.5 is amended to read:

4663 **58-56-9.5. Penalty for unlawful conduct -- Citations.**

4664 (1) A person who violates a provision of Section 58-56-9.1 or who fails to comply with  
4665 a citation issued under this section after it is final is guilty of a class A misdemeanor.

4666 (2) Grounds for immediate suspension of a licensee's license by the division under this  
4667 chapter include:

4668 (a) the issuance of a citation for violation of a provision of Section 58-56-9.1 or  
4669 58-56-9.3; and

4670 (b) failure by a licensee to make application to, report to, or notify the division with  
4671 respect to a matter for which application, notification, or reporting is required under this  
4672 chapter or rules made under this chapter by the division.

4673 (3) (a) If upon inspection or investigation, the division concludes that a person has  
4674 violated a provision of Section 58-56-9.1 or 58-56-9.3, or a rule or order issued with respect to  
4675 that section, and that disciplinary action is appropriate, the director or the director's designee

4676 from within the division shall:

4677 (i) promptly issue a citation to the person according to this chapter and any pertinent  
4678 rules;

4679 (ii) attempt to negotiate a stipulated settlement; or

4680 (iii) notify the person to appear before an adjudicative proceeding conducted under  
4681 Title 63G, Chapter 4, Administrative Procedures Act.

4682 (b) (i) A person who violates a provision of Section 58-56-9.1 or 58-56-9.3, as  
4683 evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an  
4684 adjudicative proceeding, may be assessed a fine under this Subsection (3)(b) and may, in  
4685 addition to or instead of the fine, be ordered by the division to cease from violating the  
4686 provision.

4687 (ii) Except as otherwise provided in Subsection (2)(a), the division may not assess  
4688 licensure sanctions referred to in Subsection 58-56-9(1)(c) through a citation.

4689 (c) (i) Each citation shall be in writing and describe with particularity the nature of the  
4690 violation, including a reference to the provision of the chapter, rule, or order alleged to have  
4691 been violated.

4692 (ii) The citation shall clearly state that the recipient must notify the division in writing  
4693 within 20 calendar days of service of the citation if the recipient wishes to contest the citation  
4694 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

4695 (iii) The citation shall clearly explain the consequences of failure to timely contest the  
4696 citation or to make payment of any fines assessed by the citation within the time specified in  
4697 the citation.

4698 (d) Each citation issued under this section, or a copy of each citation, may be served  
4699 upon any person upon whom a summons may be served:

4700 (i) in accordance with the Utah Rules of Civil Procedure;

4701 (ii) personally or upon the person's agent by a division investigator or by any person  
4702 specially designated by the director; or

4703 (iii) by mail.

4704 (e) (i) If within 20 calendar days from the service of a citation, the person to whom the  
4705 citation was issued fails to request a hearing to contest the citation, the citation becomes the  
4706 final order of the division and is not subject to further agency review.



- 4707 (ii) The period to contest a citation may be extended by the division for cause.
- 4708 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation  
4709 the license of a licensee who fails to comply with a citation after it becomes final.
- 4710 (g) The failure of an applicant for licensure to comply with a citation after it becomes  
4711 final is a ground for denial of a license.
- 4712 (h) No citation may be issued under this section after the expiration of [~~six months~~  
4713 ~~following the occurrence of the violation~~] one year following the date on which the violation  
4714 that is the subject of the citation is reported to the division.
- 4715 (i) The director or the director's designee may assess fines for violations of Section  
4716 58-56-9.1 or 58-56-9.3 as follows:
- 4717 (i) for a first offense determined under this Subsection (3), a fine of up to \$1,000;
- 4718 (ii) for a second offense, a fine of up to \$2,000; and
- 4719 (iii) for any subsequent offense, a fine of up to \$2,000 for each day of continued  
4720 offense.
- 4721 (j) For the purposes of issuing a final order under this section and assessing a fine  
4722 under Subsection (3)(i), an offense constitutes a second or subsequent offense if:
- 4723 (i) the division previously issued a final order determining that a person committed a  
4724 first or second offense in violation of a provision of Section 58-56-9.1; or
- 4725 (ii) (A) the division initiated an action for a first or second offense;
- 4726 (B) no final order has been issued by the division in the action initiated under  
4727 Subsection (3)(j)(ii)(A);
- 4728 (C) the division determines during an investigation that occurred after the initiation of  
4729 the action under Subsection (3)(j)(ii)(A) that the person committed a second or subsequent  
4730 violation of a provision of Section 58-56-9.1; and
- 4731 (D) after determining that the person committed a second or subsequent offense under  
4732 Subsection (3)(j)(ii)(C), the division issues a final order on the action initiated under  
4733 Subsection (3)(j)(ii)(A).
- 4734 (k) In issuing a final order for a second or subsequent offense under Subsection (3)(j),  
4735 the division shall comply with the requirements of this section.
- 4736 (4) (a) Proceeds from a fine imposed under Subsection (3)(i) shall be deposited in the  
4737 Commerce Service Account created by Section 13-1-2.

- 4738 (b) The director may collect a fine that is not paid by:  
4739 (i) referring the matter to a collection agency; or  
4740 (ii) bringing an action in the district court of the county where the person against whom  
4741 the penalty is imposed resides or in the county where the office of the director is located.  
4742 (c) A county attorney or the attorney general of the state shall provide legal assistance  
4743 and advice to the director in an action to collect a penalty.  
4744 (d) A court shall award reasonable attorney fees and costs to the prevailing party in an  
4745 action brought by the division to collect a penalty.

4746 Section 74. Section **58-57-4** is amended to read:

4747 **58-57-4. Qualifications for a license.**

4748 (1) The division shall issue a respiratory care practitioner license to an applicant who  
4749 meets the requirements specified in this section.

4750 (2) An applicant seeking licensure as a respiratory care practitioner shall:

- 4751 (a) submit an application on a form prescribed by the division;  
4752 (b) pay a fee as determined by the department pursuant to Section [63J-1-504](#);  
4753 [~~(c) show evidence of good moral character;~~]  
4754 [~~(d)~~] (c) possess a high school education or its equivalent, as determined by the  
4755 division in collaboration with the board;  
4756 [~~(e)~~] (d) have completed a respiratory care practitioner educational program that is  
4757 accredited by a nationally accredited organization acceptable to the division as defined by rule;  
4758 and  
4759 [~~(f)~~] (e) pass an examination approved by the division in collaboration with the board.

4760 Section 75. Section **58-60-109** is amended to read:

4761 **58-60-109. Unlawful conduct.**

4762 As used in this chapter, "unlawful conduct" includes:

- 4763 (1) practice of the following unless licensed in the appropriate classification or  
4764 exempted from licensure under this title:  
4765 (a) mental health therapy;  
4766 (b) clinical social work;  
4767 (c) certified social work;  
4768 (d) marriage and family therapy;

- 4769 (e) clinical mental health counselor;
- 4770 (f) practice as a social service worker; or
- 4771 (g) substance use disorder counselor;
- 4772 (2) practice of mental health therapy by a licensed psychologist who has not acceptably
- 4773 documented to the division the licensed psychologist's completion of the supervised training in
- 4774 mental health therapy required under Subsection 58-61-304(1)(~~f~~)(e); or
- 4775 (3) representing oneself as, or using the title of, the following:
- 4776 (a) unless currently licensed in a license classification under this title:
- 4777 (i) psychiatrist;
- 4778 (ii) psychologist;
- 4779 (iii) registered psychiatric mental health nurse specialist;
- 4780 (iv) mental health therapist;
- 4781 (v) clinical social worker;
- 4782 (vi) certified social worker;
- 4783 (vii) marriage and family therapist;
- 4784 (viii) clinical mental health counselor;
- 4785 (ix) social service worker;
- 4786 (x) substance use disorder counselor;
- 4787 (xi) associate clinical mental health counselor; or
- 4788 (xii) associate marriage and family therapist; or
- 4789 (b) unless currently in possession of the credentials described in Subsection (4), social
- 4790 worker.
- 4791 (4) An individual may represent oneself as a, or use the title of, social worker if the
- 4792 individual possesses certified transcripts from an accredited institution of higher education,
- 4793 recognized by the division in collaboration with the Social Work Licensing Board, verifying
- 4794 satisfactory completion of an education and an earned degree as follows:
- 4795 (a) a bachelor's or master's degree in a social work program accredited by the Council
- 4796 on Social Work Education or by the Canadian Association of Schools of Social Work; or
- 4797 (b) a doctoral degree that contains a clinical social work concentration and practicum
- 4798 approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah
- 4799 Administrative Rulemaking Act, that is consistent with Section 58-1-203.

4800 Section 76. Section **58-60-115** is amended to read:

4801 **58-60-115. License by endorsement.**

4802 The division shall issue a license by endorsement under this chapter to a person who:

4803 (1) submits an application on a form provided by the division;

4804 (2) pays a fee determined by the department under Section [63J-1-504](#);

4805 (3) provides documentation of current licensure in good standing in a state, district, or  
4806 territory of the United States to practice in the profession for which licensure is being sought;

4807 (4) except as provided in Subsection (5), provides documentation that the person has  
4808 engaged in the lawful practice of the profession for which licensure is sought for at least 4,000  
4809 hours, of which 1,000 hours are in mental health therapy;

4810 (5) if applying for a license to practice as a licensed substance use disorder counselor,  
4811 provides documentation that the person:

4812 (a) has engaged in the lawful practice of the profession for at least 4,000 hours; and

4813 (b) has passed an examination approved by the division, by rule, to establish  
4814 proficiency in the profession;

4815 (6) has passed the profession specific jurisprudence examination if required of a new  
4816 applicant; and

4817 (7) is of good [~~moral character and~~] professional standing, and has no disciplinary  
4818 action pending or in effect against the applicant's license in any jurisdiction.

4819 Section 77. Section **58-60-117** is amended to read:

4820 **58-60-117. Externship licenses.**

4821 (1) The division shall issue a temporary license under Part 2, Social Worker Licensing  
4822 Act, Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Clinical Mental Health  
4823 Counselor Licensing Act, of this chapter to a person who:

4824 (a) submits an application for licensure under Part 2, Social Worker Licensing Act,  
4825 Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Clinical Mental Health  
4826 Counselor Licensing Act;

4827 (b) pays a fee determined by the department under Section [63J-1-504](#);

4828 (c) holds an earned doctoral degree or master's degree in a discipline that is a  
4829 prerequisite for practice as a mental health therapist;

4830 (d) has a deficiency, as defined by division rule, in course work;

4831 (e) provides mental health therapy as an employee of a public or private organization,  
4832 which provides mental health therapy, while under the supervision of a person licensed under  
4833 this chapter; and

4834 (f) ~~[is of good moral character and]~~ has no disciplinary action pending or in effect  
4835 against the applicant in connection with the practice of mental health therapy, in any  
4836 jurisdiction.

4837 (2) A temporary license issued under this section shall expire upon the earlier of:

4838 (a) issuance of the license applied for; or

4839 (b) unless the deadline is extended for good cause as determined by the division, three  
4840 years from the date the temporary license was issued.

4841 (3) The temporary license issued under this section is an externship license.

4842 Section 78. Section **58-60-205** is amended to read:

4843 **58-60-205. Qualifications for licensure or certification as a clinical social worker,**  
4844 **certified social worker, and social service worker.**

4845 (1) An applicant for licensure as a clinical social worker shall:

4846 (a) submit an application on a form provided by the division;

4847 (b) pay a fee determined by the department under Section [63J-1-504](#);

4848 ~~[(c) be of good moral character;]~~

4849 ~~[(d)]~~ (c) produce certified transcripts from an accredited institution of higher education  
4850 recognized by the division in collaboration with the board verifying satisfactory completion of  
4851 an education and an earned degree as follows:

4852 (i) a master's degree in a social work program accredited by the Council on Social  
4853 Work Education or by the Canadian Association of Schools of Social Work; or

4854 (ii) a doctoral degree that contains a clinical social work concentration and practicum  
4855 approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah  
4856 Administrative Rulemaking Act, that is consistent with Section [58-1-203](#);

4857 ~~[(e)]~~ (d) have completed a minimum of 4,000 hours of clinical social work training as  
4858 defined by division rule under Section [58-1-203](#):

4859 (i) in not less than two years;

4860 (ii) under the supervision of a supervisor approved by the division in collaboration with  
4861 the board who is a:

- 4862 (A) clinical mental health counselor;
- 4863 (B) psychiatrist;
- 4864 (C) psychologist;
- 4865 (D) registered psychiatric mental health nurse practitioner;
- 4866 (E) marriage and family therapist; or
- 4867 (F) clinical social worker; and
- 4868 (iii) including a minimum of two hours of training in suicide prevention via a course
- 4869 that the division designates as approved;
- 4870 ~~[(f)]~~ (e) document successful completion of not less than 1,000 hours of supervised
- 4871 training in mental health therapy obtained after completion of the education requirement in
- 4872 Subsection ~~[(1)(d)]~~ (1)(c), which training may be included as part of the 4,000 hours of training
- 4873 in Subsection ~~[(1)(e)]~~ (1)(d), and of which documented evidence demonstrates not less than
- 4874 100 of the hours were obtained under the direct supervision, as defined by rule, of a supervisor
- 4875 described in Subsection ~~[(1)(e)(ii)]~~ (1)(d)(ii);
- 4876 ~~[(g)]~~ (f) have completed a case work, group work, or family treatment course sequence
- 4877 with a clinical practicum in content as defined by rule under Section 58-1-203; and
- 4878 ~~[(h)]~~ (g) pass the examination requirement established by rule under Section 58-1-203.
- 4879 (2) An applicant for licensure as a certified social worker shall:
- 4880 (a) submit an application on a form provided by the division;
- 4881 (b) pay a fee determined by the department under Section 63J-1-504;
- 4882 ~~[(e) be of good moral character;]~~
- 4883 ~~[(d)]~~ (c) produce certified transcripts from an accredited institution of higher education
- 4884 recognized by the division in collaboration with the board verifying satisfactory completion of
- 4885 an education and an earned degree as follows:
- 4886 (i) a master's degree in a social work program accredited by the Council on Social
- 4887 Work Education or by the Canadian Association of Schools of Social Work; or
- 4888 (ii) a doctoral degree that contains a clinical social work concentration and practicum
- 4889 approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah
- 4890 Administrative Rulemaking Act, that is consistent with Section 58-1-203; and
- 4891 ~~[(e)]~~ (d) pass the examination requirement established by rule under Section 58-1-203.
- 4892 (3) (a) An applicant for certification as a certified social worker intern shall meet the

4893 requirements of Subsections (2)(a), (b), [~~(c)~~, and ~~(d)~~] and (c).

4894 (b) Certification under Subsection (3)(a) is limited to the time necessary to pass the  
4895 examination required under Subsection [~~(2)(c)~~] (2)(d) or six months, whichever occurs first.

4896 (c) A certified social worker intern may provide mental health therapy under the  
4897 general supervision, as defined by rule, of a supervisor described in Subsection [~~(1)(c)(ii)~~]  
4898 (1)(d)(ii).

4899 (4) An applicant for licensure as a social service worker shall:

4900 (a) submit an application on a form provided by the division;

4901 (b) pay a fee determined by the department under Section [63J-1-504](#);

4902 [~~(c) be of good moral character;~~]

4903 [~~(d)~~] (c) produce certified transcripts from an accredited institution of higher education  
4904 recognized by the division in collaboration with the board verifying satisfactory completion of  
4905 an education and an earned degree as follows:

4906 (i) a bachelor's degree in a social work program accredited by the Council on Social  
4907 Work Education or by the Canadian Association of Schools of Social Work;

4908 (ii) a master's degree in a field approved by the division in collaboration with the  
4909 board;

4910 (iii) a bachelor's degree in any field if the applicant:

4911 (A) has completed at least three semester hours, or the equivalent, in each of the  
4912 following areas:

4913 (I) social welfare policy;

4914 (II) human growth and development; and

4915 (III) social work practice methods, as defined by rule; and

4916 (B) provides documentation that the applicant has completed at least 2,000 hours of  
4917 qualifying experience under the supervision of a mental health therapist, which experience is  
4918 approved by the division in collaboration with the board, and which is performed after  
4919 completion of the requirements to obtain the bachelor's degree required under this Subsection  
4920 (4); or

4921 (iv) successful completion of the first academic year of a Council on Social Work  
4922 Education approved master's of social work curriculum and practicum; and

4923 [~~(e)~~] (d) pass the examination requirement established by rule under Section [58-1-203](#).

4924 (5) The division shall ensure that the rules for an examination described under  
4925 Subsections [~~(1)(h), (2)(e), and (4)(e)~~] (1)(g), (2)(d), and (4)(d) allow additional time to  
4926 complete the examination if requested by an applicant who is:

- 4927 (a) a foreign born legal resident of the United States for whom English is a second  
4928 language; or
- 4929 (b) an enrolled member of a federally recognized Native American tribe.

4930 Section 79. Section **58-60-207** is amended to read:

4931 **58-60-207. Scope of practice -- Limitations.**

4932 (1) (a) A clinical social worker may engage in all acts and practices defined as the  
4933 practice of clinical social work without supervision, in private and independent practice, or as  
4934 an employee of another person, limited only by the licensee's education, training, and  
4935 competence.

4936 (b) A clinical social worker may not supervise more than six individuals who are  
4937 lawfully engaged in training for the practice of mental health therapy, unless granted an  
4938 exception in writing from the division in collaboration with the board.

4939 (2) To the extent an individual is professionally prepared by the education and training  
4940 track completed while earning a master's or doctor of social work degree, a licensed certified  
4941 social worker may engage in all acts and practices defined as the practice of certified social  
4942 work consistent with the licensee's education, clinical training, experience, and competence:

4943 (a) under supervision of an individual described in Subsection **58-60-205(1)**~~(f)~~(d)(ii)  
4944 and as an employee of another person when engaged in the practice of mental health therapy;

4945 (b) without supervision and in private and independent practice or as an employee of  
4946 another person, if not engaged in the practice of mental health therapy;

4947 (c) including engaging in the private, independent, unsupervised practice of social  
4948 work as a self-employed individual, in partnership with other mental health therapists, as a  
4949 professional corporation, or in any other capacity or business entity, so long as he does not  
4950 practice unsupervised psychotherapy; and

4951 (d) supervising social service workers as provided by division rule.

4952 Section 80. Section **58-60-305** is amended to read:

4953 **58-60-305. Qualifications for licensure.**

4954 (1) All applicants for licensure as marriage and family therapists shall:



- 4955 (a) submit an application on a form provided by the division;
- 4956 (b) pay a fee determined by the department under Section 63J-1-504;
- 4957 ~~[(c) be of good moral character;]~~
- 4958 ~~[(d)]~~ (c) produce certified transcripts evidencing completion of a masters or doctorate  
4959 degree in marriage and family therapy from:
- 4960 (i) a program accredited by the Commission on Accreditation for Marriage and Family  
4961 Therapy Education; or
- 4962 (ii) an accredited institution meeting criteria for approval established by rule under  
4963 Section 58-1-203;
- 4964 ~~[(e)]~~ (d) have completed a minimum of 4,000 hours of marriage and family therapy  
4965 training as defined by division rule under Section 58-1-203:
- 4966 (i) in not less than two years;
- 4967 (ii) under the supervision of a mental health therapist supervisor who meets the  
4968 requirements of Section 58-60-307;
- 4969 (iii) obtained after completion of the education requirement in Subsection ~~[(1)(d)]~~  
4970 (1)(c); and
- 4971 (iv) including a minimum of two hours of training in suicide prevention via a course  
4972 that the division designates as approved;
- 4973 ~~[(f)]~~ (e) document successful completion of not less than 1,000 hours of supervised  
4974 training in mental health therapy obtained after completion of the education requirement  
4975 described in Subsection ~~[(1)(d)(i) or (1)(d)(ii)]~~ (1)(c)(i) or (1)(c)(ii), which training may be  
4976 included as part of the 4,000 hours of training described in Subsection ~~[(1)(e)]~~ (1)(d), and of  
4977 which documented evidence demonstrates not less than 100 of the supervised hours were  
4978 obtained during direct, personal supervision, as defined by rule, by a mental health therapist  
4979 supervisor qualified under Section 58-60-307; and
- 4980 ~~[(g)]~~ (f) pass the examination requirement established by division rule under Section  
4981 58-1-203.
- 4982 (2) (a) All applicants for licensure as an associate marriage and family therapist shall  
4983 comply with the provisions of Subsections ~~[(1)(a), (b), (c), and (d)]~~ (1)(a), (b), and (c).
- 4984 (b) An individual's license as an associate marriage and family therapist is limited to  
4985 the period of time necessary to complete clinical training as described in Subsections ~~[(1)(e)]~~

4986 ~~and (f)] (1)(d) and (e)~~ and extends not more than one year from the date the minimum  
4987 requirement for training is completed, unless the individual presents satisfactory evidence to  
4988 the division and the appropriate board that the individual is making reasonable progress toward  
4989 passing of the qualifying examination for that profession or is otherwise on a course reasonably  
4990 expected to lead to licensure, but the period of time under this Subsection (2)(b) may not  
4991 exceed two years past the date the minimum supervised clinical training requirement has been  
4992 completed.

4993 Section 81. Section **58-60-305.5** is amended to read:

4994 **58-60-305.5. Qualification for licensure before May 1, 2000.**

4995 (1) A person who was licensed under this chapter as of May 1, 2000, may apply for  
4996 renewal of licensure without being required to fulfill the educational requirements described in  
4997 Subsection **58-60-305(1)(~~f~~)(c)**.

4998 (2) A person who seeks licensure under this chapter before July 1, 2002, need comply  
4999 only with the licensure requirements in effect before May 1, 2000.

5000 Section 82. Section **58-60-308** is amended to read:

5001 **58-60-308. Scope of practice -- Limitations.**

5002 (1) A licensed marriage and family therapist may engage in all acts and practices  
5003 defined as the practice of marriage and family therapy without supervision, in private and  
5004 independent practice, or as an employee of another person, limited only by the licensee's  
5005 education, training, and competence.

5006 (2) (a) To the extent an individual has completed the educational requirements of  
5007 Subsection **58-60-305(1)(~~f~~)(c)**, a licensed associate marriage and family therapist may engage  
5008 in all acts and practices defined as the practice of marriage and family therapy if the practice is:

5009 (i) within the scope of employment as a licensed associate marriage and family  
5010 therapist with a public agency or a private clinic as defined by division rule; and

5011 (ii) under the supervision of a licensed mental health therapist who is qualified as a  
5012 supervisor under Section **58-60-307**.

5013 (b) A licensed associate marriage and family therapist may not engage in the  
5014 independent practice of marriage and family therapy.

5015 Section 83. Section **58-60-405** is amended to read:

5016 **58-60-405. Qualifications for licensure.**

5017 (1) An applicant for licensure as a clinical mental health counselor shall:  
5018 (a) submit an application on a form provided by the division;  
5019 (b) pay a fee determined by the department under Section 63J-1-504;  
5020 [~~(c)~~ be of good moral character;]  
5021 [~~(d)~~] (c) produce certified transcripts from an accredited institution of higher education  
5022 recognized by the division in collaboration with the board verifying satisfactory completion of:  
5023 (i) an education and degree in an education program in counseling with a core  
5024 curriculum defined by division rule under Section 58-1-203 preparing one to competently  
5025 engage in mental health therapy; and  
5026 (ii) an earned doctoral or master's degree resulting from that education program;  
5027 [~~(e)~~] (d) have completed a minimum of 4,000 hours of clinical mental health counselor  
5028 training as defined by division rule under Section 58-1-203:  
5029 (i) in not less than two years;  
5030 (ii) under the supervision of a clinical mental health counselor, psychiatrist,  
5031 psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or  
5032 marriage and family therapist supervisor approved by the division in collaboration with the  
5033 board;  
5034 (iii) obtained after completion of the education requirement in Subsection (1)[~~(d)~~](c);  
5035 and  
5036 (iv) including a minimum of two hours of training in suicide prevention via a course  
5037 that the division designates as approved;  
5038 [~~(f)~~] (e) document successful completion of not less than 1,000 hours of supervised  
5039 training in mental health therapy obtained after completion of the education requirement in  
5040 Subsection [~~(1)~~](d), which training may be included as part of the 4,000 hours of training  
5041 in Subsection [~~(1)~~](d), and of which documented evidence demonstrates not less than  
5042 100 of the hours were obtained under the direct supervision of a mental health therapist, as  
5043 defined by rule; and  
5044 [~~(g)~~] (f) pass the examination requirement established by division rule under Section  
5045 58-1-203.  
5046 (2) (a) An applicant for licensure as an associate clinical mental health counselor shall  
5047 comply with the provisions of Subsections [~~(1)~~](a), (b), (c), and (d) (1)(a), (b), and (c).

5048 (b) Except as provided under Subsection (2)(c), an individual's licensure as an  
5049 associate clinical mental health counselor is limited to the period of time necessary to complete  
5050 clinical training as described in Subsections ~~[(1)(e) and (f)]~~ (1)(d) and (e) and extends not more  
5051 than one year from the date the minimum requirement for training is completed.

5052 (c) The time period under Subsection (2)(b) may be extended to a maximum of two  
5053 years past the date the minimum supervised clinical training requirement has been completed,  
5054 if the applicant presents satisfactory evidence to the division and the appropriate board that the  
5055 individual is:

5056 (i) making reasonable progress toward passing of the qualifying examination for that  
5057 profession; or

5058 (ii) otherwise on a course reasonably expected to lead to licensure.

5059 Section 84. Section ~~58-60-407~~ is amended to read:

5060 **58-60-407. Scope of practice -- Limitations.**

5061 (1) (a) A licensed clinical mental health counselor may engage in all acts and practices  
5062 defined as the practice of clinical mental health counseling without supervision, in private and  
5063 independent practice, or as an employee of another person, limited only by the licensee's  
5064 education, training, and competence.

5065 (b) A licensed clinical mental health counselor may not supervise more than six  
5066 individuals who are lawfully engaged in training for the practice of mental health therapy,  
5067 unless granted an exception in writing from the division in collaboration with the board.

5068 (2) (a) To the extent an individual has completed the educational requirements of  
5069 Subsection ~~58-60-305(1)(c)]~~ (c), a licensed associate clinical mental health counselor may  
5070 engage in all acts and practices defined as the practice of clinical mental health counseling if  
5071 the practice is:

5072 (i) within the scope of employment as a licensed clinical mental health counselor with  
5073 a public agency or private clinic as defined by division rule; and

5074 (ii) under supervision of a qualified licensed mental health therapist as defined in  
5075 Section ~~58-60-102~~.

5076 (b) A licensed associate clinical mental health counselor may not engage in the  
5077 independent practice of clinical mental health counseling.

5078 Section 85. Section ~~58-60-506~~ is amended to read:

5079 **58-60-506. Qualifications for licensure.**

5080 (1) An applicant for licensure under this part on and after July 1, 2012, must meet the  
5081 following qualifications:

5082 (a) submit an application in a form prescribed by the division;

5083 (b) pay a fee determined by the department under Section 63J-1-504;

5084 [~~(c) be of good moral character;~~]

5085 [~~(d)~~] (c) satisfy the requirements of Subsection (2), (3), (4), (5), (6), or (7) respectively;

5086 and

5087 [~~(e)~~] (d) except for licensure as a certified substance use disorder counselor intern and a  
5088 certified advanced substance use disorder counselor intern, satisfy the examination requirement  
5089 established by division rule under Section 58-1-203.

5090 (2) In accordance with division rules, an applicant for licensure as an advanced  
5091 substance use disorder counselor shall produce:

5092 (a) certified transcripts from an accredited institution of higher education that:

5093 (i) meet division standards;

5094 (ii) verify the satisfactory completion of a baccalaureate or graduate degree; and

5095 (iii) verify the completion of prerequisite courses established by division rules;

5096 (b) documentation of the applicant's completion of a substance use disorder education  
5097 program that includes:

5098 (i) at least 300 hours of substance use disorder related education, of which 200 hours  
5099 may have been obtained while qualifying for a substance use disorder counselor license; and

5100 (ii) a supervised practicum of at least 350 hours, of which 200 hours may have been  
5101 obtained while qualifying for a substance use disorder counselor license; and

5102 (c) documentation of the applicant's completion of at least 4,000 hours of supervised  
5103 experience in substance use disorder treatment, of which 2,000 hours may have been obtained  
5104 while qualifying for a substance use disorder counselor license, that:

5105 (i) meets division standards; and

5106 (ii) is performed within a four-year period after the applicant's completion of the  
5107 substance use disorder education program described in Subsection (2)(b), unless, as determined  
5108 by the division after consultation with the board, the time for performance is extended due to  
5109 an extenuating circumstance.

5110 (3) An applicant for licensure as a certified advanced substance use disorder counselor  
5111 shall meet the requirements in Subsections (2)(a) and (b).

5112 (4) (a) An applicant for licensure as a certified advanced substance use disorder  
5113 counselor intern shall meet the requirements in Subsections (2)(a) and (b).

5114 (b) A certified advanced substance use disorder counselor intern license expires at the  
5115 earlier of:

5116 (i) the licensee passing the examination required for licensure as a certified advanced  
5117 substance use disorder counselor; or

5118 (ii) six months after the certified advanced substance use disorder counselor intern  
5119 license is issued.

5120 (5) In accordance with division rules, an applicant for licensure as a substance use  
5121 disorder counselor shall produce:

5122 (a) certified transcripts from an accredited institution that:

5123 (i) meet division standards;

5124 (ii) verify satisfactory completion of an associate's degree or equivalent as defined by  
5125 the division in rule; and

5126 (iii) verify the completion of prerequisite courses established by division rules;

5127 (b) documentation of the applicant's completion of a substance use disorder education  
5128 program that includes:

5129 (i) completion of at least 200 hours of substance use disorder related education;

5130 (ii) included in the 200 hours described in Subsection (5)(b)(i), a minimum of two  
5131 hours of training in suicide prevention via a course that the division designates as approved;  
5132 and

5133 (iii) completion of a supervised practicum of at least 200 hours; and

5134 (c) documentation of the applicant's completion of at least 2,000 hours of supervised  
5135 experience in substance use disorder treatment that:

5136 (i) meets division standards; and

5137 (ii) is performed within a two-year period after the applicant's completion of the  
5138 substance use disorder education program described in Subsection (5)(b), unless, as determined  
5139 by the division after consultation with the board, the time for performance is extended due to  
5140 an extenuating circumstance.

5141 (6) An applicant for licensure as a certified substance use disorder counselor shall meet  
5142 the requirements of Subsections (5)(a) and (b).

5143 (7) (a) An applicant for licensure as a certified substance use disorder counselor intern  
5144 shall meet the requirements of Subsections (5)(a) and (b).

5145 (b) A certified substance use disorder counselor intern license expires at the earlier of:

5146 (i) the licensee passing the examination required for licensure as a certified substance  
5147 use disorder counselor; or

5148 (ii) six months after the certified substance use disorder counselor intern license is  
5149 issued.

5150 Section 86. Section **58-61-304** is amended to read:

5151 **58-61-304. Qualifications for licensure by examination or endorsement.**

5152 (1) An applicant for licensure as a psychologist based upon education, clinical training,  
5153 and examination shall:

5154 (a) submit an application on a form provided by the division;

5155 (b) pay a fee determined by the department under Section [63J-1-504](#);

5156 [~~(c)~~ be of good moral character;]

5157 [~~(d)~~ (c) produce certified transcripts of credit verifying satisfactory completion of a  
5158 doctoral degree in psychology that includes specific core course work established by division  
5159 rule under Section [58-1-203](#), from an institution of higher education whose doctoral program,  
5160 at the time the applicant received the doctoral degree, met approval criteria established by  
5161 division rule made in consultation with the board;

5162 [~~(e)~~ (d) have completed a minimum of 4,000 hours of psychology training as defined  
5163 by division rule under Section [58-1-203](#) in not less than two years and under the supervision of  
5164 a psychologist supervisor approved by the division in collaboration with the board;

5165 [~~(f)~~ (e) to be qualified to engage in mental health therapy, document successful  
5166 completion of not less than 1,000 hours of supervised training in mental health therapy  
5167 obtained after completion of a master's level of education in psychology, which training may be  
5168 included as part of the 4,000 hours of training required in Subsection (1)[~~(e)~~](d), and for which  
5169 documented evidence demonstrates not less than one hour of supervision for each 40 hours of  
5170 supervised training was obtained under the direct supervision of a psychologist, as defined by  
5171 rule;

5172 [(g)] (f) pass the examination requirement established by division rule under Section  
5173 58-1-203; [and]

5174 (g) consent to a criminal background check in accordance with Section 58-61-304.1  
5175 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah  
5176 Administrative Rulemaking Act; and

5177 (h) meet with the board, upon request for good cause, for the purpose of evaluating the  
5178 applicant's qualifications for licensure.

5179 (2) An applicant for licensure as a psychologist by endorsement based upon licensure  
5180 in another jurisdiction shall:

5181 (a) submit an application on a form provided by the division;

5182 (b) pay a fee determined by the department under Section 63J-1-504;

5183 (c) [~~be of good moral character and professional standing, and~~] not have any  
5184 disciplinary action pending or in effect against the applicant's psychologist license in any  
5185 jurisdiction;

5186 (d) have passed the Utah Psychologist Law and Ethics Examination established by  
5187 division rule;

5188 (e) provide satisfactory evidence the applicant is currently licensed in another state,  
5189 district, or territory of the United States, or in any other jurisdiction approved by the division in  
5190 collaboration with the board;

5191 (f) provide satisfactory evidence the applicant has actively practiced psychology in that  
5192 jurisdiction for not less than 2,000 hours or one year, whichever is greater;

5193 (g) provide satisfactory evidence that:

5194 (i) the education, supervised experience, examination, and all other requirements for  
5195 licensure in that jurisdiction at the time the applicant obtained licensure were substantially  
5196 equivalent to the licensure requirements for a psychologist in Utah at the time the applicant  
5197 obtained licensure in the other jurisdiction; or

5198 (ii) the applicant is:

5199 (A) a current holder of Board Certified Specialist status in good standing from the  
5200 American Board of Professional Psychology;

5201 (B) currently credentialed as a health service provider in psychology by the National  
5202 Register of Health Service Providers in Psychology; or



5203 (C) currently holds a Certificate of Professional Qualification (CPQ) granted by the  
5204 Association of State and Provincial Psychology Boards; ~~and~~

5205 (h) consent to a criminal background check in accordance with Section 58-61-304.1  
5206 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah  
5207 Administrative Rulemaking Act; and

5208 ~~(h)~~ (i) meet with the board, upon request for good cause, for the purpose of  
5209 evaluating the applicant's qualifications for licensure.

5210 (3) (a) An applicant for certification as a psychology resident shall comply with the  
5211 provisions of Subsections (1)(a), (b), (c), ~~(d)~~ (g), and (h).

5212 (b) (i) An individual's certification as a psychology resident is limited to the period of  
5213 time necessary to complete clinical training as described in Subsections ~~(1)(e) and (f)~~ (1)(d)  
5214 and (e) and extends not more than one year from the date the minimum requirement for  
5215 training is completed, unless the individual presents satisfactory evidence to the division and  
5216 the Psychologist Licensing Board that the individual is making reasonable progress toward  
5217 passing the qualifying examination or is otherwise on a course reasonably expected to lead to  
5218 licensure as a psychologist.

5219 (ii) The period of time under Subsection (3)(b)(i) may not exceed two years past the  
5220 date the minimum supervised clinical training requirement has been completed.

5221 Section 87. Section **58-61-304.1** is enacted to read:

5222 **58-61-304.1. Criminal background check.**

5223 (1) An applicant for licensure under this chapter who requires a criminal background  
5224 check shall:

5225 (a) submit fingerprint cards in a form acceptable to the division at the time the license  
5226 application is filed; and

5227 (b) consent to a fingerprint background check conducted by the Bureau of Criminal  
5228 Identification and the Federal Bureau of Investigation regarding the application.

5229 (2) The division shall:

5230 (a) in addition to other fees authorized by this chapter, collect from each applicant  
5231 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal  
5232 Identification is authorized to collect for the services provided under Section 53-10-108 and the  
5233 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of

5234 obtaining federal criminal history record information;

5235 (b) submit from each applicant the fingerprint card and the fees described in

5236 Subsection (2)(a) to the Bureau of Criminal Identification; and

5237 (c) obtain and retain in division records a signed waiver approved by the Bureau of

5238 Criminal Identification in accordance with Section [53-10-108](#) for each applicant.

5239 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of

5240 Section [53-10-108](#):

5241 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state

5242 and regional criminal records databases;

5243 (b) forward the fingerprints to the Federal Bureau of Investigation for a national

5244 criminal history background check; and

5245 (c) provide the results from the state, regional, and nationwide criminal history

5246 background checks to the division.

5247 (4) For purposes of conducting a criminal background check required under this

5248 section, the division shall have direct access to criminal background information maintained

5249 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

5250 (5) The division may not disseminate outside of the division any criminal history

5251 record information that the division obtains from the Bureau of Criminal Identification or the

5252 Federal Bureau of Investigation under the criminal background check requirements of this

5253 section.

5254 Section 88. Section **58-61-501** is amended to read:

5255 **58-61-501. Unlawful conduct.**

5256 As used in this chapter, "unlawful conduct" includes:

5257 (1) practice of psychology unless licensed as a psychologist or certified psychology

5258 resident under this chapter or exempted from licensure under this title;

5259 (2) practice of mental health therapy by a licensed psychologist who has not acceptably

5260 documented to the division his completion of the supervised training in psychotherapy required

5261 under Subsection [58-61-304\(1\)\(~~f~~\)\(e\)](#); or

5262 (3) representing oneself as or using the title of psychologist, or certified psychology

5263 resident unless currently licensed under this chapter.

5264 Section 89. Section **58-61-704** is amended to read:

5265 **58-61-704. Term of license or registration.**

5266 (1) (a) The division shall issue each license under this part with a two-year renewal  
5267 cycle established by division rule.

5268 (b) The division may by rule extend or shorten a renewal cycle by as much as one year  
5269 to stagger the renewal cycles it administers.

5270 (2) At the time of renewal, the licensed individual shall show satisfactory evidence of  
5271 renewal requirements as required under this part.

5272 (3) Each license or registration expires on the expiration date shown on the license  
5273 unless renewed by the licensed individual in accordance with Section 58-1-308.

5274 (4) (a) A registration as a registered behavior specialist or a registered assistant  
5275 behavior specialist:

5276 (i) expires on the day the individual is no longer employed in accordance with  
5277 Subsection [~~58-61-705(5)(e) or (6)(e)~~ 58-61-705(5)(d) or (6)(d)]; and

5278 (ii) may not be renewed.

5279 (b) The Department of Human Services, or an organization contracted with a division  
5280 of the Department of Human Services, shall notify the Division of Occupational and  
5281 Professional Licensing when a person registered under this part is no longer employed as a  
5282 registered behavior specialist or a registered assistant behavior specialist.

5283 Section 90. Section 58-61-705 is amended to read:

5284 **58-61-705. Qualifications for licensure -- By examination -- By certification.**

5285 (1) An applicant for licensure as a behavior analyst based upon education, supervised  
5286 experience, and national examination shall:

5287 (a) submit an application on a form provided by the division;

5288 (b) pay a fee determined by the department under Section 63J-1-504;

5289 [~~(c) be of good moral character;~~]

5290 [~~(d)~~] (c) produce certified transcripts of credit verifying satisfactory completion of a  
5291 master's or doctoral degree in applied behavior analysis from an accredited institution of higher  
5292 education or an equivalent master or doctorate degree as determined by the division by  
5293 administrative rule;

5294 [~~(e)~~] (d) as defined by the division by administrative rule, have completed at least  
5295 1,500 hours of experiential behavior analysis training within a five year period of time with a

5296 qualified supervisor; and  
5297       ~~[(f)]~~ (e) pass the examination requirement established by division rule under Section  
5298 58-1-203.

5299       (2) An applicant for licensure as a behavior analyst based upon certification shall:  
5300       (a) without exception, on or before November 15, 2015, submit to the division an  
5301 application on a form provided by the division;  
5302       (b) pay a fee determined by the department under Section 63J-1-504; and  
5303       ~~[(c) be of good moral character; and]~~  
5304       ~~[(d)]~~ (c) provide official verification of current certification as a board certified  
5305 behavior analyst from the Behavior Analyst Certification Board.

5306       (3) An applicant for licensure as an assistant behavior analyst based upon education,  
5307 supervised experience, and national examination shall:  
5308       (a) submit an application on a form provided by the division;  
5309       (b) pay a fee determined by the department under Section 63J-1-504;  
5310       ~~[(c) be of good moral character;]~~  
5311       ~~[(d)]~~ (c) produce certified transcripts of credit verifying satisfactory completion of a  
5312 bachelor's degree from an accredited institution of higher education and satisfactory completion  
5313 of specific core course work in behavior analysis established under Section 58-1-203 from an  
5314 accredited institution of higher education;  
5315       ~~[(e)]~~ (d) as defined by the division by administrative rule, have completed at least  
5316 1,000 hours of experiential behavior analysis training within a five-year period of time with a  
5317 qualified supervisor; and  
5318       ~~[(f)]~~ (e) pass the examination requirement established by division rule under Section  
5319 58-1-203.

5320       (4) An applicant for licensure as an assistant behavior analyst based upon certification  
5321 shall:  
5322       (a) without exception, on or before November 15, 2015, submit to the division an  
5323 application on a form provided by the division;  
5324       (b) pay a fee determined by the department under Section 63J-1-504; and  
5325       ~~[(c) be of good moral character; and]~~  
5326       ~~[(d)]~~ (c) provide official verification of current certification as a board certified

5327 assistant behavior analyst from the Behavior Analyst Certification Board.

5328 (5) An applicant for registration as a behavior specialist based upon professional  
5329 experience in behavior analysis shall:

5330 (a) without exception, on or before November 15, 2015, submit to the division, an  
5331 application on a form provided by the division;

5332 (b) pay a fee determined by the department under Section 63J-1-504;

5333 [~~(c) be of good moral character;~~]

5334 [~~(d)~~] (c) have at least five years of experience as a professional engaged in the practice  
5335 of behavior analysis on or before May 15, 2015; and

5336 [~~(e)~~] (d) be employed as a professional engaging in the practice of behavior analysis  
5337 within an organization contracted with a division of the Utah Department of Human Services to  
5338 provide behavior analysis on or before July 1, 2015.

5339 (6) An applicant for registration as an assistant behavior specialist based upon  
5340 professional experience in behavior analysis shall:

5341 (a) without exception, on or before November 15, 2015, submit to the division, an  
5342 application on a form provided by the division;

5343 (b) pay a fee determined by the department under Section 63J-1-504;

5344 [~~(c) be of good moral character;~~]

5345 [~~(d)~~] (c) have at least one year of experience as a professional engaging in the practice  
5346 of behavior analysis prior to July 1, 2015; and

5347 [~~(e)~~] (d) be employed as a professional engaging in the practice of behavior analysis  
5348 within an organization contracted with a division of the Utah Department of Human Services to  
5349 provide behavior analysis on or before July 1, 2015.

5350 Section 91. Section **58-63-302** is amended to read:

5351 **58-63-302. Qualifications for licensure.**

5352 (1) Each applicant for licensure as an armored car company or a contract security  
5353 company shall:

5354 (a) submit an application in a form prescribed by the division;

5355 (b) pay a fee determined by the department under Section 63J-1-504;

5356 (c) have a qualifying agent who:

5357 (i) shall meet with the division and the board and demonstrate that the applicant and

5358 the qualifying agent meet the requirements of this section;

5359 (ii) is a resident of the state and is a corporate officer or owner of the applicant;

5360 (iii) exercises material day-to-day authority in the conduct of the applicant's business  
5361 by making substantive technical and administrative decisions and whose primary employment  
5362 is with the applicant;

5363 (iv) is not concurrently acting as a qualifying agent or employee of another armored car  
5364 company or contract security company and is not engaged in any other employment on a  
5365 regular basis;

5366 (v) is not involved in any activity that would conflict with the qualifying agent's duties  
5367 and responsibilities under this chapter to ensure that the qualifying agent's and the applicant's  
5368 performance under this chapter does not jeopardize the health or safety of the general public;

5369 (vi) is not an employee of a government agency;

5370 (vii) passes an examination component established by rule by the division in  
5371 collaboration with the board; and

5372 (viii) (A) demonstrates 6,000 hours of compensated experience as a manager,  
5373 supervisor, or administrator of an armored car company or a contract security company; or

5374 (B) demonstrates 6,000 hours of supervisory experience acceptable to the division in  
5375 collaboration with the board with a federal, United States military, state, county, or municipal  
5376 law enforcement agency;

5377 (d) if a corporation, provide:

5378 (i) the names, addresses, dates of birth, and social security numbers of all corporate  
5379 officers, directors, and those responsible management personnel employed within the state or  
5380 having direct responsibility for managing operations of the applicant within the state; and

5381 (ii) the names, addresses, dates of birth, and social security numbers, of all  
5382 shareholders owning 5% or more of the outstanding shares of the corporation, unless waived by  
5383 the division if the stock is publicly listed and traded;

5384 (e) if a limited liability company, provide:

5385 (i) the names, addresses, dates of birth, and social security numbers of all company  
5386 officers, and those responsible management personnel employed within the state or having  
5387 direct responsibility for managing operations of the applicant within the state; and

5388 (ii) the names, addresses, dates of birth, and social security numbers of all individuals

5389 owning 5% or more of the equity of the company;

5390 (f) if a partnership, provide the names, addresses, dates of birth, and social security  
5391 numbers of all general partners, and those responsible management personnel employed within  
5392 the state or having direct responsibility for managing operations of the applicant within the  
5393 state;

5394 (g) if a proprietorship, provide the names, addresses, dates of birth, and social security  
5395 numbers of the proprietor, and those responsible management personnel employed within the  
5396 state or having direct responsibility for managing operations of the applicant within the state;

5397 (h) have good moral character in that officers, directors, shareholders described in  
5398 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have not  
5399 been convicted of:

5400 (i) a felony;

5401 (ii) a misdemeanor involving moral turpitude; or

5402 (iii) a crime that when considered with the duties and responsibilities of a contract  
5403 security company or an armored car company by the division and the board indicates that the  
5404 best interests of the public are not served by granting the applicant a license;

5405 (i) document that none of the applicant's officers, directors, shareholders described in  
5406 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel:

5407 (i) have been declared by a court of competent jurisdiction incompetent by reason of  
5408 mental defect or disease and not been restored; and

5409 (ii) currently suffer from habitual drunkenness or from drug addiction or dependence;

5410 (j) file and maintain with the division evidence of:

5411 (i) comprehensive general liability insurance in a form and in amounts established by  
5412 rule by the division in collaboration with the board;

5413 (ii) workers' compensation insurance that covers employees of the applicant in  
5414 accordance with applicable Utah law;

5415 (iii) registration with the Division of Corporations and Commercial Code; and

5416 (iv) registration as required by applicable law with the:

5417 (A) Unemployment Insurance Division in the Department of Workforce Services, for  
5418 purposes of Title 35A, Chapter 4, Employment Security Act;

5419 (B) State Tax Commission; and

- 5420 (C) Internal Revenue Service; and
- 5421 (k) meet with the division and board if requested by the division or board.
- 5422 (2) Each applicant for licensure as an armed private security officer shall:
- 5423 (a) submit an application in a form prescribed by the division;
- 5424 (b) pay a fee determined by the department under Section [63J-1-504](#);
- 5425 (c) have good moral character in that the applicant has not been convicted of:
- 5426 (i) a felony;
- 5427 (ii) a misdemeanor involving moral turpitude; or
- 5428 (iii) a crime that when considered with the duties and responsibilities of an armed
- 5429 private security officer by the division and the board indicates that the best interests of the
- 5430 public are not served by granting the applicant a license;
- 5431 (d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec.
- 5432 922(g);
- 5433 (e) not have been declared incompetent by a court of competent jurisdiction by reason
- 5434 of mental defect or disease and not been restored;
- 5435 (f) not be currently suffering from habitual drunkenness or from drug addiction or
- 5436 dependence;
- 5437 (g) successfully complete basic education and training requirements established by rule
- 5438 by the division in collaboration with the board, which shall include a minimum of eight hours
- 5439 of classroom or online curriculum;
- 5440 (h) successfully complete firearms training requirements established by rule by the
- 5441 division in collaboration with the board, which shall include a minimum of 12 hours of
- 5442 training;
- 5443 (i) pass the examination requirement established by rule by the division in
- 5444 collaboration with the board; and
- 5445 (j) meet with the division and board if requested by the division or the board.
- 5446 (3) Each applicant for licensure as an unarmed private security officer shall:
- 5447 (a) submit an application in a form prescribed by the division;
- 5448 (b) pay a fee determined by the department under Section [63J-1-504](#);
- 5449 (c) have good moral character in that the applicant has not been convicted of:
- 5450 (i) a felony;



- 5451 (ii) a misdemeanor involving moral turpitude; or  
5452 (iii) a crime that when considered with the duties and responsibilities of an unarmed  
5453 private security officer by the division and the board indicates that the best interests of the  
5454 public are not served by granting the applicant a license;
- 5455 (d) not have been declared incompetent by a court of competent jurisdiction by reason  
5456 of mental defect or disease and not been restored;
- 5457 (e) not be currently suffering from habitual drunkenness or from drug addiction or  
5458 dependence;
- 5459 (f) successfully complete basic education and training requirements established by rule  
5460 by the division in collaboration with the board, which shall include a minimum of eight hours  
5461 of classroom or online curriculum;
- 5462 (g) pass the examination requirement established by rule by the division in  
5463 collaboration with the board; and
- 5464 (h) meet with the division and board if requested by the division or board.
- 5465 (4) Each applicant for licensure as an armored car security officer shall:
- 5466 (a) submit an application in a form prescribed by the division;
- 5467 (b) pay a fee determined by the department under Section [63J-1-504](#);
- 5468 (c) have good moral character in that the applicant has not been convicted of:
- 5469 (i) a felony;
- 5470 (ii) a misdemeanor involving moral turpitude; or
- 5471 (iii) a crime that when considered with the duties and responsibilities of an armored car  
5472 security officer by the division and the board indicates that the best interests of the public are  
5473 not served by granting the applicant a license;
- 5474 (d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec.  
5475 922(g);
- 5476 (e) not have been declared incompetent by a court of competent jurisdiction by reason  
5477 of mental defect or disease and not been restored;
- 5478 (f) not be currently suffering from habitual drunkenness or from drug addiction or  
5479 dependence;
- 5480 (g) successfully complete basic education and training requirements established by rule  
5481 by the division in collaboration with the board;

5482 (h) successfully complete firearms training requirements established by rule by the  
5483 division in collaboration with the board;

5484 (i) pass the examination requirements established by rule by the division in  
5485 collaboration with the board; and

5486 (j) meet with the division and board if requested by the division or the board.

5487 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
5488 division may make a rule establishing when the division shall request a Federal Bureau of  
5489 Investigation records' review for an applicant who is applying for licensure or licensure renewal  
5490 under this chapter.

5491 (6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c),  
5492 (3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint  
5493 cards to the Department of Public Safety with the division's request to:

5494 (a) conduct a search of records of the Department of Public Safety for criminal history  
5495 information relating to each applicant for licensure under this chapter and each applicant's  
5496 officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and  
5497 responsible management personnel; and

5498 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant  
5499 requiring a check of records of the FBI for criminal history information under this section.

5500 (7) The Department of Public Safety shall send the division:

5501 (a) a written record of criminal history, or certification of no criminal history record, as  
5502 contained in the records of the Department of Public Safety in a timely manner after receipt of  
5503 a fingerprint card from the division and a request for review of Department of Public Safety  
5504 records; and

5505 (b) the results of the FBI review concerning an applicant in a timely manner after  
5506 receipt of information from the FBI.

5507 (8) (a) The division shall charge each applicant a fee, in accordance with Section  
5508 [63J-1-504](#), equal to the cost of performing the records reviews under this section.

5509 (b) The division shall pay the Department of Public Safety the costs of all records  
5510 reviews, and the Department of Public Safety shall pay the FBI the costs of records reviews  
5511 under this chapter.

5512 (9) The division shall use or disseminate the information it obtains from the reviews of

5513 criminal history records of the Department of Public Safety and the FBI only to determine if an  
5514 applicant for licensure or licensure renewal under this chapter is qualified for licensure.

5515 Section 92. Section **58-63-306** is amended to read:

5516 **58-63-306. Replacement of qualifying agent.**

5517 If the qualifying agent of an armored car company or a contract security company  
5518 ceases to perform the agent's duties on a regular basis, the licensee shall:

5519 (1) notify the division in writing within 15 days [~~by registered or certified mail~~]; and

5520 (2) replace the qualifying agent within 60 days after the time required for notification  
5521 to the division.

5522 Section 93. Section **58-63-503** is amended to read:

5523 **58-63-503. Penalties.**

5524 (1) Unless Subsection (2) applies, an individual who commits an act of unlawful  
5525 conduct under Section **58-63-501** or who fails to comply with a citation issued under this  
5526 section after it becomes final is guilty of a class A misdemeanor.

5527 (2) The division may immediately suspend a license issued under this chapter of a  
5528 person who is given a citation for violating Subsection **58-63-501**(1), (2), (4), or (5).

5529 (3) (a) If upon inspection or investigation, the division determines that a person has  
5530 violated Subsection **58-63-501**(1), (2), (4), or (5) or any rule made or order issued under those  
5531 subsections, and that disciplinary action is warranted, the director or the director's designee  
5532 within the division shall promptly issue a citation to the person and:

5533 (i) attempt to negotiate a stipulated settlement; or

5534 (ii) notify the person to appear for an adjudicative proceeding conducted under Title  
5535 63G, Chapter 4, Administrative Procedures Act.

5536 (b) (i) The division may fine a person who violates Subsection **58-63-501**(1), (2), (4),  
5537 or (5), as evidenced by an uncontested citation, a stipulated settlement, or a finding of a  
5538 violation in an adjudicative proceeding held under Subsection (3)(a)(ii), or order the person to  
5539 cease and desist from the violation, or do both.

5540 (ii) Except for a cease and desist order, the division may not impose the licensure  
5541 sanctions listed in Section **58-63-401** through the issuance of a citation under this section.

5542 (c) The written citation shall:

5543 (i) describe the nature of the violation, including a reference to the allegedly violated

5544 statute, rule, or order;

5545 (ii) state the recipient must notify the division in writing within 20 calendar days of  
5546 issuance of the citation if the recipient wants to contest the citation at the adjudicative  
5547 proceeding referred to in Subsection (3)(a)(ii); and

5548 (iii) explain the consequences of failure to timely contest the citation or to make  
5549 payment of a fine assessed under the citation with the time specified in the citation.

5550 (d) (i) The division may serve a citation issued under this section, or a copy of the  
5551 citation, upon an individual who is subject to service of a summons under the Utah Rules of  
5552 Civil Procedure.

5553 (ii) (A) The division may serve the individual personally or serve the individual's  
5554 agent.

5555 (B) The division may serve the summons by a division investigator, by a person  
5556 designated by the director, or by mail.

5557 (e) (i) If within 20 days from the service of a citation the person to whom the citation  
5558 was issued fails to request a hearing to contest the citation, the citation becomes the final order  
5559 of the division and is not subject to further agency review.

5560 (ii) The division may grant an extension of the 20-day period for cause.

5561 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation  
5562 the license of a licensee who fails to comply with a citation after it becomes final.

5563 (g) The division may not issue a citation for an alleged violation under this section  
5564 after the expiration of [~~six months following the occurrence of the alleged violation~~] one year  
5565 following the date on which the violation that is the subject of the citation is reported to the  
5566 division.

5567 (h) The director or the director's designee may assess fines under this section as  
5568 follows:

5569 (i) for a first offense under Subsection (3)(a), a fine of up to \$1,000;

5570 (ii) for a second offense under Subsection (3)(a), a fine of up to \$2,000; and

5571 (iii) for a subsequent offense under Subsection (3)(a), a fine of up to \$2,000 for each  
5572 day of continued violation.

5573 (i) (i) For purposes of issuing a final order under this section and assessing a fine under  
5574 Subsection (3)(h), an offense is a second or subsequent offense if:

5575 (A) the division previously issued a final order determining that a person committed a  
5576 first or second offense in violation of Subsection 58-63-501(1) or (4); or

5577 (B) (I) the division initiated an action for a first or second offense;

5578 (II) no final order has been issued by the division in an action initiated under

5579 Subsection (3)(i)(i)(B)(I);

5580 (III) the division determines during an investigation that occurred after the initiation of  
5581 the action under Subsection (3)(i)(i)(B)(I) that the person committed a second or subsequent  
5582 violation of Subsection 58-63-501(1) or (4); and

5583 (IV) after determining that the person committed a second or subsequent offense under  
5584 Subsection (3)(i)(i)(B)(III), the division issues a final order on the action initiated under  
5585 Subsection (3)(i)(i)(B)(I).

5586 (ii) In issuing a final order for a second or subsequent offense under Subsection  
5587 (3)(i)(i), the division shall comply with the requirements of this section.

5588 (4) (a) The division shall deposit a fine imposed by the director under Subsection (3)(h)  
5589 in the General Fund as a dedicated credit for use by the division for the purposes listed in  
5590 Section 58-63-103.

5591 (b) The director may collect a fine that is not paid by:

5592 (i) referring the matter to a collection agency; or

5593 (ii) bringing an action in the district court of the county where the person against whom  
5594 the penalty is imposed resides or in the county where the office of the director is located.

5595 (c) A county attorney or the attorney general of the state shall provide legal assistance  
5596 and advice to the director in an action to collect a penalty.

5597 (d) A court shall award reasonable attorney fees and costs to the prevailing party in an  
5598 action brought by the division to collect a penalty.

5599 Section 94. Section 58-64-302 is amended to read:

5600 **58-64-302. Qualifications for licensure.**

5601 (1) Each applicant for licensure as a deception detection examiner:

5602 (a) shall submit an application in a form prescribed by the division;

5603 (b) shall pay a fee determined by the department under Section 63J-1-504;

5604 (c) [~~shall be of good moral character in that the applicant has not~~] may not have been  
5605 convicted of a felony, a misdemeanor involving moral turpitude, or any other crime [~~which~~]

5606 that when considered with the duties and responsibilities of a deception detection examiner is  
5607 considered by the division and the board to indicate that the best interests of the public will not  
5608 be served by granting the applicant a license;

5609 (d) may not have been declared by any court of competent jurisdiction incompetent by  
5610 reason of mental defect or disease and not been restored;

5611 (e) may not be currently suffering from habitual drunkenness or from drug addiction or  
5612 dependence;

5613 (f) shall have completed one of the following:

5614 (i) have earned a bachelor's degree from a four year university or college meeting  
5615 standards established by the division by rule in collaboration with the board;

5616 (ii) have completed not less than 8,000 hours of investigation experience approved by  
5617 the division in collaboration with the board; or

5618 (iii) have completed a combination of university or college education and investigation  
5619 experience, as defined by rule by the division in collaboration with the board as being  
5620 equivalent to the requirements under Subsection (1)(f)(i) or (1)(f)(ii);

5621 (g) shall have successfully completed a training program in detection deception  
5622 meeting criteria established by rule by the division in collaboration with the board; and

5623 (h) shall have performed satisfactorily as a licensed deception detection intern for a  
5624 period of not less than one year and shall have satisfactorily conducted not less than 100  
5625 deception detection examinations under the supervision of a licensed deception detection  
5626 examiner.

5627 (2) Each applicant for licensure as a deception detection intern:

5628 (a) shall submit an application in a form prescribed by the division;

5629 (b) shall pay a fee determined by the department under Section [63J-1-504](#);

5630 (c) [~~shall be of good moral character in that the applicant has not~~] may not have been  
5631 convicted of a felony, a misdemeanor involving moral turpitude, or any other crime [~~which~~]

5632 that when considered with the duties and responsibilities of a deception detection intern is  
5633 considered by the division and the board to indicate that the best interests of the public will not  
5634 be served by granting the applicant a license;

5635 (d) may not have been declared by any court of competent jurisdiction incompetent by  
5636 reason of mental defect or disease and not been restored;

5637 (e) may not be currently suffering from habitual drunkenness or from drug addiction or  
5638 dependence;

5639 (f) shall have completed one of the following:

5640 (i) have earned a bachelor's degree from a four year university or college meeting  
5641 standards established by the division by rule in collaboration with the board;

5642 (ii) have completed not less than 8,000 hours of investigation experience approved by  
5643 the division in collaboration with the board; or

5644 (iii) have completed a combination of university or college education and investigation  
5645 experience, as defined by rule by the division in collaboration with the board as being  
5646 equivalent to the requirements under Subsection (2)(f)(i) or (2)(f)(ii);

5647 (g) shall have successfully completed a training program in deception detection  
5648 meeting criteria established by rule by the division in collaboration with the board; and

5649 (h) shall provide the division with an intern supervision agreement in a form prescribed  
5650 by the division under which:

5651 (i) a licensed deception detection examiner agrees to supervise the intern; and

5652 (ii) the applicant agrees to be supervised by that licensed deception detection examiner.

5653 (3) Each applicant for licensure as a deception detection examination administrator:

5654 (a) shall submit an application in a form prescribed by the division;

5655 (b) shall pay a fee determined by the department under Section 63J-1-504;

5656 (c) [~~shall be of good moral character in that the applicant has not~~] may not have been  
5657 convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when  
5658 considered with the duties and responsibilities of a deception detection examination  
5659 administrator is considered by the division and the board to indicate that the best interests of  
5660 the public will not be served by granting the applicant a license;

5661 (d) may not have been declared by a court of competent jurisdiction incompetent by  
5662 reason of mental defect or disease and not been restored;

5663 (e) may not be currently suffering from habitual drunkenness or from drug addiction or  
5664 dependence;

5665 (f) shall have earned an associate degree from a state-accredited university or college or  
5666 have an equivalent number of years' work experience; and

5667 (g) shall have successfully completed a training program and have obtained

5668 certification in deception detection examination administration provided by the manufacturer  
5669 of a scientific or technology-based software application solution that is approved by the  
5670 director.

5671 (4) To determine if an applicant meets the qualifications of Subsection (1)(c), (2)(c), or  
5672 (3)(c) the division shall provide an appropriate number of copies of fingerprint cards to the  
5673 Department of Public Safety with the division's request to:

5674 (a) conduct a search of records of the Department of Public Safety for criminal history  
5675 information relating to each applicant for licensure under this chapter; and

5676 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant  
5677 requiring a check of records of the F.B.I. for criminal history information under this section.

5678 (5) The Department of Public Safety shall send to the division:

5679 (a) a written record of criminal history, or certification of no criminal history record, as  
5680 contained in the records of the Department of Public Safety in a timely manner after receipt of  
5681 a fingerprint card from the division and a request for review of Department of Public Safety  
5682 records; and

5683 (b) the results of the F.B.I. review concerning an applicant in a timely manner after  
5684 receipt of information from the F.B.I.

5685 (6) (a) The division shall charge each applicant a fee, in accordance with Section  
5686 [63J-1-504](#), equal to the cost of performing the records reviews under this section.

5687 (b) The division shall pay the Department of Public Safety the costs of all records  
5688 reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews  
5689 under this chapter.

5690 (7) Information obtained by the division from the reviews of criminal history records of  
5691 the Department of Public Safety and the F.B.I. shall be used or disseminated by the division  
5692 only for the purpose of determining if an applicant for licensure under this chapter is qualified  
5693 for licensure.

5694 Section 95. Section **58-67-302** is amended to read:

5695 **58-67-302. Qualifications for licensure.**

5696 (1) An applicant for licensure as a physician and surgeon, except as set forth in  
5697 Subsection (2), shall:

5698 (a) submit an application in a form prescribed by the division, which may include:



- 5699 (i) submissions by the applicant of information maintained by practitioner data banks,  
5700 as designated by division rule, with respect to the applicant;
- 5701 (ii) a record of professional liability claims made against the applicant and settlements  
5702 paid by or on behalf of the applicant; and
- 5703 (iii) authorization to use a record coordination and verification service approved by the  
5704 division in collaboration with the board;
- 5705 (b) pay a fee determined by the department under Section [63J-1-504](#);
- 5706 ~~[(c) be of good moral character;]~~
- 5707 ~~[(d)]~~ (c) if the applicant is applying to participate in the Interstate Medical Licensure  
5708 Compact under Chapter 67b, Interstate Medical Licensure Compact, consent to a criminal  
5709 background check in accordance with Section [58-67-302.1](#) and any requirements established by  
5710 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 5711 ~~[(e)]~~ (d) provide satisfactory documentation of having successfully completed a  
5712 program of professional education preparing an individual as a physician and surgeon, as  
5713 evidenced by:
- 5714 (i) having received an earned degree of doctor of medicine from an LCME accredited  
5715 medical school or college; or
- 5716 (ii) if the applicant graduated from a medical school or college located outside the  
5717 United States or its territories, submitting a current certification by the Educational  
5718 Commission for Foreign Medical Graduates or any successor organization approved by the  
5719 division in collaboration with the board;
- 5720 ~~[(f)]~~ (e) satisfy the division and board that the applicant:
- 5721 (i) has successfully completed 24 months of progressive resident training in a program  
5722 approved by the ACGME, the Royal College of Physicians and Surgeons, the College of  
5723 Family Physicians of Canada, or any similar body in the United States or Canada approved by  
5724 the division in collaboration with the board; or
- 5725 (ii) (A) has successfully completed 12 months of resident training in an ACGME  
5726 approved program after receiving a degree of doctor of medicine as required under Subsection  
5727 (1)~~[(e)]~~(d);
- 5728 (B) has been accepted in and is successfully participating in progressive resident  
5729 training in an ACGME approved program within Utah, in the applicant's second or third year

5730 of postgraduate training; and

5731 (C) has agreed to surrender to the division the applicant's license as a physician and  
5732 surgeon without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act,  
5733 and has agreed the applicant's license as a physician and surgeon will be automatically revoked  
5734 by the division if the applicant fails to continue in good standing in an ACGME approved  
5735 progressive resident training program within the state;

5736 [~~g~~] (f) pass the licensing examination sequence required by division rule made in  
5737 collaboration with the board;

5738 [~~h~~] (g) be able to read, write, speak, understand, and be understood in the English  
5739 language and demonstrate proficiency to the satisfaction of the board if requested by the board;

5740 [~~i~~] (h) meet with the board and representatives of the division, if requested, for the  
5741 purpose of evaluating the applicant's qualifications for licensure;

5742 [~~j~~] (i) designate:

5743 (i) a contact person for access to medical records in accordance with the federal Health  
5744 Insurance Portability and Accountability Act; and

5745 (ii) an alternate contact person for access to medical records, in the event the original  
5746 contact person is unable or unwilling to serve as the contact person for access to medical  
5747 records; and

5748 [~~k~~] (j) establish a method for notifying patients of the identity and location of the  
5749 contact person and alternate contact person, if the applicant will practice in a location with no  
5750 other persons licensed under this chapter.

5751 (2) An applicant for licensure as a physician and surgeon by endorsement who is  
5752 currently licensed to practice medicine in any state other than Utah, a district or territory of the  
5753 United States, or Canada shall:

5754 (a) be currently licensed with a full unrestricted license in good standing in any state,  
5755 district, or territory of the United States, or Canada;

5756 (b) have been actively engaged in the legal practice of medicine in any state, district, or  
5757 territory of the United States, or Canada for not less than 6,000 hours during the five years  
5758 immediately preceding the date of application for licensure in Utah;

5759 (c) comply with the requirements for licensure under Subsections (1)(a) through [~~e~~]

5760 (d), (1)[~~f~~](~~e~~)(i), and (1)[~~h~~](~~g~~) through [~~k~~] (j);

5761 (d) have passed the licensing examination sequence required in Subsection [~~(1)~~(f)]  
5762 (1)(e) or another medical licensing examination sequence in another state, district or territory of  
5763 the United States, or Canada that the division in collaboration with the board by rulemaking  
5764 determines is equivalent to its own required examination;

5765 (e) not have any investigation or action pending against any health care license of the  
5766 applicant, not have a health care license that was suspended or revoked in any state, district or  
5767 territory of the United States, or Canada, and not have surrendered a health care license in lieu  
5768 of a disciplinary action, unless:

5769 (i) the license was subsequently reinstated as a full unrestricted license in good  
5770 standing; or

5771 (ii) the division in collaboration with the board determines to its satisfaction, after full  
5772 disclosure by the applicant, that:

5773 (A) the conduct has been corrected, monitored, and resolved; or

5774 (B) a mitigating circumstance exists that prevents its resolution, and the division in  
5775 collaboration with the board is satisfied that, but for the mitigating circumstance, the license  
5776 would be reinstated;

5777 (f) submit to a records review, a practice history review, and comprehensive  
5778 assessments, if requested by the division in collaboration with the board; and

5779 (g) produce satisfactory evidence that the applicant meets the requirements of this  
5780 Subsection (2) to the satisfaction of the division in collaboration with the board.

5781 (3) An applicant for licensure by endorsement may engage in the practice of medicine  
5782 under a temporary license while the applicant's application for licensure is being processed by  
5783 the division, provided:

5784 (a) the applicant submits a complete application required for temporary licensure to the  
5785 division;

5786 (b) the applicant submits a written document to the division from:

5787 (i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility  
5788 Licensing and Inspection Act, stating that the applicant is practicing under the:

5789 (A) invitation of the health care facility; and

5790 (B) the general supervision of a physician practicing at the facility; or

5791 (ii) two individuals licensed under this chapter, whose license is in good standing and

5792 who practice in the same clinical location, both stating that:

5793 (A) the applicant is practicing under the invitation and general supervision of the  
5794 individual; and

5795 (B) the applicant will practice at the same clinical location as the individual;

5796 (c) the applicant submits a signed certification to the division that the applicant meets  
5797 the requirements of Subsection (2);

5798 (d) the applicant does not engage in the practice of medicine until the division has  
5799 issued a temporary license;

5800 (e) the temporary license is only issued for and may not be extended or renewed  
5801 beyond the duration of one year from issuance; and

5802 (f) the temporary license expires immediately and prior to the expiration of one year  
5803 from issuance, upon notification from the division that the applicant's application for licensure  
5804 by endorsement is denied.

5805 (4) The division shall issue a temporary license under Subsection (3) within 15  
5806 business days after the applicant satisfies the requirements of Subsection (3).

5807 (5) The division may not require the following requirements for licensure:

5808 (a) a post-residency board certification; or

5809 (b) a cognitive test when the physician reaches a specified age, unless:

5810 (i) the screening is based on evidence of cognitive changes associated with aging that  
5811 are relevant to physician performance;

5812 (ii) the screening is based on principles of medical ethics;

5813 (iii) physicians are involved in the development of standards for assessing competency;

5814 (iv) guidelines, procedures, and methods of assessment, which may include cognitive  
5815 screening, are relevant to physician practice and to the physician's ability to perform the tasks  
5816 specifically required in the physician's practice environment;

5817 (v) the primary driver for establishing assessment results is the ethical obligation of the  
5818 profession to the health of the public and patient safety;

5819 (vi) the goal of the assessment is to optimize physician competency and performance  
5820 through education, remediation, and modifications to a physician's practice environment or  
5821 scope;

5822 (vii) a credentialing committee determines that public health or patient safety is

5823 directly threatened, the screening permits a physician to retain the right to modify the  
5824 physician's practice environment to allow the physician to continue to provide safe and  
5825 effective care;

5826 (viii) guidelines, procedures, and methods of assessment are transparent to physicians  
5827 and physicians' representatives, if requested by a physician or a physician's representative, and  
5828 physicians are made aware of the specific methods used, performance expectations and  
5829 standards against which performance will be judged, and the possible outcomes of the  
5830 screening or assessment;

5831 (ix) education or remediation practices that result from screening or assessment  
5832 procedures are:

5833 (A) supportive of physician wellness;

5834 (B) ongoing; and

5835 (C) proactive; and

5836 (x) procedures and screening mechanisms that are distinctly different from for cause  
5837 assessments do not result in undue cost or burden to senior physicians providing patient care.

5838 Section 96. Section **58-67-302.5** is amended to read:

5839 **58-67-302.5. Licensing of graduates of foreign medical schools.**

5840 (1) Notwithstanding any other provision of law to the contrary, an individual enrolled  
5841 in a medical school outside the United States, its territories, the District of Columbia, or  
5842 Canada is eligible for licensure as a physician and surgeon in this state if the individual has  
5843 satisfied the following requirements:

5844 (a) meets all the requirements of Subsection **58-67-302(1)**, except for Subsection  
5845 **58-67-302(1)(~~e~~)(d)**;

5846 (b) has studied medicine in a medical school located outside the United States which is  
5847 recognized by an organization approved by the division;

5848 (c) has completed all of the formal requirements of the foreign medical school except  
5849 internship or social service;

5850 (d) has attained a passing score on the educational commission for foreign medical  
5851 graduates examination or other qualifying examinations such as the United States Medical  
5852 Licensing Exam parts I and II, which are approved by the division or a medical school  
5853 approved by the division;

5854 (e) has satisfactorily completed one calendar year of supervised clinical training under  
5855 the direction of a United States medical education setting accredited by the liaison committee  
5856 for graduate medical education and approved by the division;

5857 (f) has completed the postgraduate hospital training required by Subsection  
5858 ~~58-67-302(1)(f)(i)~~(e)(i); and

5859 (g) has passed the examination required by the division of all applicants for licensure.

5860 (2) Satisfaction of the requirements of Subsection (1) is in lieu of:

5861 (a) the completion of any foreign internship or social service requirements; and

5862 (b) the certification required by Subsection ~~58-67-302(1)(e)~~(d).

5863 (3) Individuals who satisfy the requirements of Subsections (1)(a) through (g) shall be  
5864 eligible for admission to graduate medical education programs within the state, including  
5865 internships and residencies, which are accredited by the liaison committee for graduate medical  
5866 education.

5867 (4) A document issued by a medical school located outside the United States shall be  
5868 considered the equivalent of a degree of doctor of medicine for the purpose of licensure as a  
5869 physician and surgeon in this state if:

5870 (a) the foreign medical school is recognized by an organization approved by the  
5871 division;

5872 (b) the document granted by the foreign medical school is issued after the completion  
5873 of all formal requirements of the medical school except internship or social service; and

5874 (c) the foreign medical school certifies that the person to whom the document was  
5875 issued has satisfactorily completed the requirements of Subsection (1)(c).

5876 (5) The division may not require as a requirement for licensure a cognitive test when  
5877 the physician reaches a specified age, unless the test reflects the standards described in  
5878 Subsections ~~58-67-302(5)(b)(i)~~ through (x).

5879 (6) The provisions for licensure under this section shall be known as the "fifth pathway  
5880 program."

5881 Section 97. Section ~~58-67-302.7~~ is amended to read:

5882 **~~58-67-302.7. Licensing of physician-educators.~~**

5883 (1) As used in this section:

5884 (a) "Foreign country" means a country other than the United States, its territories, or

5885 Canada.

5886 (b) "Foreign medical school" means a medical school that is outside the United States,  
5887 its territories, and Canada.

5888 (2) Notwithstanding any provision of law to the contrary, an individual may receive a  
5889 type I foreign teaching license if the individual:

5890 (a) submits an application in a form prescribed by the division, which may include:

5891 (i) submission by the applicant of information maintained in a practitioner data bank,  
5892 as designated by division rule, with respect to the applicant;

5893 (ii) a record of professional liability claims made against the applicant and settlements  
5894 paid by or on behalf of the applicant; and

5895 (iii) the applicant's curriculum vitae;

5896 (b) is a graduate of a foreign medical school that is accepted for certification by the  
5897 Educational Commission for Foreign Medical Graduates;

5898 (c) is licensed in good standing in a foreign country, the United States, its territories, or  
5899 Canada;

5900 (d) does not have an investigation or action pending against the physician's healthcare  
5901 license, does not have a healthcare license that was suspended or revoked, and has not  
5902 surrendered a healthcare license in lieu of disciplinary action, unless:

5903 (i) the license was subsequently reinstated in good standing; or

5904 (ii) the division in collaboration with the board determines to its satisfaction, after full  
5905 disclosure by the applicant and full consideration by the division in collaboration with the  
5906 board, that:

5907 (A) the conduct has been corrected, monitored, and resolved; or

5908 (B) a mitigating circumstance exists that prevents resolution, and the division in  
5909 collaboration with the board is satisfied that but for the mitigating circumstance, the license  
5910 would be reinstated;

5911 (e) submits documentation of legal status to work in the United States;

5912 (f) meets at least three of the following qualifications:

5913 (i) (A) published original results of clinical research, within 10 years before the day on  
5914 which the application is submitted, in a medical journal listed in the Index Medicus or an  
5915 equivalent scholarly publication; and

5916 (B) submits the publication to the Board in English or in a foreign language with a  
5917 verifiable, certified English translation;

5918 (ii) held an appointment at a medical school approved by the LCME or at any medical  
5919 school listed in the World Health Organization directory at the level of associate or full  
5920 professor, or its equivalent, for at least five years;

5921 (iii) (A) developed a treatment modality, surgical technique, or other verified original  
5922 contribution to the field of medicine within 10 years before the day on which the application is  
5923 submitted; and

5924 (B) has the treatment modality, surgical technique, or other verified original  
5925 contribution attested to by the dean of an LCME accredited school of medicine in Utah;

5926 (iv) actively practiced medicine cumulatively for 10 years; or

5927 (v) is board certified in good standing of a board of the American Board of Medical  
5928 Specialities or equivalent specialty board;

5929 [~~(g) is of good moral character;~~]

5930 [~~(h)~~] (g) is able to read, write, speak, understand, and be understood in the English  
5931 language and demonstrates proficiency to the satisfaction of the division in collaboration with  
5932 the board, if requested;

5933 [~~(i)~~] (h) is invited by an LCME accredited medical school in Utah to serve as a  
5934 full-time member of the medical school's academic faculty, as evidenced by written  
5935 certification from:

5936 (i) the dean of the medical school, stating that the applicant has been appointed to a  
5937 full-time faculty position, that because the applicant has unique expertise in a specific field of  
5938 medicine the medical school considers the applicant to be a valuable member of the faculty,  
5939 and that the applicant is qualified by knowledge, skill, and ability to practice medicine in the  
5940 state; and

5941 (ii) the head of the department to which the applicant is to be appointed, stating that the  
5942 applicant will be under the direction of the head of the department and will be permitted to  
5943 practice medicine only as a necessary part of the applicant's duties, providing detailed evidence  
5944 of the applicant's qualifications and competence, including the nature and location of the  
5945 applicant's proposed responsibilities, reasons for any limitations of the applicant's practice  
5946 responsibilities, and the degree of supervision, if any, under which the applicant will function;



- 5947           ~~[(f)]~~ (i) pays a licensing fee set by the division under Section 63J-1-504; and  
5948           ~~[(k)]~~ (j) has practiced medicine for at least 10 years as an attending physician.
- 5949           (3) Notwithstanding any provision of law to the contrary, an individual may receive a  
5950 type II foreign teaching license if the individual:
- 5951           (a) satisfies the requirements of Subsections (2)(a) through (e) and (g) through ~~[(f)]~~ (i);  
5952           (b) has delivered clinical care to patients cumulatively for five years after graduation  
5953 from medical school; and
- 5954           (c) (i) will be completing a clinical fellowship while employed at the medical school  
5955 described in Subsection (2)~~[(f)]~~(h); or
- 5956           (ii) has already completed a medical residency accredited by the Royal College of  
5957 Physicians and Surgeons of Canada, the United Kingdom, Australia, or New Zealand, or a  
5958 comparable accreditation organization as determined by the division in collaboration with the  
5959 board.
- 5960           (4) After an initial term of one year, a type I license may be renewed for periods of two  
5961 years if the licensee continues to satisfy the requirements described in Subsection (2) and  
5962 completes the division's continuing education renewal requirements established under Section  
5963 58-67-303.
- 5964           (5) A type II license may be renewed on an annual basis, up to four times, if the  
5965 licensee continues to satisfy the requirements described in Subsection (3) and completes the  
5966 division's continuing education renewal requirements established under Section 58-67-303.
- 5967           (6) A license issued under this section:
- 5968           (a) authorizes the licensee to practice medicine:
- 5969           (i) within the scope of the licensee's employment at the medical school described in  
5970 Subsection (2)~~[(f)]~~(h) and the licensee's academic position; and
- 5971           (ii) at a hospital or clinic affiliated with the medical school described in Subsection  
5972 (2)~~[(f)]~~(h) for the purpose of teaching, clinical care, or pursuing research;
- 5973           (b) shall list the limitations described in Subsection (6)(a); and
- 5974           (c) shall expire on the earlier of:
- 5975           (i) one year after the day on which the type I or type II license is initially issued, unless  
5976 the license is renewed;
- 5977           (ii) for a type I license, two years after the day on which the license is renewed;

5978 (iii) for a type II license, one year after the day on which the license is renewed; or  
5979 (iv) the day on which employment at the medical school described in Subsection  
5980 (2)[(†)](h) ends.

5981 (7) A person who holds a type I license for five consecutive years may apply for  
5982 licensure as a physician and surgeon in this state and shall be licensed if the individual satisfies  
5983 the requirements described in Subsection (8). If the person fails to obtain licensure as a  
5984 physician and surgeon in this state, the person may apply for a renewal of the type I license  
5985 under Subsection (2).

5986 (8) An individual who holds a type I or type II license for five consecutive years is  
5987 eligible for licensure as a physician and surgeon in this state if the individual:

5988 (a) worked an average of at least 40 hours per month at the level of an attending  
5989 physician during the time the individual held the type I or type II license;

5990 (b) holds the rank of associate professor or higher at the medical school described in  
5991 Subsection (2)[(†)](h);

5992 (c) obtains certification from the Educational Commission for Foreign Medical  
5993 Graduates or any successor organization approved by the division in collaboration with the  
5994 board;

5995 (d) spent a cumulative 20 hours per year while holding a type I or type II license:

5996 (i) teaching or lecturing to medical students or house staff;

5997 (ii) participating in educational department meetings or conferences that are not  
5998 certified to meet the continuing medical education license renewal requirement; or

5999 (iii) attending continuing medical education classes in addition to the requirements for  
6000 continuing education described in Subsections (4) and (5);

6001 (e) obtains a passing score on the final step of the licensing examination sequence  
6002 required by division rule made in collaboration with the board; and

6003 (f) satisfies the requirements described in Subsections 58-67-302(1)(a) through [(†);  
6004 (†), and (j)] (c), (h), and (i).

6005 (9) If a person who holds a type II license fails to obtain licensure as a physician and  
6006 surgeon in this state after applying under the procedures described in Subsection (8), the person  
6007 may not:

6008 (a) reapply for or renew a type II license; or

6009 (b) apply for a type I license.

6010 (10) The division or the board may require an applicant for licensure under this section  
6011 to meet with the board and representatives of the division for the purpose of evaluating the  
6012 applicant's qualifications for licensure.

6013 (11) The division in collaboration with the board may withdraw a license under this  
6014 section at any time for material misrepresentation or unlawful or unprofessional conduct.

6015 Section 98. Section **58-67-302.8** is amended to read:

6016 **58-67-302.8. Restricted licensing of an associate physician.**

6017 (1) An individual may apply for a restricted license as an associate physician if the  
6018 individual:

6019 (a) meets the requirements described in Subsections **58-67-302**(1)(a) through ~~[(d);~~  
6020 ~~(1)(e)(i), and (1)(h) through (k)]~~ (c), (1)(d)(i), and (1)(g) through (j);

6021 (b) successfully completes Step 1 and Step 2 of the United States Medical Licensing  
6022 Examination or the equivalent steps of another board-approved medical licensing examination:

6023 (i) within three years after the day on which the applicant graduates from a program  
6024 described in Subsection **58-67-302**~~[(1)(e)(i)]~~ (1)(d)(i); and

6025 (ii) within two years before applying for a restricted license as an associate physician;  
6026 and

6027 (c) is not currently enrolled in and has not completed a residency program.

6028 (2) Before a licensed associate physician may engage in the practice of medicine as  
6029 described in Subsection (3), the licensed associate physician shall:

6030 (a) enter into a collaborative practice arrangement described in Section **58-67-807**  
6031 within six months after the associate physician's initial licensure; and

6032 (b) receive division approval of the collaborative practice arrangement.

6033 (3) An associate physician's scope of practice is limited to primary care services to  
6034 medically underserved populations or in medically underserved areas within the state.

6035 Section 99. Section **58-67-304** is amended to read:

6036 **58-67-304. License renewal requirements.**

6037 (1) As a condition precedent for license renewal, each licensee shall, during each  
6038 two-year licensure cycle or other cycle defined by division rule:

6039 (a) complete qualified continuing professional education requirements in accordance

6040 with the number of hours and standards defined by division rule made in collaboration with the  
6041 board;

6042 (b) appoint a contact person for access to medical records and an alternate contact  
6043 person for access to medical records in accordance with Subsection 58-67-302(1)(f)(i);

6044 (c) if the licensee practices medicine in a location with no other persons licensed under  
6045 this chapter, provide some method of notice to the licensee's patients of the identity and  
6046 location of the contact person and alternate contact person for the licensee; and

6047 (d) if the licensee is an associate physician licensed under Section 58-67-302.8,  
6048 successfully complete the educational methods and programs described in Subsection  
6049 58-67-807(4).

6050 (2) If a renewal period is extended or shortened under Section 58-67-303, the  
6051 continuing education hours required for license renewal under this section are increased or  
6052 decreased proportionally.

6053 (3) An application to renew a license under this chapter shall:

6054 (a) require a physician to answer the following question: "Do you perform elective  
6055 abortions in Utah in a location other than a hospital?"; and

6056 (b) immediately following the question, contain the following statement: "For purposes  
6057 of the immediately preceding question, elective abortion means an abortion other than one of  
6058 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is  
6059 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of  
6060 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a  
6061 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where  
6062 the woman is pregnant as a result of rape or incest."

6063 (4) In order to assist the Department of Health in fulfilling its responsibilities relating  
6064 to the licensing of an abortion clinic and the enforcement of Title 76, Chapter 7, Part 3,  
6065 Abortion, if a physician responds positively to the question described in Subsection (3)(a), the  
6066 division shall, within 30 days after the day on which it renews the physician's license under this  
6067 chapter, inform the Department of Health in writing:

6068 (a) of the name and business address of the physician; and

6069 (b) that the physician responded positively to the question described in Subsection  
6070 (3)(a).

6071 (5) The division shall accept and apply toward the hour requirement in Subsection  
6072 (1)(a) any continuing education that a physician completes in accordance with Sections  
6073 26-61a-106, 26-61a-403, and 26-61a-602.

6074 Section 100. Section **58-67-403** is amended to read:

6075 **58-67-403. Revocation of license -- Nondisciplinary.**

6076 Revocation by the division of a license under Subsection 58-67-302(1)(~~f~~)(e) for  
6077 failure to continue on a resident training program for reasons other than unprofessional or  
6078 unlawful conduct is a nondisciplinary action and may not be reported by the division as a  
6079 disciplinary action against the licensee.

6080 Section 101. Section **58-67-503** is amended to read:

6081 **58-67-503. Penalties and administrative actions for unlawful and unprofessional**  
6082 **conduct.**

6083 (1) Any person who violates the unlawful conduct provisions of Section 58-67-501 or  
6084 Section 58-1-501 is guilty of a third degree felony.

6085 (2) (a) Subject to Subsection (4), the division may punish unprofessional or unlawful  
6086 conduct by:

6087 (i) assessing administrative penalties; or

6088 (ii) taking other appropriate administrative action.

6089 (b) A monetary administrative penalty imposed under this section shall be deposited in  
6090 the Physician Education Fund created in Section 58-67a-1.

6091 (3) If a licensee has been convicted of unlawful conduct, described in Section  
6092 58-67-501, before an administrative proceeding regarding the same conduct, the division may  
6093 not assess an additional administrative fine under this chapter for the same conduct.

6094 (4) (a) If the division concludes that an individual has violated provisions of Section  
6095 58-67-501, Section 58-67-502, Chapter 1, Division of Occupational and Professional Licensing  
6096 Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with respect to  
6097 these provisions, and disciplinary action is appropriate, the director or director's designee shall:

6098 (i) issue a citation to the individual;

6099 (ii) attempt to negotiate a stipulated settlement; or

6100 (iii) notify the individual that an adjudicative proceeding conducted under Title 63G,  
6101 Chapter 4, Administrative Procedures Act, will be commenced and the individual is invited to

6102 appear.

6103 (b) The division may take the following action against an individual who is in violation  
6104 of a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a  
6105 stipulated settlement, or a finding of violation in an adjudicative proceeding:

6106 (i) assess a fine of up to \$10,000 per single violation or up to \$2,000 per day of  
6107 ongoing violation, whichever is greater, in accordance with a fine schedule established by rule;  
6108 or

6109 (ii) order to cease and desist from the behavior that constitutes a violation of the  
6110 provisions described in Subsection (4)(a).

6111 (c) An individual's license may not be suspended or revoked through a citation.

6112 (d) Each citation issued under this section shall:

6113 (i) be in writing;

6114 (ii) clearly describe or explain:

6115 (A) the nature of the violation, including a reference to the provision of the chapter,  
6116 rule, or order alleged to have been violated;

6117 (B) that the recipient must notify the division in writing within 20 calendar days from  
6118 the day on which the citation is served if the recipient wishes to contest the citation at a hearing  
6119 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

6120 (C) the consequences of failure to timely contest the citation or pay the fine assessed by  
6121 the citation within the time specified in the citation; and

6122 (iii) be served in accordance with the Utah Rules of Civil Procedure.

6123 (e) If the individual to whom the citation is issued fails to request a hearing to contest  
6124 the citation within 20 calendar days from the day on which the citation is served, the citation  
6125 becomes the final order of the division and is not subject to further agency review. The period  
6126 to contest the citation may be extended by the division for cause.

6127 (f) The division may refuse to issue or renew or suspend, revoke, or place on probation  
6128 the license of an individual who fails to comply with a citation after the citation becomes final.

6129 (g) The failure of an applicant for licensure to comply with a citation after it becomes  
6130 final is a ground for denial of license.

6131 (h) No citation may be issued under this section after ~~[six months from the day on~~  
6132 ~~which the violation last occurred]~~ the expiration of one year following the date on which the

6133 violation that is the subject of the citation is reported to the division.

6134 (5) (a) The director may collect a penalty imposed under this section that is not paid by:

6135 (i) referring the matter to a collection agency; or

6136 (ii) bringing an action in the district court of the county where the person against whom

6137 the penalty is imposed resides or in the county where the office of the director is located.

6138 (b) A county attorney or the attorney general of the state shall provide legal assistance

6139 and advice to the director in an action to collect a penalty.

6140 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an

6141 action brought by the division to collect a penalty.

6142 Section 102. Section **58-68-302** is amended to read:

6143 **58-68-302. Qualifications for licensure.**

6144 (1) An applicant for licensure as an osteopathic physician and surgeon, except as set

6145 forth in Subsection (2), shall:

6146 (a) submit an application in a form prescribed by the division, which may include:

6147 (i) submissions by the applicant of information maintained by practitioner data banks,

6148 as designated by division rule, with respect to the applicant;

6149 (ii) a record of professional liability claims made against the applicant and settlements

6150 paid by or on behalf of the applicant; and

6151 (iii) authorization to use a record coordination and verification service approved by the

6152 division in collaboration with the board;

6153 (b) pay a fee determined by the department under Section [63J-1-504](#);

6154 [~~(c)~~ be of good moral character;]

6155 [~~(d)~~ (c) if the applicant is applying to participate in the Interstate Medical Licensure

6156 Compact under Chapter 67b, Interstate Medical Licensure Compact, consent to a criminal

6157 background check in accordance with Section [58-68-302.1](#) and any requirements established by

6158 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

6159 [~~(e)~~ (d) provide satisfactory documentation of having successfully completed a

6160 program of professional education preparing an individual as an osteopathic physician and

6161 surgeon, as evidenced by:

6162 (i) having received an earned degree of doctor of osteopathic medicine from an AOA

6163 approved medical school or college; or

6164 (ii) submitting a current certification by the Educational Commission for Foreign  
6165 Medical Graduates or any successor organization approved by the division in collaboration  
6166 with the board, if the applicant is graduated from an osteopathic medical school or college  
6167 located outside of the United States or its territories which at the time of the applicant's  
6168 graduation, met criteria for accreditation by the AOA;

6169 [~~(f)~~] (e) satisfy the division and board that the applicant:

6170 (i) has successfully completed 24 months of progressive resident training in an  
6171 ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine  
6172 required under Subsection (1)[~~(e)~~](d); or

6173 (ii) (A) has successfully completed 12 months of resident training in an ACGME or  
6174 AOA approved program after receiving a degree of doctor of osteopathic medicine as required  
6175 under Subsection (1)[~~(e)~~](d);

6176 (B) has been accepted in and is successfully participating in progressive resident  
6177 training in an ACGME or AOA approved program within Utah, in the applicant's second or  
6178 third year of postgraduate training; and

6179 (C) has agreed to surrender to the division the applicant's license as an osteopathic  
6180 physician and surgeon without any proceedings under Title 63G, Chapter 4, Administrative  
6181 Procedures Act, and has agreed the applicant's license as an osteopathic physician and surgeon  
6182 will be automatically revoked by the division if the applicant fails to continue in good standing  
6183 in an ACGME or AOA approved progressive resident training program within the state;

6184 [~~(g)~~] (f) pass the licensing examination sequence required by division rule, as made in  
6185 collaboration with the board;

6186 [~~(h)~~] (g) be able to read, write, speak, understand, and be understood in the English  
6187 language and demonstrate proficiency to the satisfaction of the board, if requested by the board;

6188 [~~(i)~~] (h) meet with the board and representatives of the division, if requested for the  
6189 purpose of evaluating the applicant's qualifications for licensure;

6190 [~~(j)~~] (i) designate:

6191 (i) a contact person for access to medical records in accordance with the federal Health  
6192 Insurance Portability and Accountability Act; and

6193 (ii) an alternate contact person for access to medical records, in the event the original  
6194 contact person is unable or unwilling to serve as the contact person for access to medical



6195 records; and

6196 ~~(k)~~ (j) establish a method for notifying patients of the identity and location of the  
6197 contact person and alternate contact person, if the applicant will practice in a location with no  
6198 other persons licensed under this chapter.

6199 (2) An applicant for licensure as an osteopathic physician and surgeon by endorsement  
6200 who is currently licensed to practice osteopathic medicine in any state other than Utah, a  
6201 district or territory of the United States, or Canada shall:

6202 (a) be currently licensed with a full unrestricted license in good standing in any state,  
6203 district or territory of the United States, or Canada;

6204 (b) have been actively engaged in the legal practice of osteopathic medicine in any  
6205 state, district or territory of the United States, or Canada for not less than 6,000 hours during  
6206 the five years immediately preceding the day on which the applicant applied for licensure in  
6207 Utah;

6208 (c) comply with the requirements for licensure under Subsections (1)(a) through ~~(e)~~;  
6209 ~~(f)(i), and (1)(h) through (k)~~ (d), (1)(e)(i), and (1)(g) through (j);

6210 (d) have passed the licensing examination sequence required in Subsection (1)~~(g)~~(f)  
6211 or another medical licensing examination sequence in another state, district or territory of the  
6212 United States, or Canada that the division in collaboration with the board by rulemaking  
6213 determines is equivalent to its own required examination;

6214 (e) not have any investigation or action pending against any health care license of the  
6215 applicant, not have a health care license that was suspended or revoked in any state, district or  
6216 territory of the United States, or Canada, and not have surrendered a health care license in lieu  
6217 of a disciplinary action, unless:

6218 (i) the license was subsequently reinstated as a full unrestricted license in good  
6219 standing; or

6220 (ii) the division in collaboration with the board determines, after full disclosure by the  
6221 applicant, that:

6222 (A) the conduct has been corrected, monitored, and resolved; or

6223 (B) a mitigating circumstance exists that prevents its resolution, and the division in  
6224 collaboration with the board is satisfied that, but for the mitigating circumstance, the license  
6225 would be reinstated;

- 6226 (f) submit to a records review, a practice review history, and physical and  
6227 psychological assessments, if requested by the division in collaboration with the board; and  
6228 (g) produce evidence that the applicant meets the requirements of this Subsection (2) to  
6229 the satisfaction of the division in collaboration with the board.
- 6230 (3) An applicant for licensure by endorsement may engage in the practice of medicine  
6231 under a temporary license while the applicant's application for licensure is being processed by  
6232 the division, provided:
- 6233 (a) the applicant submits a complete application required for temporary licensure to the  
6234 division;
- 6235 (b) the applicant submits a written document to the division from:
- 6236 (i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility  
6237 Licensing and Inspection Act, stating that the applicant is practicing under the:
- 6238 (A) invitation of the health care facility; and  
6239 (B) the general supervision of a physician practicing at the health care facility; or  
6240 (ii) two individuals licensed under this chapter, whose license is in good standing and  
6241 who practice in the same clinical location, both stating that:
- 6242 (A) the applicant is practicing under the invitation and general supervision of the  
6243 individual; and  
6244 (B) the applicant will practice at the same clinical location as the individual;
- 6245 (c) the applicant submits a signed certification to the division that the applicant meets  
6246 the requirements of Subsection (2);
- 6247 (d) the applicant does not engage in the practice of medicine until the division has  
6248 issued a temporary license;
- 6249 (e) the temporary license is only issued for and may not be extended or renewed  
6250 beyond the duration of one year from issuance; and  
6251 (f) the temporary license expires immediately and prior to the expiration of one year  
6252 from issuance, upon notification from the division that the applicant's application for licensure  
6253 by endorsement is denied.
- 6254 (4) The division shall issue a temporary license under Subsection (3) within 15  
6255 business days after the applicant satisfies the requirements of Subsection (3).
- 6256 (5) The division may not require a:

6257           (a) post-residency board certification[-]; or

6258           (b) a cognitive test when the physician reaches a specified age, unless the test reflects  
6259 the standards described in Subsections 58-67-302(5)(b)(i) through (x).

6260           Section 103. Section 58-68-302.5 is amended to read:

6261           **58-68-302.5. Restricted licensing of an associate physician.**

6262           (1) An individual may apply for a restricted license as an associate physician if the  
6263 individual:

6264           (a) meets the requirements described in Subsections 58-68-302(1)(a) through [~~(d)~~;  
6265 ~~(1)(e)(i), and (1)(h) through (k)~~] (c), (1)(d)(i), and (1)(g) through (j);

6266           (b) successfully completes Step 1 and Step 2 of the United States Medical Licensing  
6267 Examination or the equivalent steps of another board-approved medical licensing examination:

6268           (i) within three years after the day on which the applicant graduates from a program  
6269 described in Subsection 58-68-302(1)[~~(e)(i)~~](d)(i); and

6270           (ii) within two years before applying for a restricted license as an associate physician;  
6271 and

6272           (c) is not currently enrolled in and has not completed a residency program.

6273           (2) Before a licensed associate physician may engage in the practice of medicine as  
6274 described in Subsection (3), the licensed associate physician shall:

6275           (a) enter into a collaborative practice arrangement described in Section 58-68-807  
6276 within six months after the associate physician's initial licensure; and

6277           (b) receive division approval of the collaborative practice arrangement.

6278           (3) An associate physician's scope of practice is limited to primary care services to  
6279 medically underserved populations or in medically underserved areas within the state.

6280           Section 104. Section 58-68-304 is amended to read:

6281           **58-68-304. License renewal requirements.**

6282           (1) As a condition precedent for license renewal, each licensee shall, during each  
6283 two-year licensure cycle or other cycle defined by division rule:

6284           (a) complete qualified continuing professional education requirements in accordance  
6285 with the number of hours and standards defined by division rule in collaboration with the  
6286 board;

6287           (b) appoint a contact person for access to medical records and an alternate contact

6288 person for access to medical records in accordance with Subsection 58-68-302(1)(~~f~~)(i);

6289 (c) if the licensee practices osteopathic medicine in a location with no other persons  
6290 licensed under this chapter, provide some method of notice to the licensee's patients of the  
6291 identity and location of the contact person and alternate contact person for access to medical  
6292 records for the licensee in accordance with Subsection 58-68-302(1)(~~k~~)(j); and

6293 (d) if the licensee is an associate physician licensed under Section 58-68-302.5,  
6294 successfully complete the educational methods and programs described in Subsection  
6295 58-68-807(4).

6296 (2) If a renewal period is extended or shortened under Section 58-68-303, the  
6297 continuing education hours required for license renewal under this section are increased or  
6298 decreased proportionally.

6299 (3) An application to renew a license under this chapter shall:

6300 (a) require a physician to answer the following question: "Do you perform elective  
6301 abortions in Utah in a location other than a hospital?"; and

6302 (b) immediately following the question, contain the following statement: "For purposes  
6303 of the immediately preceding question, elective abortion means an abortion other than one of  
6304 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is  
6305 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of  
6306 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a  
6307 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where  
6308 the woman is pregnant as a result of rape or incest."

6309 (4) In order to assist the Department of Health in fulfilling its responsibilities relating  
6310 to the licensing of an abortion clinic, if a physician responds positively to the question  
6311 described in Subsection (3)(a), the division shall, within 30 days after the day on which it  
6312 renews the physician's license under this chapter, inform the Department of Health in writing:

6313 (a) of the name and business address of the physician; and

6314 (b) that the physician responded positively to the question described in Subsection  
6315 (3)(a).

6316 (5) The division shall accept and apply toward the hour requirement in Subsection  
6317 (1)(a) any continuing education that a physician completes in accordance with Sections  
6318 26-61a-106, 26-61a-403, and 26-61a-602.

6319 Section 105. Section **58-68-403** is amended to read:

6320 **58-68-403. Revocation of license -- Nondisciplinary.**

6321 Revocation by the division of a license under Subsection **58-68-302(1)(f)(e)** for  
6322 failure to continue on a resident training program for reasons other than unprofessional or  
6323 unlawful conduct is a nondisciplinary action and may not be reported by the division as a  
6324 disciplinary action against the licensee.

6325 Section 106. Section **58-68-503** is amended to read:

6326 **58-68-503. Penalties and administrative actions for unlawful and unprofessional**  
6327 **conduct.**

6328 (1) Any person who violates the unlawful conduct provisions of Section **58-68-501** or  
6329 Section **58-1-501** is guilty of a third degree felony.

6330 (2) (a) Subject to Subsection (4), the division may punish unprofessional or unlawful  
6331 conduct by:

- 6332 (i) assessing administrative penalties; or
- 6333 (ii) taking any other appropriate administrative action.

6334 (b) A monetary administrative penalty imposed under this section shall be deposited in  
6335 the Physician Education Fund described in Section **58-67a-1**.

6336 (3) If a licensee is convicted of unlawful conduct, described in Section **58-68-501**,  
6337 before an administrative proceeding regarding the same conduct, the licensee may not be  
6338 assessed an administrative fine under this chapter for the same conduct.

6339 (4) (a) If the division concludes that an individual has violated the provisions of  
6340 Section **58-68-501**, Section **58-68-502**, Chapter 1, Division of Occupational and Professional  
6341 Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with  
6342 respect to these provisions, and disciplinary action is appropriate, the director or director's  
6343 designee shall:

- 6344 (i) issue a citation to the individual;
- 6345 (ii) attempt to negotiate a stipulated settlement; or
- 6346 (iii) notify the individual that an adjudicative proceeding conducted under Title 63G,  
6347 Chapter 4, Administrative Procedures Act, will be commenced and the individual is invited to  
6348 appear.

6349 (b) The division may take the following action against an individual who is in violation

6350 of a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a  
6351 stipulated settlement, or a finding of violation in an adjudicative proceeding:

6352 (i) assess a fine of up to \$10,000 per single violation or \$2,000 per day of ongoing  
6353 violation, whichever is greater, in accordance with a fine schedule established by rule; or

6354 (ii) order to cease and desist from the behavior that constitutes a violation of provisions  
6355 described in Subsection (4)(a).

6356 (c) Except for an administrative fine and a cease and desist order, the licensure  
6357 sanctions cited in Section 58-1-401 may not be assessed through a citation.

6358 (d) Each citation issued under this section shall:

6359 (i) be in writing;

6360 (ii) clearly describe or explain:

6361 (A) the nature of the violation, including a reference to the provision of the chapter,  
6362 rule, or order alleged to have been violated;

6363 (B) that the recipient must notify the division in writing within 20 calendar days from  
6364 the day on which the citation is served if the recipient wishes to contest the citation at a hearing  
6365 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

6366 (C) the consequences of failure to timely contest the citation or pay the fine assessed by  
6367 the citation within the time specified in the citation; and

6368 (iii) be served in accordance with the requirements of the Utah Rules of Civil  
6369 Procedure.

6370 (e) If the individual to whom the citation is issued fails to request a hearing to contest  
6371 the citation within 20 calendar days from the day on which the citation is served, the citation  
6372 becomes the final order of the division and is not subject to further agency review. The period  
6373 to contest the citation may be extended by the division for cause.

6374 (f) The division may refuse to issue or renew or suspend, revoke, or place on probation  
6375 the license of an individual who fails to comply with a citation after the citation becomes final.

6376 (g) The failure of an applicant for licensure to comply with a citation after it becomes  
6377 final is a ground for denial of a license.

6378 (h) No citation may be issued under this section after [~~six months from the day on~~  
6379 ~~which the last violation occurred~~] the expiration of one year following the date on which the  
6380 violation that is the subject of the citation is reported to the division.

6381 (5) (a) The director may collect a penalty imposed under this section that is not paid by:

6382 (i) referring the matter to a collection agency; or

6383 (ii) bringing an action in the district court of the county where the person against whom  
6384 the penalty is imposed resides or in the county where the office of the director is located.

6385 (b) A county attorney or the attorney general of the state shall provide legal assistance  
6386 and advice to the director in an action to collect a penalty.

6387 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an  
6388 action brought by the division to collect a penalty.

6389 Section 107. Section **58-69-302** is amended to read:

6390 **58-69-302. Qualifications -- Licensure as a dentist -- Licensure as a dental**  
6391 **hygienist.**

6392 (1) An applicant for licensure as a dentist, except as provided in Subsection (2), shall:

6393 (a) submit an application in a form as prescribed by the division;

6394 (b) pay a fee as determined by the department under Section [63J-1-504](#);

6395 [~~(c)~~] ~~be of good moral character;~~

6396 [~~(d)~~] (c) provide satisfactory documentation of having successfully completed a  
6397 program of professional education preparing an individual as a dentist as evidenced by having  
6398 received an earned doctor's degree in dentistry from a dental school accredited by the  
6399 Commission on Dental Accreditation of the American Dental Association;

6400 [~~(e)~~] (d) pass the National Board Dental Examinations as administered by the Joint  
6401 Commission on National Dental Examinations of the American Dental Association;

6402 [~~(f)~~] (e) pass any regional dental clinical licensure examination approved by division  
6403 rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah  
6404 Administrative Rulemaking Act;

6405 [~~(g)~~] (f) pass any other examinations regarding applicable law, rules, or ethics as  
6406 established by division rule made in collaboration with the board and in accordance with Title  
6407 63G, Chapter 3, Utah Administrative Rulemaking Act;

6408 [~~(h)~~] (g) be able to read, write, speak, understand, and be understood in the English  
6409 language and demonstrate proficiency to the satisfaction of the board if requested by the board;  
6410 and

6411 [~~(i)~~] (h) meet with the board if requested by the board or division for the purpose of

6412 examining the applicant's qualifications for licensure.

6413 (2) An applicant for licensure as a dentist qualifying under the endorsement provision  
6414 of Section 58-1-302 shall:

6415 (a) be currently licensed in good standing with an unrestricted license in another  
6416 jurisdiction described in Section 58-1-302;

6417 (b) document having met all requirements for licensure under Subsection (1) except  
6418 Subsection ~~[(1)(d)]~~ (1)(c); and

6419 (c) document having been successfully engaged in clinical practice as a dentist for not  
6420 less than 6,000 hours in the five years immediately preceding the date of application for  
6421 licensure.

6422 (3) An applicant for licensure as a dental hygienist, except as set forth in Subsection  
6423 (4), shall:

6424 (a) submit an application in a form as prescribed by the division;

6425 (b) pay a fee as determined by the department pursuant to Section 63J-1-504;

6426 ~~[(c) be of good moral character;]~~

6427 ~~[(d)]~~ (c) be a graduate holding a certificate or degree in dental hygiene from a school  
6428 accredited by the Commission on Dental Accreditation of the American Dental Association;

6429 ~~[(e)]~~ (d) pass the National Board Dental Hygiene Examination as administered by the  
6430 Joint Commission on National Dental Examinations of the American Dental Association;

6431 ~~[(f)]~~ (e) pass an examination consisting of practical demonstrations in the practice of  
6432 dental hygiene and written or oral examination in the theory and practice of dental hygiene as  
6433 established by division rule made in collaboration with the board;

6434 ~~[(g)]~~ (f) pass any other examinations regarding applicable law, rules, and ethics as  
6435 established by rule by division rule made in collaboration with the board;

6436 ~~[(h)]~~ (g) be able to read, write, speak, understand, and be understood in the English  
6437 language and demonstrate proficiency to the satisfaction of the board if requested by the board;  
6438 and

6439 ~~[(i)]~~ (h) meet with the board if requested by the board or division for the purpose of  
6440 examining the applicant's qualifications for licensure.

6441 (4) An applicant for licensure as a dental hygienist qualifying under the endorsement  
6442 provision of Section 58-1-302 shall:



- 6443 (a) be currently licensed in another jurisdiction set forth in Section 58-1-302;
- 6444 (b) (i) document having met all requirements for licensure under Subsection (3) except,
- 6445 an applicant having received licensure in another state or jurisdiction prior to 1962, the year
- 6446 when the National Board Dental Hygiene Examinations were first administered, shall
- 6447 document having passed a state administered examination acceptable to the division in
- 6448 collaboration with the board; or
- 6449 (ii) document having obtained licensure in another state or jurisdiction upon which
- 6450 licensure by endorsement is based by meeting requirements which were equal to licensure
- 6451 requirements in Utah at the time the applicant obtained licensure in the other state or
- 6452 jurisdiction; and
- 6453 (c) document having been successfully engaged in practice as a dental hygienist for not
- 6454 less than 2,000 hours in the two years immediately preceding the date of application for
- 6455 licensure.

6456 Section 108. Section 58-70a-302 is amended to read:

6457 **58-70a-302. Qualifications for licensure.**

6458 Each applicant for licensure as a physician assistant shall:

- 6459 (1) submit an application in a form prescribed by the division;
- 6460 (2) pay a fee determined by the department under Section 63J-1-504;
- 6461 [~~(3)~~ be of good moral character;]
- 6462 [~~(4)~~ (3) have successfully completed a physician assistant program accredited by the:
- 6463 (a) Accreditation Review Commission on Education for the Physician Assistant; or
- 6464 (b) if prior to January 1, 2001, either the:
- 6465 (i) Committee on Accreditation of Allied Health Education Programs; or
- 6466 (ii) Committee on Allied Health Education and Accreditation;
- 6467 [~~(5)~~ (4) have passed the licensing examinations required by division rule made in
- 6468 collaboration with the board;
- 6469 [~~(6)~~ (5) meet with the board and representatives of the division, if requested, for the
- 6470 purpose of evaluating the applicant's qualifications for licensure; and
- 6471 [~~(7)~~ (6) (a) if the applicant desires to practice in Utah, complete a form provided by
- 6472 the division indicating:
- 6473 (i) the applicant has completed a delegation of services agreement signed by the

6474 physician assistant and the supervising physician; and

6475 (ii) the agreement is on file at the Utah practice sites; or

6476 (b) complete a form provided by the division indicating the applicant is not practicing  
6477 in Utah and, prior to practicing in Utah, the applicant will meet the requirements of Subsection  
6478 [~~(7)~~] (6)(a).

6479 Section 109. Section **58-70a-306** is amended to read:

6480 **58-70a-306. Temporary license.**

6481 (1) An applicant for licensure as a physician assistant who has met all qualifications for  
6482 licensure except passing an examination component as required in Section **58-70a-302**, may  
6483 apply for and be granted a temporary license to practice under Subsection (2).

6484 (2) (a) The applicant shall submit to the division evidence of completion of a physician  
6485 assistant program as defined in Subsection **58-70a-302**[~~(4)~~](3).

6486 (b) (i) The temporary license shall be issued for a period not to exceed 120 days to  
6487 allow the applicant to pass the Physician Assistant National Certifying Examination.

6488 (ii) The temporary license may not be renewed or extended.

6489 (c) A physician assistant holding a temporary license may work only under the direct  
6490 supervision of an approved supervising or substitute supervising physician in accordance with  
6491 a delegation of services agreement, and all patient charts shall be reviewed and countersigned  
6492 by the supervising or substitute supervising physician.

6493 Section 110. Section **58-71-302** is amended to read:

6494 **58-71-302. Qualifications for licensure.**

6495 (1) An applicant for licensure as a naturopathic physician, except as set forth in  
6496 Subsection (2), shall:

6497 (a) submit an application in a form prescribed by the division, which may include:

6498 (i) submissions by the applicant of information maintained by practitioner data banks,  
6499 as designated by division rule, with respect to the applicant; and

6500 (ii) a record of professional liability claims made against the applicant and settlements  
6501 paid by or in behalf of the applicant;

6502 (b) pay a fee determined by the department under Section **63J-1-504**;

6503 [~~(c)~~ be of good moral character;]

6504 [~~(d)~~] (c) provide satisfactory documentation of having successfully completed a

6505 program of professional education preparing an individual as a naturopathic physician, as  
6506 evidenced by having received an earned degree of doctor of naturopathic medicine from:

6507 (i) a naturopathic medical school or college accredited by the Council of Naturopathic  
6508 Medical Education or its successor organization approved by the division;

6509 (ii) a naturopathic medical school or college that is a candidate for accreditation by the  
6510 Council of Naturopathic Medical Education or its successor organization, and is approved by  
6511 the division in collaboration with the board, upon a finding there is reasonable expectation the  
6512 school or college will be accredited; or

6513 (iii) a naturopathic medical school or college which, at the time of the applicant's  
6514 graduation, met current criteria for accreditation by the Council of Naturopathic Medical  
6515 Education or its successor organization approved by the division;

6516 ~~[(e)]~~ (d) provide satisfactory documentation of having successfully completed, after  
6517 successful completion of the education requirements set forth in Subsection ~~[(1)(d)]~~ (1)(c), 12  
6518 months of clinical experience in naturopathic medicine in a residency program recognized by  
6519 the division and associated with an accredited school or college of naturopathic medicine, and  
6520 under the preceptorship of a licensed naturopathic physician, physician and surgeon, or  
6521 osteopathic physician;

6522 ~~[(f)]~~ (e) pass the licensing examination sequence required by division rule established  
6523 in collaboration with the board;

6524 ~~[(g)]~~ (f) be able to read, write, speak, understand, and be understood in the English  
6525 language and demonstrate proficiency to the satisfaction of the board if requested by the board;  
6526 and

6527 ~~[(h)]~~ (g) meet with the board and representatives of the division, if requested, for the  
6528 purpose of evaluating the applicant's qualifications for licensure.

6529 (2) (a) In accordance with Subsection (2)(b), an applicant for licensure as a  
6530 naturopathic physician under the endorsement provision of Section 58-1-302 shall:

6531 (i) meet the requirements of Section 58-1-302;

6532 (ii) document having met all requirements for licensure under Subsection (1) except  
6533 the clinical experience requirement of Subsection ~~[(1)(e)]~~ (1)(d);

6534 (iii) have passed the examination requirements established under Subsection ~~[(1)(f)]~~  
6535 ~~which~~ (1)(e) that:

6536 (A) the applicant has not passed in connection with licensure in another state or  
6537 jurisdiction; and

6538 (B) are available to the applicant to take without requiring additional professional  
6539 education;

6540 (iv) have been actively engaged in the practice of a naturopathic physician for not less  
6541 than 6,000 hours during the five years immediately preceding the date of application for  
6542 licensure in Utah; and

6543 (v) meet with the board and representatives of the division for the purpose of  
6544 evaluating the applicant's qualifications for licensure.

6545 (b) The division may rely, either wholly or in part, on one or more credentialing  
6546 associations designated by division rule, made in collaboration with the board, to document  
6547 and certify in writing to the satisfaction of the division that an applicant has met each of the  
6548 requirements of this Subsection (2), including the requirements of Section [58-1-302](#), and that:

6549 (i) the applicant holds a current license;

6550 (ii) the education, experience, and examination requirements of the foreign country or  
6551 the state, district, or territory of the United States that issued the applicant's license are, or were  
6552 at the time the license was issued, equal to those of this state for licensure as a naturopathic  
6553 physician; and

6554 (iii) the applicant has produced evidence satisfactory to the division of the applicant's  
6555 qualifications, identity, and good standing as a naturopathic physician.

6556 Section 111. Section [58-72-302](#) is amended to read:

6557 **[58-72-302. Qualifications for licensure.](#)**

6558 An applicant for licensure as a licensed acupuncturist shall:

6559 (1) submit an application in a form prescribed by the division;

6560 (2) pay a fee determined by the department under Section [63J-1-504](#);

6561 [~~3~~] be of good moral character;

6562 [~~4~~] (3) meet the requirements for current active certification in acupuncture under  
6563 guidelines established by the National Commission for the Certification of Acupuncture and  
6564 Oriental Medicine (NCCAOM) as demonstrated through a current certificate or other  
6565 appropriate documentation;

6566 [~~5~~] (4) pass the examination required by the division by rule;

6567            [~~(6)~~] (5) establish procedures, as defined by rule, which shall enable patients to give  
6568 informed consent to treatment; and

6569            [~~(7)~~] (6) meet with the board, if requested, for the purpose of evaluating the applicant's  
6570 qualifications for licensure.

6571            Section 112. Section **58-73-302** is amended to read:

6572            **58-73-302. Qualifications for licensure.**

6573            (1) Each applicant for licensure as a chiropractic physician, other than those applying  
6574 for a license based on licensure as a chiropractor or chiropractic physician in another  
6575 jurisdiction, shall:

6576            (a) submit an application in a form prescribed by the division;

6577            (b) pay a fee determined by the department under Section [63J-1-504](#);

6578            [~~(c)~~] ~~be of good moral character;~~

6579            [~~(d)~~] (c) demonstrate satisfactory completion of at least two years of general study in a  
6580 college or university;

6581            [~~(e)~~] (d) demonstrate having earned a degree of doctor of chiropractic from a  
6582 chiropractic college or university that at the time the degree was conferred was accredited by  
6583 the Council on Chiropractic Education, Inc., or an equivalent chiropractic accrediting body  
6584 recognized by the United States Department of Education and by the division rule made in  
6585 collaboration with the board;

6586            [~~(f)~~] (e) demonstrate successful completion of:

6587            (i) the National Chiropractic Boards:

6588            (A) Parts I and II;

6589            (B) Written Clinical Competency Examination; and

6590            (C) Physical Therapy;

6591            (ii) the Utah Chiropractic Law and Rules Examination; and

6592            (iii) a practical examination approved by the division in collaboration with the board;

6593 and

6594            [~~(g)~~] (f) meet with the board, if requested, for the purpose of reviewing the applicant's  
6595 qualifications for licensure.

6596            (2) Each applicant for licensure as a chiropractic physician based on licensure as a  
6597 chiropractor or chiropractic physician in another jurisdiction shall:

- 6598 (a) submit an application in the form prescribed by the division;
- 6599 (b) pay a fee determined by the department under Section [63J-1-504](#);
- 6600 [~~(c)~~ be of good moral character;]
- 6601 [~~(d)~~] (c) demonstrate having obtained licensure as a chiropractor or chiropractic
- 6602 physician in another state under education requirements which were equivalent to the education
- 6603 requirements in this state to obtain a chiropractor or chiropractic physician license at the time
- 6604 the applicant obtained the license in the other state;
- 6605 [~~(e)~~] (d) demonstrate successful completion of:
- 6606 (i) the Utah Chiropractic Law and Rules Examination; and
- 6607 (ii) the Special Purposes Examination for Chiropractic (SPEC) of the National Board
- 6608 of Chiropractic Examiners;
- 6609 [~~(f)~~] (e) have been actively engaged in the practice of chiropractic for not less than two
- 6610 years immediately preceding application for licensure in this state; and
- 6611 [~~(g)~~] (f) meet with the board, if requested, for the purpose of reviewing the applicant's
- 6612 qualifications for licensure.

6613 Section 113. Section **58-74-102** is amended to read:

6614 **58-74-102. Definitions.**

6615 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

- 6616 (1) "Practice of court reporting" means the making of a verbatim record, by
- 6617 stenography or voice writing, of any trial, legislative public hearing, state agency public
- 6618 hearing, deposition, examination before trial, hearing or proceeding before any grand jury,
- 6619 referee, board, commission, master or arbitrator, or other sworn testimony given under oath.
- 6620 (2) "State certified court reporter" means a person who engages in the practice of court
- 6621 reporting and has met the requirements for state certification as a state certified court reporter.
- 6622 (3) "Unlawful conduct" means the same as that term is defined in Sections [58-1-501](#)
- 6623 and [58-74-501](#).
- 6624 (4) "Unprofessional conduct" means the same as that term is defined in [~~Section~~]
- 6625 Sections [58-1-501](#) and [58-74-502](#) and as may be further defined by rule.

6626 Section 114. Section **58-74-302** is amended to read:

6627 **58-74-302. Qualifications for state certification.**

- 6628 (1) Each applicant for state certification as a state certified court reporter under this

6629 chapter shall:

- 6630 (a) be at least 18 years of age;
- 6631 (b) be a citizen of the United States and a resident of the state;
- 6632 (c) submit an application in a form prescribed by the division;
- 6633 (d) pay a fee determined by the department under Section [63J-1-504](#);
- 6634 (e) possess a high degree of skill and ability in the art of court reporting; and
- 6635 ~~[(f) produce satisfactory evidence of good moral character; and]~~
- 6636 ~~[(g)]~~ (f) submit evidence that the applicant has completed and passed the Registered
- 6637 Professional Reporter Examination of the National Court Reporters Association or the
- 6638 Certified Verbatim Reporter Examination of the National Verbatim Reporters Association.

6639 (2) ~~[Any]~~ A person granted a certificate to practice as a state certified court reporter

6640 may use the abbreviation "C.C.R." or "C.V.R." as long as the person's certificate is current and

6641 valid.

6642 Section 115. Section **58-75-302** is amended to read:

6643 **58-75-302. Qualifications for licensure -- Temporary license.**

6644 (1) Except as provided in Subsection (2), each applicant for licensure as a genetic

6645 counselor under this chapter shall:

- 6646 (a) submit an application in a form prescribed by the division;
- 6647 (b) pay a fee determined by the department under Section [63J-1-504](#);
- 6648 ~~[(c) be of good moral character;]~~
- 6649 ~~[(d)]~~ (c) provide satisfactory documentation of having earned:
- 6650 (i) a master's degree from a genetic counseling training program that is accredited by
- 6651 the American Board of Genetic Counseling or an equivalent as determined by the division; or
- 6652 (ii) a doctoral degree from a medical genetics training program that is accredited by the
- 6653 American Board of Medical Genetics or an equivalent as determined by the division; and
- 6654 ~~[(e)]~~ (d) meet the examination requirement for certification as:
- 6655 (i) a genetic counselor by the American Board of Genetic Counseling or the American
- 6656 Board of Medical Genetics; or
- 6657 (ii) a medical geneticist by the American Board of Medical Genetics.

6658 (2) The division may issue a temporary license, in accordance with Section [58-1-303](#)

6659 and any other conditions established by rule, to an applicant who meets all of the requirements

6660 for licensure except the examination requirement of Subsection ~~[(1)(e)]~~ (1)(d).

6661 Section 116. Section **58-76-302** is amended to read:

6662 **58-76-302. Qualifications for licensure.**

6663 Each applicant for licensure as a professional geologist shall:

6664 (1) submit an application in a form as prescribed by the division;

6665 (2) pay a fee as determined by the department under Section [63J-1-504](#);

6666 ~~[(3) be of good moral character;]~~

6667 ~~[(4)]~~ (3) provide satisfactory evidence of:

6668 (a) a bachelors or graduate degree in the geosciences granted through an institution of  
6669 higher education that is accredited by a regional or national accrediting agency with a minimum  
6670 of 30 semester or 45 quarter hours of course work in the geosciences; or

6671 (b) completion of other equivalent educational requirements as determined by the  
6672 division in collaboration with the board;

6673 ~~[(5)]~~ (4) provide satisfactory evidence of:

6674 (a) with a bachelors degree, a specific record of five years of active professional  
6675 practice in geological work of a character satisfactory to the division, indicating the applicant is  
6676 competent to be placed in a responsible charge of the work;

6677 (b) with a masters degree, a specific record of three years of active professional  
6678 practice in geological work of a character satisfactory to the division, indicating the applicant is  
6679 competent to be placed in a responsible charge of the work; or

6680 (c) with a doctorate degree, a specific record of one year of active professional practice  
6681 in geological work of a character satisfactory to the division, indicating the applicant is  
6682 competent to be placed in a responsible charge of the work; and

6683 ~~[(6)]~~ (5) after January 1, 2004, meet the examination requirement established by rule  
6684 by the division in collaboration with the board.

6685 Section 117. Section **58-76-502** is amended to read:

6686 **58-76-502. Penalty for unlawful conduct.**

6687 (1) (a) If, upon inspection or investigation, the division concludes that a person has  
6688 violated Section [58-76-501](#) or any rule or order issued with respect to Section [58-76-501](#), and  
6689 that disciplinary action is appropriate, the director or the director's designee from within the  
6690 division shall promptly issue a citation to the person according to this chapter and any pertinent



6691 rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an  
6692 adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

6693 (i) A person who violates Subsections 58-1-501(1)(a) through (d) or Section 58-76-501  
6694 or any rule or order issued with respect to Section 58-76-501, as evidenced by an uncontested  
6695 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may  
6696 be assessed a fine pursuant to this Subsection (1) and may, in addition to or in lieu of, be  
6697 ordered to cease and desist from violating Subsections 58-1-501(1)(a) through (d) or Section  
6698 58-76-501 or any rule or order issued with respect to this section.

6699 (ii) Except for a cease and desist order, the licensure sanctions cited in Section  
6700 58-76-401 may not be assessed through a citation.

6701 (b) A citation shall:

6702 (i) be in writing;

6703 (ii) describe with particularity the nature of the violation, including a reference to the  
6704 provision of the chapter, rule, or order alleged to have been violated;

6705 (iii) clearly state that the recipient must notify the division in writing within 20  
6706 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing  
6707 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

6708 (iv) clearly explain the consequences of failure to timely contest the citation or to make  
6709 payment of any fines assessed by the citation within the time specified in the citation.

6710 (c) The division may issue a notice in lieu of a citation.

6711 (d) Each citation issued under this section, or a copy of each citation, may be served  
6712 upon any person upon whom a summons may be served in accordance with the Utah Rules of  
6713 Civil Procedure and may be made personally or upon the person's agent by a division  
6714 investigator or by any person specially designated by the director or by mail.

6715 (e) If within 20 calendar days from the service of the citation, the person to whom the  
6716 citation was issued fails to request a hearing to contest the citation, the citation becomes the  
6717 final order of the division and is not subject to further agency review. The period to contest a  
6718 citation may be extended by the division for cause.

6719 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation  
6720 the license of a licensee who fails to comply with a citation after it becomes final.

6721 (g) The failure of an applicant for licensure to comply with a citation after it becomes

6722 final is a ground for denial of license.

6723 (h) No citation may be issued under this section after the expiration of [~~six months~~  
6724 following the occurrence of any violation] one year following the date on which the violation  
6725 that is the subject of the citation is reported to the division.

6726 (i) The director or the director's designee shall assess fines according to the following:

6727 (i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to \$1,000;

6728 (ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000;

6729 and

6730 (iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to  
6731 \$2,000 for each day of continued offense.

6732 (2) An action initiated for a first or second offense which has not yet resulted in a final  
6733 order of the division shall not preclude initiation of any subsequent action for a second or  
6734 subsequent offense during the pendency of any preceding action. The final order on a  
6735 subsequent action shall be considered a second or subsequent offense, respectively, provided  
6736 the preceding action resulted in a first or second offense, respectively.

6737 (3) (a) The director may collect a penalty that is not paid by:

6738 (i) referring the matter to a collection agency; or

6739 (ii) bringing an action in the district court of the county where the person against whom  
6740 the penalty is imposed resides or in the county where the office of the director is located.

6741 (b) A county attorney or the attorney general of the state shall provide legal assistance  
6742 and advice to the director in an action to collect a penalty.

6743 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an  
6744 action brought by the division to collect a penalty.

6745 Section 118. Section **58-77-302** is amended to read:

6746 **58-77-302. Qualifications for licensure.**

6747 Each applicant for licensure as a licensed direct-entry midwife shall:

6748 (1) submit an application in a form prescribed by the division;

6749 (2) pay a fee as determined by the department under Section [63J-1-504](#);

6750 [~~(3) be of good moral character;~~]

6751 [~~(4)~~] (3) hold a Certified Professional Midwife certificate in good standing with the

6752 North American Registry of Midwives or equivalent certification approved by the division in

6753 collaboration with the board;

6754 ~~[(5)]~~ (4) hold current adult and infant CPR and newborn resuscitation certifications  
6755 through an organization approved by the division in collaboration with the board; and

6756 ~~[(6)]~~ (5) provide documentation of successful completion of an approved  
6757 pharmacology course as defined by division rule.

6758 Section 119. Section **58-78-302** is amended to read:

6759 **58-78-302. Qualifications for licensure -- Licensure by credential.**

6760 (1) Except as provided in Subsection (2), an applicant for licensure as a vocational  
6761 rehabilitation counselor under this chapter shall:

6762 (a) submit an application in a form as prescribed by the division;

6763 (b) pay a fee determined by the department under Section [63J-1-504](#) to recover the  
6764 costs of administering licensing requirements relating to vocational rehabilitation counselors;

6765 ~~[(c) be of good moral character;]~~

6766 ~~[(d)]~~ (c) provide satisfactory evidence of having earned a master's degree in  
6767 rehabilitation counseling or a related field;

6768 ~~[(e)]~~ (d) provide satisfactory evidence of having 4,000 hours of disability related work  
6769 experience under the supervision of a licensed vocational rehabilitation counselor, except as  
6770 otherwise provided in Subsection (2); and

6771 ~~[(f)]~~ (e) meet the examination requirement established by rule by the division in  
6772 collaboration with the board.

6773 (2) The division may issue a license under this chapter to an individual who is licensed  
6774 in another state or jurisdiction to practice vocational rehabilitation counseling if the division  
6775 finds that the other state or jurisdiction has substantially the same or higher licensure  
6776 requirements as this state.

6777 Section 120. Section **58-79-302** is amended to read:

6778 **58-79-302. Qualifications for licensure.**

6779 (1) An applicant for licensure as a hunting guide shall:

6780 (a) submit an application in a form prescribed by the division;

6781 (b) pay a fee determined by the department under Section [63J-1-504](#);

6782 ~~[(c) produce satisfactory evidence of good moral character;]~~

6783 ~~[(d)]~~ (c) possess a high degree of skill and ability as a hunting guide;

6784           ~~[(e)]~~ (d) successfully complete basic education and training requirements established  
6785 by rule by the division in collaboration with the board; and

6786           ~~[(f)]~~ (e) meet with the division and board if requested by the division or board.

6787           (2) An applicant for licensure as an outfitter shall:

6788           (a) submit an application in a form prescribed by the division;

6789           (b) pay a fee determined by the department under Section 63J-1-504;

6790           ~~[(c) produce satisfactory evidence of good moral character;]~~

6791           ~~[(d)]~~ (c) possess a high degree of skill and ability as an outfitter;

6792           ~~[(e)]~~ (d) successfully complete basic education and training requirements established  
6793 by rule by the division in collaboration with the board; and

6794           ~~[(f)]~~ (e) meet with the division and board if requested by the division or board.

6795           Section 121. Section 58-84-201 is amended to read:

6796           **58-84-201. Qualifications for state certification.**

6797           (1) The division shall grant state certification to a person who qualifies under this  
6798 chapter to engage in the practice of music therapy as a state certified music therapist.

6799           (2) Each applicant for state certification as a state certified music therapist shall:

6800           (a) submit an application in a form prescribed by the division;

6801           (b) pay a fee determined by the department under Section 63J-1-504; and

6802           ~~[(c) be of good moral character; and]~~

6803           ~~[(d)]~~ (c) provide satisfactory documentation that the applicant is board certified by, and  
6804 in good standing with, the Certification Board for Music Therapists, or an equivalent board as  
6805 determined by division rule.

6806           Section 122. Section 58-86-202 is amended to read:

6807           **58-86-202. Qualifications for state certification.**

6808           Each applicant for state certification as a state certified commercial interior designer  
6809 shall:

6810           (1) submit an application in a form prescribed by the division;

6811           (2) pay a fee determined by the department under Section 63J-1-504; and

6812           (3) provide satisfactory evidence of~~[(a) good moral character; and (b)]~~ having

6813 qualified to take and having passed the examination of the National Council for Interior Design

6814 Qualification, or an equivalent body as determined by division rule.

6815 Section 123. Section **58-86-302** is amended to read:

6816 **58-86-302. Penalty for unlawful conduct.**

6817 (1) If upon inspection or investigation the division concludes that a person has violated  
6818 Subsections **58-1-501(1)(a)** through (d), Section **58-86-301**, or a rule or order issued with  
6819 respect to Section **58-86-301**, and that disciplinary action is appropriate, the director or the  
6820 director's designee may:

6821 (a) issue a citation to the person according to this chapter and any pertinent rules;

6822 (b) attempt to negotiate a stipulated settlement; or

6823 (c) notify the person to appear at an adjudicative proceeding conducted under Title  
6824 63G, Chapter 4, Administrative Procedures Act.

6825 (2) A person who violates Subsections **58-1-501(1)(a)** through (d), Section **58-86-301**,  
6826 or a rule or order issued with respect to Section **58-86-301**, as evidenced by an uncontested  
6827 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may  
6828 be assessed a fine pursuant to this chapter and may, in addition to or in lieu of the fine, be  
6829 ordered to cease and desist from violating Subsections **58-1-501(1)(a)** through (d), Section  
6830 **58-86-301**, or a rule or order issued with respect to Section **58-86-301**.

6831 (3) A citation issued under this chapter shall:

6832 (a) be in writing;

6833 (b) describe with particularity the nature of the violation, including a reference to the  
6834 provision of the chapter, rule, or order alleged to have been violated;

6835 (c) clearly state that the recipient must notify the division in writing within 20 calendar  
6836 days of service of the citation if the recipient wishes to contest the citation at a hearing  
6837 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

6838 (d) clearly explain the consequences of failure to timely contest the citation or to make  
6839 payment of any fines assessed by the citation within the time specified in the citation.

6840 (4) The division may issue a notice in lieu of a citation.

6841 (5) A citation issued under this section, or a copy of the citation, may be served upon a  
6842 person upon whom a summons may be served in accordance with the Utah Rules of Civil  
6843 Procedure and may be made by mail or may be made personally or upon the person's agent by a  
6844 division investigator or by a person specially designated by the director.

6845 (6) (a) If within 20 calendar days from the service of the citation the person to whom

6846 the citation was issued fails to request a hearing to contest the citation, the citation becomes the  
6847 final order of the division and is not subject to further agency review.

6848 (b) The period to contest a citation may be extended by the division for cause.

6849 (7) The division may refuse to issue or renew or may suspend, revoke, or place on  
6850 probation the state certification of a state certified commercial interior designer who fails to  
6851 comply with a citation after the citation becomes final.

6852 (8) The failure of an applicant for state certification to comply with a citation after the  
6853 citation becomes final is a ground for denial of state certification.

6854 (9) No citation may be issued under this section after the expiration of [~~six months~~  
6855 ~~following the occurrence of a violation~~] one year following the date on which the violation that  
6856 is the subject of the citation is reported to the division.

6857 (10) The director or the director's designee shall assess fines according to the  
6858 following:

6859 (a) for a first offense handled pursuant to this section, a fine of up to \$1,000;

6860 (b) for a second offense handled pursuant to this section, a fine of up to \$2,000; and

6861 (c) for any subsequent offense handled pursuant to this section, a fine of up to \$2,000  
6862 for each day of continued offense.

6863 (11) An action initiated for a first or second offense that has not yet resulted in a final  
6864 order of the division does not preclude initiation of a subsequent action for a second or  
6865 subsequent offense during the pendency of a preceding action.

6866 (12) (a) A penalty that is not paid may be collected by the director by either referring  
6867 the matter to a collection agency or by bringing an action in the district court of the county in  
6868 which the person against whom the penalty is imposed resides or in the county where the office  
6869 of the director is located.

6870 (b) A county attorney or the attorney general of the state shall provide legal assistance  
6871 and advice to the director in an action to collect the penalty.

6872 (c) In an action brought to enforce the provisions of this section, reasonable attorney  
6873 fees and costs shall be awarded to the division.

6874 Section 124. Section **63G-2-305** is amended to read:

6875 **63G-2-305. Protected records.**

6876 The following records are protected if properly classified by a governmental entity:

6877 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret  
6878 has provided the governmental entity with the information specified in Section 63G-2-309;

6879 (2) commercial information or nonindividual financial information obtained from a  
6880 person if:

6881 (a) disclosure of the information could reasonably be expected to result in unfair  
6882 competitive injury to the person submitting the information or would impair the ability of the  
6883 governmental entity to obtain necessary information in the future;

6884 (b) the person submitting the information has a greater interest in prohibiting access  
6885 than the public in obtaining access; and

6886 (c) the person submitting the information has provided the governmental entity with  
6887 the information specified in Section 63G-2-309;

6888 (3) commercial or financial information acquired or prepared by a governmental entity  
6889 to the extent that disclosure would lead to financial speculations in currencies, securities, or  
6890 commodities that will interfere with a planned transaction by the governmental entity or cause  
6891 substantial financial injury to the governmental entity or state economy;

6892 (4) records, the disclosure of which could cause commercial injury to, or confer a  
6893 competitive advantage upon a potential or actual competitor of, a commercial project entity as  
6894 defined in Subsection 11-13-103(4);

6895 (5) test questions and answers to be used in future license, certification, registration,  
6896 employment, or academic examinations;

6897 (6) records, the disclosure of which would impair governmental procurement  
6898 proceedings or give an unfair advantage to any person proposing to enter into a contract or  
6899 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this  
6900 Subsection (6) does not restrict the right of a person to have access to, after the contract or  
6901 grant has been awarded and signed by all parties:

6902 (a) a bid, proposal, application, or other information submitted to or by a governmental  
6903 entity in response to:

6904 (i) an invitation for bids;

6905 (ii) a request for proposals;

6906 (iii) a request for quotes;

6907 (iv) a grant; or

- 6908 (v) other similar document; or
- 6909 (b) an unsolicited proposal, as defined in Section [63G-6a-712](#);
- 6910 (7) information submitted to or by a governmental entity in response to a request for
- 6911 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict
- 6912 the right of a person to have access to the information, after:
  - 6913 (a) a contract directly relating to the subject of the request for information has been
  - 6914 awarded and signed by all parties; or
  - 6915 (b) (i) a final determination is made not to enter into a contract that relates to the
  - 6916 subject of the request for information; and
  - 6917 (ii) at least two years have passed after the day on which the request for information is
  - 6918 issued;
  - 6919 (8) records that would identify real property or the appraisal or estimated value of real
  - 6920 or personal property, including intellectual property, under consideration for public acquisition
  - 6921 before any rights to the property are acquired unless:
    - 6922 (a) public interest in obtaining access to the information is greater than or equal to the
    - 6923 governmental entity's need to acquire the property on the best terms possible;
    - 6924 (b) the information has already been disclosed to persons not employed by or under a
    - 6925 duty of confidentiality to the entity;
    - 6926 (c) in the case of records that would identify property, potential sellers of the described
    - 6927 property have already learned of the governmental entity's plans to acquire the property;
    - 6928 (d) in the case of records that would identify the appraisal or estimated value of
    - 6929 property, the potential sellers have already learned of the governmental entity's estimated value
    - 6930 of the property; or
    - 6931 (e) the property under consideration for public acquisition is a single family residence
    - 6932 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
    - 6933 the property as required under Section [78B-6-505](#);
    - 6934 (9) records prepared in contemplation of sale, exchange, lease, rental, or other
    - 6935 compensated transaction of real or personal property including intellectual property, which, if
    - 6936 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
    - 6937 of the subject property, unless:
      - 6938 (a) the public interest in access is greater than or equal to the interests in restricting



6939 access, including the governmental entity's interest in maximizing the financial benefit of the  
6940 transaction; or

6941 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of  
6942 the value of the subject property have already been disclosed to persons not employed by or  
6943 under a duty of confidentiality to the entity;

6944 (10) records created or maintained for civil, criminal, or administrative enforcement  
6945 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if  
6946 release of the records:

6947 (a) reasonably could be expected to interfere with investigations undertaken for  
6948 enforcement, discipline, licensing, certification, or registration purposes;

6949 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement  
6950 proceedings;

6951 (c) would create a danger of depriving a person of a right to a fair trial or impartial  
6952 hearing;

6953 (d) reasonably could be expected to disclose the identity of a source who is not  
6954 generally known outside of government and, in the case of a record compiled in the course of  
6955 an investigation, disclose information furnished by a source not generally known outside of  
6956 government if disclosure would compromise the source; or

6957 (e) reasonably could be expected to disclose investigative or audit techniques,  
6958 procedures, policies, or orders not generally known outside of government if disclosure would  
6959 interfere with enforcement or audit efforts;

6960 (11) records the disclosure of which would jeopardize the life or safety of an  
6961 individual;

6962 (12) records the disclosure of which would jeopardize the security of governmental  
6963 property, governmental programs, or governmental recordkeeping systems from damage, theft,  
6964 or other appropriation or use contrary to law or public policy;

6965 (13) records that, if disclosed, would jeopardize the security or safety of a correctional  
6966 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere  
6967 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

6968 (14) records that, if disclosed, would reveal recommendations made to the Board of  
6969 Pardons and Parole by an employee of or contractor for the Department of Corrections, the

6970 Board of Pardons and Parole, or the Department of Human Services that are based on the  
6971 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's  
6972 jurisdiction;

6973 (15) records and audit workpapers that identify audit, collection, and operational  
6974 procedures and methods used by the State Tax Commission, if disclosure would interfere with  
6975 audits or collections;

6976 (16) records of a governmental audit agency relating to an ongoing or planned audit  
6977 until the final audit is released;

6978 (17) records that are subject to the attorney client privilege;

6979 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,  
6980 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,  
6981 quasi-judicial, or administrative proceeding;

6982 (19) (a) (i) personal files of a state legislator, including personal correspondence to or  
6983 from a member of the Legislature; and

6984 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of  
6985 legislative action or policy may not be classified as protected under this section; and

6986 (b) (i) an internal communication that is part of the deliberative process in connection  
6987 with the preparation of legislation between:

6988 (A) members of a legislative body;

6989 (B) a member of a legislative body and a member of the legislative body's staff; or

6990 (C) members of a legislative body's staff; and

6991 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of  
6992 legislative action or policy may not be classified as protected under this section;

6993 (20) (a) records in the custody or control of the Office of Legislative Research and  
6994 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated  
6995 legislation or contemplated course of action before the legislator has elected to support the  
6996 legislation or course of action, or made the legislation or course of action public; and

6997 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the  
6998 Office of Legislative Research and General Counsel is a public document unless a legislator  
6999 asks that the records requesting the legislation be maintained as protected records until such  
7000 time as the legislator elects to make the legislation or course of action public;

7001 (21) research requests from legislators to the Office of Legislative Research and  
7002 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared  
7003 in response to these requests;

7004 (22) drafts, unless otherwise classified as public;

7005 (23) records concerning a governmental entity's strategy about:

7006 (a) collective bargaining; or

7007 (b) imminent or pending litigation;

7008 (24) records of investigations of loss occurrences and analyses of loss occurrences that  
7009 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the  
7010 Uninsured Employers' Fund, or similar divisions in other governmental entities;

7011 (25) records, other than personnel evaluations, that contain a personal recommendation  
7012 concerning an individual if disclosure would constitute a clearly unwarranted invasion of  
7013 personal privacy, or disclosure is not in the public interest;

7014 (26) records that reveal the location of historic, prehistoric, paleontological, or  
7015 biological resources that if known would jeopardize the security of those resources or of  
7016 valuable historic, scientific, educational, or cultural information;

7017 (27) records of independent state agencies if the disclosure of the records would  
7018 conflict with the fiduciary obligations of the agency;

7019 (28) records of an institution within the state system of higher education defined in  
7020 Section [53B-1-102](#) regarding tenure evaluations, appointments, applications for admissions,  
7021 retention decisions, and promotions, which could be properly discussed in a meeting closed in  
7022 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of  
7023 the final decisions about tenure, appointments, retention, promotions, or those students  
7024 admitted, may not be classified as protected under this section;

7025 (29) records of the governor's office, including budget recommendations, legislative  
7026 proposals, and policy statements, that if disclosed would reveal the governor's contemplated  
7027 policies or contemplated courses of action before the governor has implemented or rejected  
7028 those policies or courses of action or made them public;

7029 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,  
7030 revenue estimates, and fiscal notes of proposed legislation before issuance of the final  
7031 recommendations in these areas;

7032 (31) records provided by the United States or by a government entity outside the state  
7033 that are given to the governmental entity with a requirement that they be managed as protected  
7034 records if the providing entity certifies that the record would not be subject to public disclosure  
7035 if retained by it;

7036 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a  
7037 public body except as provided in Section 52-4-206;

7038 (33) records that would reveal the contents of settlement negotiations but not including  
7039 final settlements or empirical data to the extent that they are not otherwise exempt from  
7040 disclosure;

7041 (34) memoranda prepared by staff and used in the decision-making process by an  
7042 administrative law judge, a member of the Board of Pardons and Parole, or a member of any  
7043 other body charged by law with performing a quasi-judicial function;

7044 (35) records that would reveal negotiations regarding assistance or incentives offered  
7045 by or requested from a governmental entity for the purpose of encouraging a person to expand  
7046 or locate a business in Utah, but only if disclosure would result in actual economic harm to the  
7047 person or place the governmental entity at a competitive disadvantage, but this section may not  
7048 be used to restrict access to a record evidencing a final contract;

7049 (36) materials to which access must be limited for purposes of securing or maintaining  
7050 the governmental entity's proprietary protection of intellectual property rights including patents,  
7051 copyrights, and trade secrets;

7052 (37) the name of a donor or a prospective donor to a governmental entity, including an  
7053 institution within the state system of higher education defined in Section 53B-1-102, and other  
7054 information concerning the donation that could reasonably be expected to reveal the identity of  
7055 the donor, provided that:

7056 (a) the donor requests anonymity in writing;

7057 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be  
7058 classified protected by the governmental entity under this Subsection (37); and

7059 (c) except for an institution within the state system of higher education defined in  
7060 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged  
7061 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority  
7062 over the donor, a member of the donor's immediate family, or any entity owned or controlled

7063 by the donor or the donor's immediate family;

7064 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and  
7065 73-18-13;

7066 (39) a notification of workers' compensation insurance coverage described in Section  
7067 34A-2-205;

7068 (40) (a) the following records of an institution within the state system of higher  
7069 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,  
7070 or received by or on behalf of faculty, staff, employees, or students of the institution:

7071 (i) unpublished lecture notes;

7072 (ii) unpublished notes, data, and information:

7073 (A) relating to research; and

7074 (B) of:

7075 (I) the institution within the state system of higher education defined in Section  
7076 53B-1-102; or

7077 (II) a sponsor of sponsored research;

7078 (iii) unpublished manuscripts;

7079 (iv) creative works in process;

7080 (v) scholarly correspondence; and

7081 (vi) confidential information contained in research proposals;

7082 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public  
7083 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

7084 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;

7085 (41) (a) records in the custody or control of the Office of Legislative Auditor General  
7086 that would reveal the name of a particular legislator who requests a legislative audit prior to the  
7087 date that audit is completed and made public; and

7088 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the  
7089 Office of the Legislative Auditor General is a public document unless the legislator asks that  
7090 the records in the custody or control of the Office of Legislative Auditor General that would  
7091 reveal the name of a particular legislator who requests a legislative audit be maintained as  
7092 protected records until the audit is completed and made public;

7093 (42) records that provide detail as to the location of an explosive, including a map or

7094 other document that indicates the location of:

7095           (a) a production facility; or

7096           (b) a magazine;

7097           (43) information:

7098           (a) contained in the statewide database of the Division of Aging and Adult Services

7099 created by Section [62A-3-311.1](#); or

7100           (b) received or maintained in relation to the Identity Theft Reporting Information

7101 System (IRIS) established under Section [67-5-22](#);

7102           (44) information contained in the Management Information System and Licensing

7103 Information System described in Title 62A, Chapter 4a, Child and Family Services;

7104           (45) information regarding National Guard operations or activities in support of the

7105 National Guard's federal mission;

7106           (46) records provided by any pawn or secondhand business to a law enforcement

7107 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and

7108 Secondhand Merchandise Transaction Information Act;

7109           (47) information regarding food security, risk, and vulnerability assessments performed

7110 by the Department of Agriculture and Food;

7111           (48) except to the extent that the record is exempt from this chapter pursuant to Section

7112 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or

7113 prepared or maintained by the Division of Emergency Management, and the disclosure of

7114 which would jeopardize:

7115           (a) the safety of the general public; or

7116           (b) the security of:

7117           (i) governmental property;

7118           (ii) governmental programs; or

7119           (iii) the property of a private person who provides the Division of Emergency

7120 Management information;

7121           (49) records of the Department of Agriculture and Food that provides for the

7122 identification, tracing, or control of livestock diseases, including any program established under

7123 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control

7124 of Animal Disease;

7125 (50) as provided in Section 26-39-501:

7126 (a) information or records held by the Department of Health related to a complaint  
7127 regarding a child care program or residential child care which the department is unable to  
7128 substantiate; and

7129 (b) information or records related to a complaint received by the Department of Health  
7130 from an anonymous complainant regarding a child care program or residential child care;

7131 (51) unless otherwise classified as public under Section 63G-2-301 and except as  
7132 provided under Section 41-1a-116, an individual's home address, home telephone number, or  
7133 personal mobile phone number, if:

7134 (a) the individual is required to provide the information in order to comply with a law,  
7135 ordinance, rule, or order of a government entity; and

7136 (b) the subject of the record has a reasonable expectation that this information will be  
7137 kept confidential due to:

7138 (i) the nature of the law, ordinance, rule, or order; and

7139 (ii) the individual complying with the law, ordinance, rule, or order;

7140 (52) the portion of the following documents that contains a candidate's residential or  
7141 mailing address, if the candidate provides to the filing officer another address or phone number  
7142 where the candidate may be contacted:

7143 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,  
7144 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408,  
7145 20A-9-408.5, 20A-9-502, or 20A-9-601;

7146 (b) an affidavit of impecuniosity, described in Section 20A-9-201; or

7147 (c) a notice of intent to gather signatures for candidacy, described in Section  
7148 20A-9-408;

7149 (53) the name, home address, work addresses, and telephone numbers of an individual  
7150 that is engaged in, or that provides goods or services for, medical or scientific research that is:

7151 (a) conducted within the state system of higher education, as defined in Section  
7152 53B-1-102; and

7153 (b) conducted using animals;

7154 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance  
7155 Evaluation Commission concerning an individual commissioner's vote on whether or not to

7156 recommend that the voters retain a judge including information disclosed under Subsection  
7157 [78A-12-203\(5\)\(e\)](#);

7158 (55) information collected and a report prepared by the Judicial Performance  
7159 Evaluation Commission concerning a judge, unless Section [20A-7-702](#) or Title 78A, Chapter  
7160 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,  
7161 the information or report;

7162 (56) records contained in the Management Information System created in Section  
7163 [62A-4a-1003](#);

7164 (57) records provided or received by the Public Lands Policy Coordinating Office in  
7165 furtherance of any contract or other agreement made in accordance with Section [63J-4-603](#);

7166 (58) information requested by and provided to the 911 Division under Section  
7167 [63H-7a-302](#);

7168 (59) in accordance with Section [73-10-33](#):

7169 (a) a management plan for a water conveyance facility in the possession of the Division  
7170 of Water Resources or the Board of Water Resources; or

7171 (b) an outline of an emergency response plan in possession of the state or a county or  
7172 municipality;

7173 (60) the following records in the custody or control of the Office of Inspector General  
7174 of Medicaid Services, created in Section [63A-13-201](#):

7175 (a) records that would disclose information relating to allegations of personal  
7176 misconduct, gross mismanagement, or illegal activity of a person if the information or  
7177 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services  
7178 through other documents or evidence, and the records relating to the allegation are not relied  
7179 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation  
7180 report or final audit report;

7181 (b) records and audit workpapers to the extent they would disclose the identity of a  
7182 person who, during the course of an investigation or audit, communicated the existence of any  
7183 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or  
7184 regulation adopted under the laws of this state, a political subdivision of the state, or any  
7185 recognized entity of the United States, if the information was disclosed on the condition that  
7186 the identity of the person be protected;



7187 (c) before the time that an investigation or audit is completed and the final  
7188 investigation or final audit report is released, records or drafts circulated to a person who is not  
7189 an employee or head of a governmental entity for the person's response or information;

7190 (d) records that would disclose an outline or part of any investigation, audit survey  
7191 plan, or audit program; or

7192 (e) requests for an investigation or audit, if disclosure would risk circumvention of an  
7193 investigation or audit;

7194 (61) records that reveal methods used by the Office of Inspector General of Medicaid  
7195 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or  
7196 abuse;

7197 (62) information provided to the Department of Health or the Division of Occupational  
7198 and Professional Licensing under [~~Subsection~~] Subsections 58-67-304(3) and (4) and  
7199 Subsections 58-68-304(3) [or] and (4);

7200 (63) a record described in Section 63G-12-210;

7201 (64) captured plate data that is obtained through an automatic license plate reader  
7202 system used by a governmental entity as authorized in Section 41-6a-2003;

7203 (65) any record in the custody of the Utah Office for Victims of Crime relating to a  
7204 victim, including:

7205 (a) a victim's application or request for benefits;

7206 (b) a victim's receipt or denial of benefits; and

7207 (c) any administrative notes or records made or created for the purpose of, or used to,  
7208 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim  
7209 Reparations Fund;

7210 (66) an audio or video recording created by a body-worn camera, as that term is  
7211 defined in Section 77-7a-103, that records sound or images inside a hospital or health care  
7212 facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care  
7213 provider, as that term is defined in Section 78B-3-403, or inside a human service program as  
7214 that term is defined in Section 62A-2-101, except for recordings that:

7215 (a) depict the commission of an alleged crime;

7216 (b) record any encounter between a law enforcement officer and a person that results in  
7217 death or bodily injury, or includes an instance when an officer fires a weapon;

- 7218 (c) record any encounter that is the subject of a complaint or a legal proceeding against  
7219 a law enforcement officer or law enforcement agency;
- 7220 (d) contain an officer involved critical incident as defined in Subsection  
7221 [76-2-408\(1\)\(d\)](#); or
- 7222 (e) have been requested for reclassification as a public record by a subject or  
7223 authorized agent of a subject featured in the recording;
- 7224 (67) a record pertaining to the search process for a president of an institution of higher  
7225 education described in Section [53B-2-102](#), except for application materials for a publicly  
7226 announced finalist; and
- 7227 (68) an audio recording that is:
- 7228 (a) produced by an audio recording device that is used in conjunction with a device or  
7229 piece of equipment designed or intended for resuscitating an individual or for treating an  
7230 individual with a life-threatening condition;
- 7231 (b) produced during an emergency event when an individual employed to provide law  
7232 enforcement, fire protection, paramedic, emergency medical, or other first responder service:
- 7233 (i) is responding to an individual needing resuscitation or with a life-threatening  
7234 condition; and
- 7235 (ii) uses a device or piece of equipment designed or intended for resuscitating an  
7236 individual or for treating an individual with a life-threatening condition; and
- 7237 (c) intended and used for purposes of training emergency responders how to improve  
7238 their response to an emergency situation;
- 7239 (69) records submitted by or prepared in relation to an applicant seeking a  
7240 recommendation by the Research and General Counsel Subcommittee, the Budget  
7241 Subcommittee, or the Audit Subcommittee, established under Section [36-12-8](#), for an  
7242 employment position with the Legislature;
- 7243 (70) work papers as defined in Section [31A-2-204](#);
- 7244 (71) a record made available to Adult Protective Services or a law enforcement agency  
7245 under Section [61-1-206](#);
- 7246 (72) a record submitted to the Insurance Department in accordance with Section  
7247 [31A-37-201](#); and
- 7248 (73) a record described in Section [31A-37-503](#).

7249 (74) any record created by the Division of Occupational and Professional Licensing as  
7250 a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii); and

7251 (75) a record described in Section 72-16-306 that relates to the reporting of an injury  
7252 involving an amusement ride.

7253 Section 125. Section 78B-3-416 is amended to read:

7254 **78B-3-416. Division to provide panel -- Exemption -- Procedures -- Statute of**  
7255 **limitations tolled -- Composition of panel -- Expenses -- Division authorized to set license**  
7256 **fees.**

7257 (1) (a) The division shall provide a hearing panel in alleged medical liability cases  
7258 against health care providers as defined in Section 78B-3-403, except dentists.

7259 (b) (i) The division shall establish procedures for prelitigation consideration of medical  
7260 liability claims for damages arising out of the provision of or alleged failure to provide health  
7261 care.

7262 (ii) The division may establish rules necessary to administer the process and  
7263 procedures related to prelitigation hearings and the conduct of prelitigation hearings in  
7264 accordance with Sections 78B-3-416 through 78B-3-420.

7265 (c) The proceedings are informal, nonbinding, and are not subject to Title 63G, Chapter  
7266 4, Administrative Procedures Act, but are compulsory as a condition precedent to commencing  
7267 litigation.

7268 (d) Proceedings conducted under authority of this section are confidential, privileged,  
7269 and immune from civil process.

7270 (e) The division may not provide more than one hearing panel for each alleged medical  
7271 liability case against a health care provider.

7272 (2) (a) The party initiating a medical liability action shall file a request for prelitigation  
7273 panel review with the division within 60 days after the service of a statutory notice of intent to  
7274 commence action under Section 78B-3-412.

7275 (b) The request shall include a copy of the notice of intent to commence action. The  
7276 request shall be mailed to all health care providers named in the notice and request.

7277 (3) (a) The filing of a request for prelitigation panel review under this section tolls the  
7278 applicable statute of limitations until the later of:

7279 (i) 60 days following the division's issuance of:

- 7280 (A) an opinion by the prelitigation panel; or  
7281 (B) a certificate of compliance under Section 78B-3-418; or  
7282 (ii) the expiration of the time for holding a hearing under Subsection (3)(b)(ii).  
7283 (b) The division shall:  
7284 (i) send any opinion issued by the panel to all parties by regular mail; and  
7285 (ii) complete a prelitigation hearing under this section within:  
7286 (A) 180 days after the filing of the request for prelitigation panel review; or  
7287 (B) any longer period as agreed upon in writing by all parties to the review.  
7288 (c) If the prelitigation hearing has not been completed within the time limits  
7289 established in Subsection (3)(b)(ii), the claimant shall:  
7290 (i) file an affidavit of merit under the provisions of Section 78B-3-423; or  
7291 (ii) file an affidavit with the division within 180 days of the request for pre-litigation  
7292 review, in accordance with Subsection (3)(d), alleging that the respondent has failed to  
7293 reasonably cooperate in scheduling the hearing.  
7294 (d) If the claimant files an affidavit under Subsection (3)(c)(ii):  
7295 (i) within 15 days of the filing of the affidavit under Subsection (3)(c)(ii), the division  
7296 shall determine whether either the respondent or the claimant failed to reasonably cooperate in  
7297 the scheduling of a pre-litigation hearing; and  
7298 (ii) (A) if the determination is that the respondent failed to reasonably cooperate in the  
7299 scheduling of a hearing, and the claimant did not fail to reasonably cooperate, the division  
7300 shall, issue a certificate of compliance for the claimant in accordance with Section 78B-3-418;  
7301 or  
7302 (B) if the division makes a determination other than the determination in Subsection  
7303 (3)(d)(ii)(A), the claimant shall file an affidavit of merit in accordance with Section 78B-3-423,  
7304 within 30 days of the determination of the division under this Subsection (3).  
7305 (e) (i) The claimant and any respondent may agree by written stipulation that no useful  
7306 purpose would be served by convening a prelitigation panel under this section.  
7307 (ii) When the stipulation is filed with the division, the division shall within 10 days  
7308 after receipt issue a certificate of compliance under Section 78B-3-418, as it concerns the  
7309 stipulating respondent, and stating that the claimant has complied with all conditions precedent  
7310 to the commencement of litigation regarding the claim.

7311 (4) The division shall provide for and appoint an appropriate panel or panels to hear  
7312 complaints of medical liability and damages, made by or on behalf of any patient who is an  
7313 alleged victim of medical liability. The panels are composed of:

7314 (a) one member who is a resident lawyer currently licensed and in good standing to  
7315 practice law in this state and who shall serve as chairman of the panel, who is appointed by the  
7316 division from among qualified individuals who have registered with the division indicating a  
7317 willingness to serve as panel members, and a willingness to comply with the rules of  
7318 professional conduct governing lawyers in the state, and who has completed division training  
7319 regarding conduct of panel hearings;

7320 (b) (i) one ~~[member who is a]~~ or more members who are licensed health care ~~[provider]~~  
7321 providers listed under Section 78B-3-403, who ~~[is]~~ are practicing and knowledgeable in the  
7322 same specialty as the proposed defendant, and who ~~[is]~~ are appointed by the division in  
7323 accordance with Subsection (5); or

7324 (ii) in claims against only ~~[hospitals or their]~~ a health care facility or the facility's  
7325 employees, one member who is an individual currently serving in a ~~[hospital]~~ health care  
7326 facility administration position directly related to ~~[hospital]~~ health care facility operations or  
7327 conduct that includes responsibility for the area of practice that is the subject of the liability  
7328 claim, and who is appointed by the division; and

7329 (c) a lay panelist who is not a lawyer, doctor, hospital employee, or other health care  
7330 provider, and who is a responsible citizen of the state, selected and appointed by the division  
7331 from among individuals who have completed division training with respect to panel hearings.

7332 (5) (a) Each person listed as a health care provider in Section 78B-3-403 and practicing  
7333 under a license issued by the state, is obligated as a condition of holding that license to  
7334 participate as a member of a medical liability prelitigation panel at reasonable times, places,  
7335 and intervals, upon issuance, with advance notice given in a reasonable time frame, by the  
7336 division of an Order to Participate as a Medical Liability Prelitigation Panel Member.

7337 (b) A licensee may be excused from appearance and participation as a panel member  
7338 upon the division finding participation by the licensee will create an unreasonable burden or  
7339 hardship upon the licensee.

7340 (c) A licensee whom the division finds failed to appear and participate as a panel  
7341 member when so ordered, without adequate explanation or justification and without being

7342 excused for cause by the division, may be assessed an administrative fine not to exceed \$5,000.

7343 (d) A licensee whom the division finds intentionally or repeatedly failed to appear and  
7344 participate as a panel member when so ordered, without adequate explanation or justification  
7345 and without being excused for cause by the division, may be assessed an administrative fine not  
7346 to exceed \$5,000, and is guilty of unprofessional conduct.

7347 (e) All fines collected under Subsections (5)(c) and (d) shall be deposited in the  
7348 Physicians Education Fund created in Section 58-67a-1.

7349 (f) The director of the division may collect a fine that is not paid by:

7350 (i) referring the matter to a collection agency; or

7351 (ii) bringing an action in the district court of the county where the person against whom  
7352 the penalty is imposed resides or in the county where the office of the director is located.

7353 (g) A county attorney or the attorney general of the state shall provide legal assistance  
7354 and advice to the director in an action to collect a fine.

7355 (h) A court shall award reasonable attorney fees and costs to the prevailing party in an  
7356 action brought by the division to collect a fine.

7357 (6) Each person selected as a panel member shall certify, under oath, that he has no  
7358 bias or conflict of interest with respect to any matter under consideration.

7359 (7) A member of the prelitigation hearing panel may not receive compensation or  
7360 benefits for the member's service, but may receive per diem and travel expenses in accordance  
7361 with:

7362 (a) Section 63A-3-106;

7363 (b) Section 63A-3-107; and

7364 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
7365 63A-3-107.

7366 (8) (a) In addition to the actual cost of administering the licensure of health care  
7367 providers, the division may set license fees of health care providers within the limits  
7368 established by law equal to their proportionate costs of administering prelitigation panels.

7369 (b) The claimant bears none of the costs of administering the prelitigation panel except  
7370 under Section 78B-3-420.