

SB0117S01 compared with SB0117

{Omitted text} shows text that was in SB0117 but was omitted in SB0117S01
{inserted text} shows text that was not in SB0117 but was inserted into SB0117S01

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3 **LONG TITLE**

4 **General Description:**

5 This bill modifies Title 58, Occupations and Professions.

6 **Highlighted Provisions:**

7 This bill:

8 ▶ removes pronouns;

9 ▶ updates language to remove archaic terminology;

10 ▶ corrects typographical errors; {**and**}

11 ▶ **creates a legacy cosmetology/barbering license; and**

11 ▶ makes technical and conforming changes.

13 Money Appropriated in this Bill:

14 None

15 Other Special Clauses:

16 This bill provides a special effective date.

17 Utah Code Sections Affected:

18 AMENDS:

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19 **58-1-102 (Effective 07/01/26)**, as last amended by Laws of Utah 2025, First Special Session,
Chapter 9

21 **58-1-108 (Effective 07/01/26)**, as last amended by Laws of Utah 2023, Chapter 223

22 **58-1-301.5 (Effective 07/01/26)**, as last amended by Laws of Utah 2025, Chapter 236

23 **58-1-302 (Effective 07/01/26)**, as last amended by Laws of Utah 2024, Chapter 104

24 **58-1-310 (Effective 07/01/26)**, as enacted by Laws of Utah 2019, Chapter 198

25 **58-1-401 (Effective 07/01/26)**, as last amended by Laws of Utah 2021, Chapter 404

26 **58-1-501 (Effective 07/01/26)**, as last amended by Laws of Utah 2025, Chapter 138

27 **58-1-502 (Effective 07/01/26)**, as last amended by Laws of Utah 2020, Chapter 339

28 **58-3a-304 (Effective 07/01/26)**, as last amended by Laws of Utah 2020, Chapter 339

29 **58-4a-105 (Effective 07/01/26)**, as enacted by Laws of Utah 2020, Chapter 107

30 **58-4a-107 (Effective 07/01/26)**, as last amended by Laws of Utah 2024, Chapter 420

31 **58-5a-306 (Effective 07/01/26)**, as last amended by Laws of Utah 2015, Chapter 230

32 **58-11a-302 (Effective 07/01/26)**, as repealed and reenacted by Laws of Utah 2025, Chapter 491

33 **{58-11a-302.5 (Effective 07/01/26), as last amended by Laws of Utah 2020, Sixth Special
Session, Chapter 5}**

35 **{58-11a-302.13 (Effective 07/01/26), as enacted by Laws of Utah 2025, Chapter 491}**

36 **{58-11a-302.21 (Effective 07/01/26), as enacted by Laws of Utah 2025, Chapter 491}**

34 **58-11a-302.23 (Effective 07/01/26), as enacted by Laws of Utah 2025, Chapter 491**

35 **58-11a-302.24 (Effective 07/01/26), as enacted by Laws of Utah 2025, Chapter 491**

36 **58-11a-302.25 (Effective 07/01/26), as enacted by Laws of Utah 2025, Chapter 491**

37 **58-13-5 (Effective 07/01/26) (Repealed 07/01/26)**, as last amended by Laws of Utah 2023,
Chapter 328

39 **58-15-101 (Effective 07/01/26) (Repealed 07/01/35)**, as renumbered and amended by Laws of
Utah 2022, Chapter 415

41 **58-16a-305 (Effective 07/01/26)**, as last amended by Laws of Utah 2012, Chapter 256

42 **58-16a-502 (Effective 07/01/26)**, as last amended by Laws of Utah 2020, Chapter 25

43 **58-16a-801 (Effective 07/01/26)**, as last amended by Laws of Utah 2012, Chapter 256

44 **58-17b-201 (Effective 07/01/26)**, as last amended by Laws of Utah 2010, Chapter 287

45 **58-17b-306 (Effective 07/01/26)**, as last amended by Laws of Utah 2025, Chapter 443

46 **58-17b-308 (Effective 07/01/26)**, as last amended by Laws of Utah 2020, Chapter 339

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47 **58-17b-309 (Effective 07/01/26)**, as last amended by Laws of Utah 2023, Chapter 328
48 **58-17b-501 (Effective 07/01/26)**, as last amended by Laws of Utah 2023, Chapter 328
49 **58-17b-502 (Effective 07/01/26)**, as last amended by Laws of Utah 2023, Chapters 273, 317, 321,
 and 328
51 **58-17b-606 (Effective 07/01/26)**, as last amended by Laws of Utah 2023, Chapter 328
52 **58-17b-607 (Effective 07/01/26)**, as enacted by Laws of Utah 2004, Chapter 280
53 **58-17b-615 (Effective 07/01/26)**, as enacted by Laws of Utah 2004, Chapter 280
54 **58-22-103 (Effective 07/01/26)**, as last amended by Laws of Utah 2013, Chapter 400
55 **58-24b-201 (Effective 07/01/26)**, as last amended by Laws of Utah 2024, Chapter 507
56 **58-26a-302 (Effective 07/01/26)**, as last amended by Laws of Utah 2025, Chapter 283
57 **58-31b-303 (Effective 07/01/26), as last amended by Laws of Utah 2022, Chapters 277, 415**
58 **58-31b-702 (Effective 07/01/26)**, as last amended by Laws of Utah 2005, Chapter 50
59 **58-37-2 (Effective 07/01/26)**, as last amended by Laws of Utah 2025, Chapter 396
60 **58-37-10 (Effective 07/01/26)**, as last amended by Laws of Utah 2013, Chapter 278
61 **58-37c-8 (Effective 07/01/26)**, as last amended by Laws of Utah 2013, Chapters 262, 413
62 **58-37c-17 (Effective 07/01/26)**, as last amended by Laws of Utah 2013, Chapter 278
63 **58-37f-301 (Effective 07/01/26)**, as last amended by Laws of Utah 2025, Chapter 214
64 **58-37f-303 (Effective 07/01/26)**, as last amended by Laws of Utah 2021, Chapter 340
65 **58-37f-304 (Effective 07/01/26)**, as last amended by Laws of Utah 2024, Chapter 507
66 **58-37f-402 (Effective 07/01/26)**, as last amended by Laws of Utah 2018, Chapter 318
67 **58-37f-702 (Effective 07/01/26)**, as last amended by Laws of Utah 2023, Chapter 329
68 **58-37f-703 (Effective 07/01/26)**, as last amended by Laws of Utah 2023, Chapter 415
69 **58-40a-305 (Effective 07/01/26)**, as enacted by Laws of Utah 2006, Chapter 206
70 **58-49-4 (Effective 07/01/26)**, as last amended by Laws of Utah 2023, Chapter 249
71 **58-60-102 (Effective 07/01/26)**, as last amended by Laws of Utah 2025, Chapter 367
72 **58-60-102.5 (Effective 07/01/26)**, as enacted by Laws of Utah 2024, Chapter 420
73 **58-60-108 (Effective 07/01/26)**, as last amended by Laws of Utah 2021, Chapter 404
74 **58-60-117 (Effective 07/01/26)**, as last amended by Laws of Utah 2020, Chapter 339
75 **58-60-207 (Effective 07/01/26)**, as last amended by Laws of Utah 2024, Chapter 420
76 **58-60-405 (Effective 07/01/26)**, as last amended by Laws of Utah 2025, Chapter 443
77 **58-60-502 (Effective 07/01/26)**, as last amended by Laws of Utah 2024, Chapter 420

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79 **58-60-506 (Effective 07/01/26)**, as last amended by Laws of Utah 2025, Chapters 213, 443
81 **58-60-508 (Effective 07/01/26)**, as last amended by Laws of Utah 2019, Chapter 393
82 **58-60-601 (Effective 07/01/26)**, as enacted by Laws of Utah 2024, Chapter 420
83 **58-61-102 (Effective 07/01/26)**, as last amended by Laws of Utah 2024, Chapter 420
84 **58-61-301 (Effective 07/01/26)**, as last amended by Laws of Utah 2024, Chapters 228, 420
86 **58-61-307 (Effective 07/01/26)**, as last amended by Laws of Utah 2018, Chapter 415
87 **58-61-401 (Effective 07/01/26)**, as last amended by Laws of Utah 2021, Chapter 404
88 **58-61-501 (Effective 07/01/26)**, as last amended by Laws of Utah 2020, Chapter 339
89 **58-63-302 (Effective 07/01/26)**, as last amended by Laws of Utah 2025, Chapter 443
90 **58-64-302 (Effective 07/01/26)**, as last amended by Laws of Utah 2025, Chapter 443
91 **58-67-502 (Effective 07/01/26)**, as last amended by Laws of Utah 2025, Chapter 392
92 **58-68-802 (Effective 07/01/26)**, as enacted by Laws of Utah 1996, Chapter 248
93 **58-69-502 (Effective 07/01/26)**, as last amended by Laws of Utah 2020, Chapter 25
94 **58-70a-503 (Effective 07/01/26)**, as last amended by Laws of Utah 2025, Chapter 392
95 **58-72-302 (Effective 07/01/26)**, as last amended by Laws of Utah 2020, Chapter 339
96 **58-73-102 (Effective 07/01/26)**, as last amended by Laws of Utah 2021, Chapter 240
97 **58-73-302 (Effective 07/01/26)**, as last amended by Laws of Utah 2025, Chapter 443
98 **58-73-401 (Effective 07/01/26)**, as last amended by Laws of Utah 2011, Chapter 366
99 **58-73-501 (Effective 07/01/26)**, as last amended by Laws of Utah 2022, Chapter 415
100 **58-73-601 (Effective 07/01/26)**, as last amended by Laws of Utah 2022, Chapter 269
101 **58-74-302 (Effective 07/01/26)**, as last amended by Laws of Utah 2024, Chapter 198
102 **58-76-603 (Effective 07/01/26)**, as enacted by Laws of Utah 2002, Chapter 218
103 **58-81-103 (Effective 07/01/26)**, as last amended by Laws of Utah 2014, Chapter 49
104 **58-87-202 (Effective 07/01/26)**, as renumbered and amended by Laws of Utah 2017, Chapter 225
106 **58-87-203 (Effective 07/01/26)**, as renumbered and amended by Laws of Utah 2017, Chapter 225
108 **58-88-201 (Effective 07/01/26)**, as last amended by Laws of Utah 2025, Chapter 276
109 **58-88-204 (Effective 07/01/26)**, as enacted by Laws of Utah 2022, Chapter 353

110 ENACTS:

111 **58-11a-302.26 (Effective 07/01/26), Utah Code Annotated 1953**

112 REPEALS:

113 **58-49-5 (Effective 07/01/26)**, as last amended by Laws of Utah 2020, Chapter 339

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114 **58-49-6 (Effective 07/01/26)**, as last amended by Laws of Utah 2023, Chapter 249

115 **58-60-511 (Effective 07/01/26)**, as last amended by Laws of Utah 2012, Chapter 179

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

118 Section 1. Section **58-1-102** is amended to read:

119 **58-1-102. Definitions.**

120 As used in this title:

121 (1)

122 (a) "Ablative procedure" means the same as that term is defined in Section 58-67-102.

123 (b) "Ablative procedure" does not include laser tattoo removal.

124 (2) "Cosmetic medical procedure":

125 (a) means the same as that term is defined in Section 58-67-102; and

126 (b) except for Chapter 67, Utah Medical Practice Act, and Chapter 68, Utah Osteopathic Medical Practice Act, does not apply to the scope of practice of an individual licensed under this title if the individual's scope of practice includes the authority to operate or perform surgical procedures.

127 (3) "Cryolipolysis" means a nonablative fat reduction procedure that uses cold temperature to reduce fat deposits in certain areas of the body.

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

129 (5) "Director" means the director of the Division of Professional Licensing.

130 (6) "Division" means the Division of Professional Licensing created in Section 58-1-103.

131 (7) "DOD civilian" means the same as that term is defined in Section 53H-11-202.

132 (8) "Executive director" means the executive director of the Department of Commerce.

133 (9) "License" includes any license, certificate, registration, or permit authorized in accordance with this title.

134 [~~(9)~~] (10) "Licensee" includes any holder of a license, certificate, registration, permit, student card, or apprentice card authorized [~~under~~] in accordance with this title.

135 [~~(10)~~] (11)

136 (a)

137 (i) "Nonablative procedure" means a procedure that is expected or intended to alter living tissue, but not intended or expected to excise, vaporize, disintegrate, or remove living tissue.

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(ii) Notwithstanding Subsection [(10)(a)(i)] (11)(a)(i), nonablative procedure includes hair removal and cryolipolysis.

141 (b) "Nonablative procedure" does not include:

142 (i) a superficial procedure;

143 (ii) the application of permanent make-up;

144 (iii) laser tattoo removal; or

145 (iv) the use of photo therapy and lasers for neuromusculoskeletal treatments that are performed by an individual licensed under this title who is acting within their scope of practice.

148 [(11)] (12) "Pain clinic" means:

149 (a) a clinic that advertises its primary purpose is the treatment of chronic pain; or

150 (b) a clinic in which greater than 50% of the clinic's annual patient population receive treatment primarily for non-terminal chronic pain using Schedule II-III controlled substances.

153 [(12)] (13) "Superficial procedure" means a procedure that is expected or intended to temporarily alter living skin tissue and may excise or remove stratum corneum but have no appreciable risk of damage to any tissue below the stratum corneum.

156 [(13)] (14) "Telemedicine service" means the same as that term is defined in Section 26B-4-704.

158 [(14)] (15) "Unlawful conduct" means the same as that term is defined in Subsection 58-1-501(1).

160 [(15)] (16) "Unprofessional conduct" means the same as that term is defined in Subsection 58-1-501(2).

166 Section 2. Section **58-1-108** is amended to read:

58-1-108. Adjudicative proceedings.

164 (1) The division and [all]boards created [under] in accordance with this title, including the members of a board designated under Subsection 58-1-109(3), shall comply with the procedures and requirements of Title 13, Chapter 1, Department of Commerce, and Title 63G, Chapter 4, Administrative Procedures Act, in all of their adjudicative proceedings as defined by Subsection 63G-4-103(1).

169 (2) Before proceeding under Section 63G-4-502, the division shall review the proposed action with a committee of [no less than] at least three licensees appointed by the [e]chairman chairperson of the licensing board created under this title for the profession of the person against whom the action is proposed.

173 (3) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, a warning or final disposition letter [which] that does not constitute disciplinary action against the addressee, issued in

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response to a complaint of unprofessional or unlawful conduct under this title, does not constitute an adjudicative proceeding.

181 Section 3. Section **58-1-301.5** is amended to read:

182 **58-1-301.5. Division access to Bureau of Criminal Identification records -- Criminal
background check requirement.**

180 (1) As used in this section, "applicant" means an individual applying for licensure or certification, or with respect to a license or certification, applying for renewal, reinstatement, or relicensure or recertification, as required in:

183 (a) Section 58-5a-302;

184 (b) Section 58-16a-302;

185 (c) Section 58-17b-303;

186 (d) Section 58-17b-304;

187 (e) Section 58-17b-305;

188 (f) Section 58-17b-306;

189 (g) Section 58-24b-302;

190 (h) Section 58-31b-302;

191 (i) Section 58-42a-302;

192 (j) Section 58-44a-302;

193 (k) Section 58-47b-302;

194 (l) Section 58-55-302;

195 (m) Section 58-47b-302.2;

196 (n) Section 58-49-4;

197 [~~(n)~~] (o) Section 58-60-205;

198 [~~(o)~~] (p) Section 58-60-305;

199 [~~(p)~~] (q) Section 58-60-405;

200 [~~(q)~~] (r) Section 58-60-506;

201 [~~(r)~~] (s) Section 58-61-304;

202 [~~(s)~~] (t) Section 58-63-302;

203 [~~(t)~~] (u) Section 58-64-302;

204 [~~(u)~~] (v) Section 58-67-302;

205 [~~(v)~~] (w) Section 58-68-302;

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206 [w] (x) Section 58-69-302;

207 [x] (y) Section 58-70a-302;

208 [y] (z) Section 58-70b-302;

209 [z] (aa) Section 58-71-302; [or]

210 [aa] (bb) Section 58-73-302[-] ; or

211 (cc) Section 58-89-104.

212 (2) The division shall have direct access to local files [maintained by] the Bureau of Criminal Identification maintains under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, for background screening of an applicant.

215 (3) The division's access to criminal background information under this section:

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

217 (b) includes:

218 (i) convictions, pleas of nolo contendere, pleas of guilty or nolo contendere held in abeyance, dismissed charges, and charges without a known disposition; and

220 (ii) criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

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

226 (5) To fulfill an applicable criminal background check requirement, an applicant shall:

227 (a) submit fingerprints in a form acceptable to the division at the time the applicant files a license application or a registration; and

229 (b) consent to a fingerprint background check [econducted by] the Bureau of Criminal Identification and the Federal Bureau of Investigation conduct regarding the application.

232 (6)

234 (a) Upon receiving fingerprints from an applicant in accordance with Subsection (5), the division shall:

(i) collect from each applicant submitting fingerprints in accordance with this section:

235 (A) the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108; and

237 (B) the fee [charged by] the Federal Bureau of Investigation charges for fingerprint processing for the purpose of obtaining federal criminal history record information;

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240 (ii) submit from each applicant the fingerprints and the fees described in Subsection (6)(a)(i) to the Bureau of Criminal Identification; and

242 (iii) obtain and retain in division records a signed waiver [~~approved by~~]the Bureau of Criminal Identification approves in accordance with Section 53-10-108 for each applicant.

245 (b) The fees described in Subsection (6)(a)(i) are in addition to other fees [~~authorized by~~]this chapter authorizes.

247 (7) In accordance with the requirements of Section 53-10-108, the Bureau of Criminal Identification shall:

249 (a) check the fingerprints submitted under Subsection (5)(a) against the applicable state and regional criminal records databases;

251 (b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

253 (c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

255 (8)

(a)

(i) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check required under this section demonstrates, after the applicant is licensed or registered, that the applicant failed to accurately disclose a criminal history, the division may provide notice to the applicant that the license or registration is immediately and automatically revoked.

260 (ii) If a massage establishment owner has a criminal conviction or pending criminal charges for any crime under Title 76, Chapter 5, Part 4, Sexual Offenses, or any crime [~~listed by rule made by the division~~] the division determines by rule the division makes in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall deny an application for registration of a massage establishment.

266 (b)

(i) An individual whose license has been revoked in accordance with Subsection (8)(a) is entitled to a hearing to challenge the revocation.

268 (ii) A registered massage establishment for which the registration has been revoked in accordance with Subsection (8)(a) is entitled to a hearing to challenge the revocation.

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271 (c) The division shall conduct the hearing described in this Subsection (8) in accordance with Title 63G,
272 Chapter 4, Administrative Procedures Act.

277 Section 4. Section **58-1-302** is amended to read:

278 **58-1-302. License by endorsement.**

275 (1) As used in this section:

276 (a) "License" means an authorization that permits the holder to engage in the practice of a profession
277 regulated under this title.

278 (b) "Limited supervised training permit" means a temporary authorization to work in a limited
279 professional capacity that would otherwise require licensure under this title.

280 (2) Subject to Subsections (4) through (7), the division shall issue a license to an applicant who has
281 been licensed in another state, district, or territory of the United States if:

282 (a) the division determines that the license issued in the other state, district, or territory encompasses a
283 similar scope of practice as the license sought in this state;

284 (b) the applicant has at least one year of experience practicing under the license issued in the other state,
285 district, or territory; and

286 (c) the applicant's license is in good standing in the other state, district, or territory where the license
287 was issued.

288 (3) Subject to the other provisions of this section, the division may issue a license to an applicant who:

289 (a) has been licensed in another state, district, or territory of the United States, or in a jurisdiction
290 outside of the United States, if:

292 (i)

293 (A) the division determines that the applicant's education, credentialing examination, experience, and
294 skills demonstrate competency in the profession for which the licensure is sought in this state; and

295 (B) the applicant has at least one year of experience practicing under the license issued in the other
296 state, district, territory, or jurisdiction; or

297 (ii) the division determines that the licensure requirements of the other state, district, territory, or
298 jurisdiction at the time the license was issued were substantially similar to the current requirements
299 for the license sought in this state; or

300 (b) has never been licensed in a state, district, or territory of the United States, or in a jurisdiction
301 outside of the United States, if:

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- (i) the applicant was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and
- (ii) the division determines that the education, credentialing examination, and experience was substantially similar to the current education, credentialing examination, and experience requirements for the license sought in this state.

(4) The division may refuse to issue a license to an applicant under this section if:

- (a) the division determines that there is reasonable cause to believe that the applicant is not qualified to receive the license in this state; or
- (b) the applicant has a previous or pending disciplinary action related to the applicant's license.

(5) Before the division issues a license to an applicant under this section, the applicant shall:

- (a) pay a fee ~~[determined by the department under]~~ the department determines in accordance with Section 63J-1-504; and
- (b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the profession for which licensure is sought in this state.

(6)

- (a) For an applicant who is or has been licensed in another jurisdiction, but does not satisfy the requirements of Subsection (2) or (3), the division may evaluate and determine whether:
 - (i) the applicant is eligible for a license under this title because the applicant's education, credentialing examination, or experience obtained in the other jurisdiction is substantially similar to the education, credentialing examination, or experience requirements for the license; or
 - (ii) in light of the applicant's education or experience obtained in the other jurisdiction, the applicant's education or experience would be substantially similar to the education or experience requirements for a license under this title, if the applicant obtains additional education or experience.
- (b) After the division chooses to evaluate an applicant under Subsection (6)(a), the division may issue a limited supervised training permit to the applicant if:
 - (i) the applicant has an employment offer from an employer in the state;
 - (ii) the employer attests to the division that the applicant will work under the ~~[direct supervision]~~ level of supervision the division requires by rule the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, of an individual who:

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335 (A) holds a license in good standing of the same classification as the limited supervised training permit;
and

337 (B) has held the license for a minimum period of time [defined by] the division defines by rule the
division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

340 (iii)

342 (A) the division needs additional time to make a determination under Subsection (6)(a)(i); or
(B) the division determines under Subsection (6)(a)(ii) that additional education or experience
would make the applicant's education or experience substantially similar to the education or
experience requirements for a license under this title, the applicant wishes to pursue the education
or experience, and the division [establishes] makes a deadline for the applicant to complete the
additional education or experience;

348 (iv) the applicant pays a fee [determined by the department under] the department determines in
accordance with Section 63J-1-504;

350 (v) the applicant meets the minimum professional standards to work in a supervised environment that
the division, in consultation with the applicable board, establishes for the applicable profession;

353 (vi) the applicant submits to a background check, if required for the license for which the applicant
applied; and

355 (vii) the applicant meets with the applicable board, if requested, to evaluate the applicant's
qualifications.

357 (c)

358 (i) A limited supervised training permit issued under this Subsection (6) expires:
(A) on the deadline that the division [establishes] makes for the applicant to complete the additional
education or experience described in Subsection (6)(b)(iii)(B); or
(B) upon the division's grant or denial of the applicant's application for licensure by endorsement.

363 (ii) The division may not renew or otherwise extend a limited supervised training permit unless:
(A) a circumstance or hardship arose beyond the limited supervised training permit holder's control that
prevented the limited supervised training permit holder from completing the licensure process;
(B) the limited supervised training permit holder presents satisfactory evidence to the division that the
limited supervised training permit holder is making reasonable progress toward obtaining licensure
in the state;

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- (C) the division grants the renewal or extension for a period proportionate to the circumstance or hardship; and
- 373 (D) the limited supervised training permit holder's employer consents in writing to the renewal or extension.
- 375 (7) The division, in consultation with the applicable licensing board, may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.
- 378 (8)
 - (a) The provisions of this section control over any conflicting licensure by endorsement provision in another chapter of this title.
 - 380 (b) The division, in consultation with the applicable licensing board and professional educators that help establish and monitor educational requirements for the profession of the applicant under review, shall ensure that the provisions of this section apply uniformly to the administration and enforcement of licensure by endorsement for each license type under this title.
- 385 (9) The division shall compile and post on the division's website an annual report that includes:
 - 387 (a) the number of licenses and limited supervised training permits issued under this section during the preceding year;
 - 389 (b) each determination in which the division deems specified education, credentialing examination, experience, or skills substantially similar to the education, credentialing examination, experience, or skills required for a license sought under this section; and
 - 392 (c) documentation of each instance in which the applicable board disagreed with the division's determination that an applicant's education, credentialing examination, experience, or skills from another jurisdiction were substantially similar to the education, credentialing examination, experience, or skills required for the license sought under this section.

401 Section 5. Section **58-1-310** is amended to read:

58-1-310. Application for division determination regarding criminal conviction.

- 400 (1) An individual with a criminal record may apply to the division at any time for a determination of whether the individual's criminal record would disqualify the individual from obtaining a license in an occupation or profession regulated by this title if the individual has completed or were to complete all other licensing requirements for the occupation or profession.

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(2) To receive a determination, the individual shall submit the application described in this section in a form [prescribed by the division] the division approves and shall include information regarding:

(a) the individual's complete criminal conviction history;

(b) what occupational or professional license the individual is interested in seeking;

(c) what licensing requirements [have been met by the individual] the individual meets;

(d) what licensing requirements [have not yet been met by the individual] the individual has not met;
and

(e) any other information [required by the division as established by division rule made] the division requires by rule the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) The division may charge the individual a fee, established in accordance with Section 63J-1-504, to submit an application under this section.

(4) Within [30] 90 days of the day on which the division receives a completed application from an individual for a determination under this section, based on the statutory authority and administrative rules governing the occupation or profession at the time of the application, the division shall provide a written determination to the individual of whether the individual's criminal record would disqualify the individual from obtaining a license in an occupation or profession [regulated by] this title regulates if the individual were to complete all other licensing requirements.

(5) If the individual's criminal record would disqualify the individual from obtaining a license in an occupation or profession [regulated by] this title regulates, the written determination described in Subsection (4) may also include information regarding additional steps the individual could take to qualify for licensure.

Section 6. Section **58-1-401** is amended to read:

58-1-401. Grounds for denial of license -- Disciplinary proceedings -- Time limitations --

Sanctions.

(1) The division shall refuse to issue a license to an applicant and shall refuse to renew or shall revoke, suspend, restrict, place on probation, or otherwise act upon the license of a licensee who does not meet the qualifications for licensure under this title.

(2) The division may refuse to issue a license to an applicant and may refuse to renew or may revoke, suspend, restrict, place on probation, issue a public reprimand to, or otherwise act upon the license of a licensee for the following reasons:

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438 (a) subject to the provisions of Subsection (7), the applicant or licensee [has engaged] engages in unprofessional conduct, as [defined by] statute or rule under this title defines;

441 (b) the applicant or licensee [has engaged] engages in unlawful conduct as [defined by] statute under this title defines;

443 (c) [the applicant or licensee has been determined to be mentally incompetent by a court of competent jurisdiction] a court with jurisdiction determines that the applicant is mentally incompetent; or

446 (d) subject to Subsections 58-31b-401(7), 58-60-108(2), 58-61-401(2), 58-67-401(2), 58-68-401(2), 58-70a-401(2), and Section 58-81-105, the applicant or licensee is unable to practice the occupation or profession with reasonable skill and safety because of [illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material, or as a result of a mental or physical condition] a mental or physical illness or condition, or engagement in any of the behaviors listed in Subsection 58-1-501(2)(a)(v), when the condition demonstrates a threat or potential threat to the public health, safety, or welfare.

454 (3) [A licensee whose license to practice an occupation or profession regulated by this title has been suspended, revoked, placed on probation, or restricted may apply for reinstatement of the license at reasonable intervals and upon compliance with conditions imposed upon the licensee by statute, rule, or terms of the license suspension, revocation, probation, or restriction] A licensee with a license that has been suspended, revoked, placed on probation, or restricted, may apply for reinstatement of the license at reasonable intervals when the licensee complies with the conditions that statute, rule, or the terms of the suspension, revocation, probation, or restriction impose.

462 (4) The division may issue cease and desist orders to:

463 (a) a licensee or applicant who may be disciplined under Subsection (1) or (2);

464 (b) a person [who] that engages in or represents that the person is engaged in an occupation or profession regulated under this title; and

466 (c) a person [who] that otherwise violates this title or a rule adopted under this title.

467 (5) The division may impose an administrative penalty in accordance with Section 58-1-502.

468 (6)

(a) The division may not take disciplinary action against a person for unprofessional or unlawful conduct under this title, unless the division enters into a stipulated agreement or initiates an adjudicative proceeding regarding the conduct within four years after the conduct is reported to the division, except under Subsection (6)(b).

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472 (b)

(i) The division may not take disciplinary action against a person for unprofessional or unlawful conduct more than 10 years after the occurrence of the conduct, unless the proceeding is in response to a civil or criminal judgment or settlement and the proceeding is initiated within one year following the judgment or settlement.

477 (ii) Notwithstanding Subsection (6)(b)(i), the division may refuse to issue a license due to unprofessional or unlawful conduct that occurred more than 10 years before a request or application for licensure is made.

480 (7) When the division is determining whether to refuse to issue a license to an applicant, or to refuse to renew the license of a licensee, based solely on the criminal conviction of an applicant or licensee, the division shall:

483 (a) provide individualized consideration to the applicant or licensee;

484 (b) determine whether the criminal conviction bears a substantial relationship to the applicant's or licensee's ability to safely or competently practice the occupation or profession; and

487 (c) consider the applicant's or licensee's current circumstances, which may include any of the following:

489 (i) the age of the applicant or licensee when the applicant or licensee committed the offense;

491 (ii) the time that has elapsed since the applicant or licensee committed the offense;

492 (iii) whether the applicant or licensee has completed the applicant's or licensee's criminal sentence;

494 (iv) whether the applicant has completed or is actively participating in rehabilitative drug or alcohol treatment;

496 (v) any testimonials or recommendations from other individuals [provided by] that the applicant or licensee, including a progress report from the applicant's or licensee's probation or parole officer, provides;

499 (vi) other evidence of rehabilitation [provided by] the applicant or licensee provides;

500 (vii) the education and training of the applicant or licensee;

501 (viii) the employment history of the applicant or licensee; and

502 (ix) other relevant information [provided by] the applicant or licensee provides.

507 Section 7. Section **58-1-501** is amended to read:

508 **58-1-501. Unlawful and unprofessional conduct.**

505 (1) "Unlawful conduct" means conduct, by any person, that is defined as unlawful under this title and includes[:] when the person:

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507 (a) ~~[practicing or engaging in, representing oneself to be practicing or engaging in, or attempting]~~ practices or engages in, represents oneself to be practicing or engaging in, or attempts to practice or engage in any profession requiring licensure under this title, except the behavioral health technician under Chapter 60, Part 6, Behavioral Health Coach and Technician Licensing Act, if the person is:

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

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

515 (b)

517 (i) ~~[impersonating]~~ impersonates another licensee or practicing a profession under a false or assumed name, except as permitted by law; or

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

524 (c) knowingly ~~[employing]~~ employs any other person to practice or engage in or attempt to practice or engage in any profession licensed under this title if the employee is not licensed to do so under this title;

526 (d) knowingly ~~[permitting]~~ permits the person's authority to practice or engage in any profession licensed under this title to be used by another, except as permitted by law;

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

533 (f)

535 (i) ~~[issuing, or aiding and abetting]~~ issues, or engages in aiding and abetting in the issuance of, an order or prescription for a drug or device to a person located in this state:

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

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

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

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

545 (g) [aiding or abetting] engages in aiding or abetting any other person to violate any statute, rule, or order regulating a profession under this title.

547 (2)

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

(i) [violating] violates any statute, rule, or order regulating [an] a profession under this title;

550 (ii) [violating, or aiding or abetting] violates or engages in aiding or abetting any other person to violate, any generally accepted professional or ethical standard applicable to an occupation or profession regulated under this title;

552 (iii) subject to the provisions of Subsection (4), [engaging] engages in conduct that results in conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere that is held in abeyance pending the successful completion of probation with respect to a crime that, when considered with the functions and duties of the profession for which the license was issued or is to be issued, bears a substantial relationship to the licensee's or applicant's ability to safely or competently practice the profession;

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

562 (v) [engaging] engages in conduct, including the use of intoxicants, drugs, narcotics, or similar chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the ability of the licensee or applicant to [safely engage in the profession] perform licensed duties with reasonable skill and safety;

571

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- (vi) ~~[practicing or attempting] practices or attempts~~ to practice a profession regulated under this title despite being physically or mentally unfit to do so;
- (vii) ~~[practicing or attempting] practices or attempts~~ to practice a or profession regulated under this title through gross incompetence, gross negligence, or a pattern of incompetency or negligence;
- (viii) ~~[practicing or attempting] practices or attempts~~ to practice a profession requiring licensure under this title by any form of action or communication which is false, misleading, deceptive, or fraudulent;
- (ix) ~~[practicing or attempting] practices or attempts~~ to practice a profession regulated under this title beyond the scope of the licensee's competency, abilities, or education;
- (x) ~~[practicing or attempting] practices or attempts~~ to practice a profession regulated under this title beyond the scope of the licensee's license;
- (xi) ~~acts or attempts to act to prohibit or inhibit the ability of a licensee's customer, patient, or other consumer of the licensee's goods or services from making a complaint to a licensing or regulatory authority, including through the use of a contract provision;~~
- [(xi)] (xii) verbally, physically, mentally, or sexually ~~[abusing or exploiting] abuses or exploits~~ any person through conduct connected with the licensee's practice under this title or otherwise facilitated by the licensee's license;
- [(xii)] (xiii) ~~[acting] acts~~ as a supervisor without meeting the qualification requirements for that position that are defined by statute or rule;
- [(xiii)] (xiv) ~~[issuing, or aiding and abetting] issues, or engages in aiding and abetting~~ in the issuance of, an order or prescription for a drug or device:
- (A) without first obtaining information in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify conditions, and to identify contraindications to the proposed treatment; or
- (B) with prescriptive authority conferred by an exception issued under this title, or a multi-state practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment;
- [(xiv)] (xv) ~~[violating] violates~~ a provision of Section 58-1-501.5;
- [(xv)] (xvi) ~~[violating] violates~~ the terms of an order governing a license; or
- [(xvi)] (xvii) ~~[violating] violates~~ Section 58-1-511.

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607 (b) ["Unprofessional conduct"] Unprofessional conduct does not include:

608 (i) a health care provider, as defined in Section 78B-3-403 and who is licensed under this title, deviating
from medical norms or established practices if the conditions described in Subsection (5) are met;
and

611 (ii) notwithstanding Section 58-1-501.6, a health care provider advertising that the health care provider
deviates from medical norms or established practices, including the maladies the health care
provider treats, if the health care provider:

614 (A) does not guarantee any results regarding any health care service;

615 (B) fully discloses on the health care provider's website that the health care provider deviates from
medical norms or established practices with a conspicuous statement; and

618 (C) includes the health care provider's contact information on the website.

619 (3) Unless otherwise specified by statute or administrative rule, in a civil or administrative proceeding
[eommenced by] that the division commences under this title, a person subject to any of the
unlawful and unprofessional conduct provisions of this title is strictly liable for each violation.

623 (4) The following are not evidence of engaging in unprofessional conduct under Subsection (2)(a)(iii):

625 (a) an arrest not followed by a conviction; or

626 (b) a conviction for which an individual's incarceration has ended more than five years before the date
of the division's consideration, unless:

628 (i) after the incarceration the individual has engaged in additional conduct that results in another
conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere that is held in abeyance
pending the successful completion of probation; or

632 (ii) the conviction was for:

633 (A) a violent felony as defined in Section 76-3-203.5;

634 (B) a felony related to a criminal sexual act under Title 76, Chapter 5, Part 4, Sexual Offenses, or Title
76, Chapter 5b, Sexual Exploitation Act;

636 (C) a felony related to criminal fraud or embezzlement, including a felony under Title 76, Chapter 6,
Part 5, Fraud, or Title 76, Chapter 6, Part 4, Theft; or

638 (D) a crime or a pattern of crimes that demonstrates a substantial potential to harm Utah patients or
consumers, as [may be determined by] the director may determine in a process [defined by rule
made] the division defines by rule the division makes in accordance with Title 63G, Chapter 3, Utah
Administrative Rulemaking Act.

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643 (5) In accordance with Subsection (2)(b)(i), a health care provider may deviate from medical norms or
644 established practices if:

645 (a) the health care provider does not deviate outside of the health care provider's scope of practice
646 and possesses the education, training, and experience to competently and safely administer the
647 alternative health care service;

648 (b) the health care provider does not provide an alternative health care service that is otherwise contrary
649 to any state or federal law;

650 (c) the alternative health care service has reasonable potential to be of benefit to the patient to whom the
651 alternative health care service is to be given;

652 (d) the potential benefit of the alternative health care service outweighs the known harms or side effects
653 of the alternative health care service;

654 (e) the alternative health care service is reasonably justified under the totality of the circumstances;

655 (f) after diagnosis but before providing the alternative health care service:

656 (i) the health care provider educates the patient on the health care services that are within the medical
657 norms and established practices;

658 (ii) the health care provider discloses to the patient that the health care provider is recommending an
659 alternative health care service that deviates from medical norms and established practices;

660 (iii) the health care provider discusses the rationale for deviating from medical norms and established
661 practices with the patient;

662 (iv) the health care provider discloses any potential risks associated with deviation from medical norms
663 and established practices; and

664 (v) the patient signs and acknowledges a notice of deviation; and

665 (g) before providing an alternative health care service, the health care provider discloses to the patient
666 that the patient may enter into an agreement describing what would constitute the health care
667 provider's negligence related to deviation.

668 (6) As used in this section, "notice of deviation" means a written notice [provided by] a health care
669 provider provides to a patient that:

670 (a) is specific to the patient;

671 (b) indicates that the health care provider is deviating from medical norms or established practices in
672 the health care provider's recommendation for the patient's treatment;

673

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- (c) describes how the alternative health care service deviates from medical norms or established practices;
- 677 (d) describes the potential risks and benefits associated with the alternative health care service;
- 679 (e) describes the health care provider's reasonably justified rationale regarding the reason for the deviation; and
- 681 (f) provides clear and unequivocal notice to the patient that the patient is agreeing to receive the alternative health care service which is outside medical norms and established practices.

688 Section 8. Section **58-1-502** is amended to read:

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

- 686 (1)
 - (a) Unless otherwise specified in this title, a person who violates the unlawful conduct provisions defined in this title is guilty of a class A misdemeanor.
 - 688 (b) Unless a specific fine amount is specified elsewhere in this title, the director or the director's designee may assess an administrative fine of up to \$1,000 for each instance of unprofessional or unlawful conduct defined in this title.
- 691 (2)
 - (a) In addition to any other statutory penalty for a violation related to a specific occupation or profession regulated by this title, if upon inspection or investigation, the division concludes that a person has violated Subsection 58-1-501(1)(a), (1)(c), (1)(g), or [(2)(a)(xv)] (2)(a)(xvi), or a rule or order issued with respect to those subsections, and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly:
 - 697 (i) issue a citation to the person according to this section and any pertinent rules;
 - 698 (ii) attempt to negotiate a stipulated settlement; or
 - 699 (iii) notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.
- 701 (b)
 - (i) The division may assess a fine under this Subsection (2) against a person who violates Subsection 58-1-501(1)(a), (1)(c), (1)(g), or [(2)(a)(xv)] (2)(a)(xvi), or a rule or order issued with respect to those subsections, as evidenced by:
 - 704 (A) an uncontested citation;
 - 705 (B) a stipulated settlement; or

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

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

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

713 (d) A citation shall:

714 (i) be in writing;

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

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

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

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

725 (f)

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

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

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

732 (h) The failure of an applicant for licensure to comply with a citation after ~~[it]~~ the citation becomes final is a ground for denial of license.

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

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

739 (i) for the first offense handled ~~[pursuant to]~~ in accordance with Subsection (2)(a), a fine of up to \$1,000;

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741 (ii) for a second offense handled [pursuant to] in accordance with Subsection (2)(a), a fine of up to
742 \$2,000; and

743 (iii) for each subsequent offense handled [pursuant to] in accordance with Subsection (2)(a), a fine of up
744 to \$2,000 for each day of continued offense.

745 (3)

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

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

751 (4)

752 (a) The director may collect a penalty that is not paid by:
753 (i) referring the matter to a collection agency; or
754 (ii) bringing an action in the district court of the county where the person against whom the penalty
755 is imposed resides or in the county where the office of the director is located.

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

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

760 Section 9. Section **58-3a-304** is amended to read:

761 **58-3a-304. Exemptions from licensure.**

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

764 (a) a person offering to render architectural services in this state when not licensed under this chapter if
765 the person:
766 (i) holds a current and valid architect license issued by a licensing authority recognized by rule by the
767 division in collaboration with the board;
768 (ii) discloses in writing to the potential client the fact that the architect:
769 (A) is not licensed in the state;
770 (B) may not provide architectural services in the state until the architect is licensed in the state; and

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

(iii) notifies the division in writing of [his] the person's intent to offer to render architectural services in the state; and

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

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

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

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

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

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

(i) the organization employs a principal; and

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

(2) Nothing in this section shall be construed to restrict a person from preparing plans for a client under the exemption provided in Subsection (1)(b) or taking those plans to a licensed architect for review, approval, and subsequent fixing of the architect's seal to that set of plans.

Section 10. Section **58-4a-105** is amended to read:

58-4a-105. Program contract.

(1) A licensee may enter into a program contract:

- (a) any time before the conclusion of a hearing under Section 63G-4-206; and
- (b) if the licensee who enters into the program contract has a substance use disorder or the division has referred the licensee for diagnostic monitoring.

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(2) A licensee may enter into a program contract to replace a diversion agreement the licensee previously entered into with the department.

807 (3) ~~[A licensee who does not have a substance use disorder may not enter into a program contract with the division]~~ A licensee may not enter into a program contract with the division unless the licensee has a substance use disorder or the division has referred the licensee for diagnostic monitoring.

811 (4) The committees described in Section 58-4a-104 may assist the division in evaluating or verifying documentation showing completion of or compliance with a program contract.

813 (5) ~~[A decision by the program not to permit a licensee to participate in the program is not subject to appeal, agency review, or judicial review]~~ A decision by the program denying a licensee participation in the program is final and not subject to appeal, agency review, or judicial review.

821 Section 11. Section **58-4a-107** is amended to read:

58-4a-107. Violation of a program contract -- Adjudicative proceedings -- Penalties.

820 (1) The division may serve an order to show cause on the licensee if the licensee:

821 (a) violates any term or condition of the program contract or diversion agreement;

822 (b) makes an intentional, material misrepresentation of fact in the program contract or diversion agreement; or

824 (c) violates any rule or law governing the licensee's profession.

825 ~~[{2} The order to show cause described in Subsection (1) shall:]~~

826 ~~[{a} describe the alleged misconduct;]~~

827 ~~[{b} set a time and place for a hearing to determine whether the licensee's program contract should be terminated; and]~~

829 ~~[{c} contain all of the information required by a notice of agency action in Subsection 63G-4-201(2).]~~

831 ~~[{3}] (2) Proceedings to terminate a program contract shall comply with Title 63G, Chapter 4, Administrative Procedures Act[, except the notice of agency action shall be in the form of the order to show cause described in Subsection (2)].~~

834 ~~[{4}] (3) During a proceeding to terminate a program contract, the licensee, the licensee's legal representative, and the division shall have access to information contained in the division's program file as permitted by law.~~

837 ~~[{5}] (4) The director shall terminate the program contract and place the licensee on probation in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah~~

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Administrative Rulemaking Act if, during the administrative proceedings described in Subsection [§3] (2), the presiding officer finds that the licensee has:

- 842 (a) violated the program contract;
- 843 (b) made an intentional material misrepresentation of fact in the program contract; or
- 844 (c) violated a law or rule governing the licensee's profession.

845 [§6] (5) If, during the proceedings described in Subsection [§3] (2), the presiding officer finds that the licensee has engaged in especially egregious misconduct, the director may revoke the licensee's license or take other appropriate disciplinary action.

848 [§7] (6) A licensee who is terminated from the program may have disciplinary action taken under Title 58, Chapter 1, Part 4, License Denial, for misconduct committed before, during, or after the licensee's participation in the program.

855 Section 12. Section **58-5a-306** is amended to read:

856 **58-5a-306. Exemptions from licensure.**

The following [persons] individuals may practice podiatry, subject to stated circumstances and limitations, without being licensed under this chapter:

- 855 (1) a podiatric physician serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or other federal agencies while engaged in activities regulated under this chapter as a part of [his] the podiatric physician's employment with that federal agency if the [individual] podiatric physician holds a valid license to practice podiatry [issued by] that any other state or jurisdiction [recognized by the division] the division recognizes issues;
- 861 (2) a student engaged in activities that constitute the practice of podiatry while in training in a recognized school [approved by the division] the division approves to the extent the activities are under the supervision of qualified faculty or staff and the activities are a defined part of the training program;
- 865 (3) [a person] an individual engaged in an internship, residency, preceptorship, postceptorship, fellowship, apprenticeship, or on-the-job training program [approved by the division] the division approves while under the supervision of qualified persons;
- 868 (4) [a person] an individual residing in another state and licensed to practice podiatry there, who is called in for a consultation by [a person] an individual licensed in this state and services provided are limited to that consultation or who is invited by a recognized school, association, society,

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or other body [approved by the division] the division approves to conduct a lecture, clinic, or demonstration of the practice of podiatry so long as that individual does not establish a place of business or regularly engage in the practice of podiatry in the state;

875 (5) a person licensed under the laws of this state to practice or engage in any other occupation or profession while engaged in the lawful, professional, and competent practice of that occupation or profession;

878 (6) [persons who fit or sell] a person that fits or sells corrective shoes, arch supports, or similar devices, to the extent their acts and practices involve only the fitting and selling of these items; or

881 (7) a medical assistant working under the indirect supervision of a licensed podiatric physician, if the medical assistant:

883 (a) engages only in tasks appropriately [delegated by] that the licensed podiatric physician delegates in accordance with the standards and ethics of the practice of podiatry, and consistent with this chapter;

886 (b) does not perform surgical procedures;

887 (c) does not prescribe prescription medications;

888 (d) does not administer anesthesia, except for a local anesthetic; and

889 (e) does not engage in other practices or procedures defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the board.

896 Section 13. Section **58-11a-302** is amended to read:

58-11a-302. General qualifications for licensure and permitting.

895 (1) An applicant for a license or permit under this chapter shall:

896 (a)

897 (i) submit an application in a form [prescribed by]the division approves; and

897 (ii) pay a fee [determined by { } the division {determines} in compliance with] the division determines in accordance with Section 63J-1-504;

899 (b) provide satisfactory documentation of completion of required minimum service counts {F, }[certified by { } that the applicant's school]that the applicant's school certifies, or, if under an apprenticeship, the applicant's supervisor{certifies}; and {F: }

902 (i) compliance with educational requirements of the respective license or permit; or

903 (ii) completion of an approved apprenticeship; and

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(c) pass an examination, as [required by administrative rule established by the division] the division requires by rule {the division makes} made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

907 (2)

(a) The division shall establish administrative rules to determine how many hours for an existing license or permit that an applicant may credit towards the hours required for an additional permit or license.

910 (b) An individual {that{}} who holds a cosmetology legacy cosmetology/barbering license may count 600 hours as a cosmetologist to satisfy the 1,200 total hours requirement for a master esthetics license.

913 {Section 14. Section 58-11a-302.5 is amended to read: }

58-11a-302.5. Online curriculum for a licensed school.

[A barber school, cosmetology/barber school, electrologist school, esthetics school, hair design school, or nail technology] A school licensed under this chapter may offer up to 50% of the school's total per program curriculum online in accordance with standards [adopted by] that an applicable nationally recognized accrediting organization adopts.

919 {Section 15. Section 58-11a-302.13 is amended to read: }

58-11a-302.13. Practice of cosmetology -- Cosmetology license -- Qualifications.

922 (1) The practice of cosmetology includes:

923 (a) styling, arranging, dressing, curling, waving, cleaning, singeing, bleaching, tinting, coloring, permanent waving, or similarly treating the hair of the head of an individual;

925 (b) cutting, clipping, or trimming the hair by using scissors, shears, clippers, or other appliances;

927 (c) engaging in draping, shampooing, scalp treatments, basic wet styling, and blow drying;

929 (d) removing hair from the face or neck of an individual by using shaving equipment;

930 (e) arching eyebrows by tweezing or waxing, tinting eyelashes or eyebrows [or eyelashes], or perming eyelashes or eyebrows;

932 (f) manual hair removal;

933 (g) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays or masks, and manual extraction, including a comedone extractor;

935 (h) limited chemical exfoliation as [defined by administrative rules made by the division] the division defines by rule the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

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938 (i) cutting, curling, styling, fitting, measuring, or forming caps for wigs and hairpieces on the human head;

940 (j) practicing hair weaving or hair fusing or servicing previously medically implanted hair;

942 (k) trimming, cutting, cleaning, manicuring, shaping, massaging hands to elbows and feet to knees, or enhancing the appearance of the hands, feet, and nails of an individual by using the cosmetologist's hands, mechanical or electrical preparation, antiseptic, lotion, or cream;

946 (l) natural nail manicures and pedicures;

947 (m) applying and removing sculptured or artificial nails; and

948 (n) using blades, including corn or callus planer or rasp, for smoothing, shaving, or removing dead skin from the feet.

950 (2) An individual may not engage in the practice of cosmetology unless the individual holds a cosmetology license.

952 (3) An applicant for a cosmetology license shall comply with the requirements in Section 58-11a-302 and:

954 (a) attend a licensed or recognized school and complete a curriculum that:

955 (i) covers:

956 (A) barbering;

957 (B) haircutting;

958 (C) chemical hair services;

959 (D) manual hair removal;

960 (E) eyelash and eyebrow technology, except for eyelash extensions;

961 (F) basic esthetics; and

962 (G) nail technology; and

963 (ii) has a minimum of 1,250 hours of instruction or the equivalent number of credit hours; or

965 (b) complete an approved cosmetologist apprenticeship.

966 (4) If the applicant graduates from a recognized school with less than 1,250 hours of instruction, the applicant may count hours practiced as a cosmetologist in a jurisdiction other than Utah to satisfy the 1,250 total hours requirement.

969 (5) An individual with a cosmetology license may be known as a cosmetologist or a barber.

970 (6) An individual with a cosmetology license may apply credit hours to another license or permit under this chapter, as allowed in Subsection 58-11a-302(2).

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972 {Section 16. Section 58-11a-302.21 is amended to read: }

58-11a-302.21. Licensed instructor -- Qualifications.

- 974 (1) An applicant for licensure as an instructor shall:
 - 975 (a) submit an application in a form [prescribed by]the division approves;
 - 976 (b) subject to Subsection (4), pay a fee [determined by the division under] the division determines in accordance with Section 63J-1-504;
 - 978 (c) provide satisfactory documentation that the applicant is currently licensed or permitted in the discipline that the applicant is seeking to instruct;
 - 980 (d) provide satisfactory documentation that the applicant has completed six months of work experience in the discipline the applicant intends to instruct and:
 - 982 (i) an instructor training program [for the discipline for which the applicant is licensed, by a licensed or recognized school for a minimum of 35% of the minimum hours for the license or permit the applicant intends to instruct] of 75 clock hours; or
 - 986 (ii) an on-the-job [instructor training for the discipline for which the applicant is licensed, by a licensed or recognized school for a minimum of 35% of the minimum hours for the license or permit the applicant intends to instruct] training program of 75 clock hours; and
 - 990 (e) meet the examination requirement [established by administrative rules made by the division] the division requires by rule the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 993 (2) An applicant for an instructor license or permit under this chapter whose education in the discipline for which a license or permit is sought was completed at a foreign school may satisfy the educational requirement for licensure by demonstrating, to the satisfaction of the division, the educational equivalency of the foreign school education with a licensed school under this chapter.
- 998 (3)
 - 1000 (a) An individual may not instruct a discipline unless the individual has an instructor license that allows instruction of that discipline.
 - 1002 (b) The division shall make rules establishing which disciplines each type of instructor license may instruct.
- 1005 (4) The division may not charge a fee to an individual applying for licensure as an instructor under this chapter if the individual is a licensed instructor in any other discipline under this chapter.

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(5) The division may offer any [required examination under this section, which is prepared by] examination this section requires that a national testing organization[, in languages in addition to English] prepares.

1008 (6) For purposes of a national accrediting agency [recognized by] that the United States Department of Education recognizes, on-the-job instructor training described in this section is not considered a program.

917 **Section 14. Section 58-11a-302.23 is amended to read:**

918 **58-11a-302.23. Practice of esthetics -- Legacy esthetics license -- Qualifications.**

920 (1) Except as provided in Subsection (3), the division may not issue [an] a legacy esthetics license after January 1, 2026.

922 (2) An individual with [an] a legacy esthetics license may perform any of the following skincare procedures done on the face or body for cosmetic purposes and not for the treatment of medical, physical, or mental ailments:

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

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

930 (c) manual hair removal;

931 (d) other esthetic preparations or procedures with the use of the hands, a high-frequency or galvanic electrical apparatus, or a heat lamp;

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

935 (f) subject to the requirements described in Section 58-1-506:

936 (i) laser hair removal;

937 (ii) anti-aging resurfacing enhancements; or

938 (iii) photo rejuvenation.

939 (3) The division shall grant [an] a legacy esthetics license to an individual[that completes the requirements described in Subseection (4) and] who:

941 (a)

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(i) has registered an esthetics apprenticeship that meets the requirements of Subsection (4)(a) with the division on or before January 1, 2026; [or] and

943 (ii) completes the requirements described in Subsection (4)(a); or

944 (b)

(i) has enrolled and started an esthetics program that meets the requirements of Subsection (4)(b) with a licensed school on or before January 1, 2026[.] ; and

946 (ii) completes the requirements described in Subsection (4)(b).

947 (4)

(a) An individual described in Subsection (3)(a) shall complete at least 800 hours of apprenticeship training that is supervised by a licensed esthetics instructor who provides one-on-one supervision of the apprentice during the apprenticeship.

950 (b) An individual described in Subsection (3)(b) shall graduate from a licensed school with a minimum of 600 hours or the equivalent number of credit hours.

952 (5) An individual with [an] a legacy esthetics license may apply credit hours to another license or permit under this chapter, as allowed in Subsection 58-11a-302(2).

954 **Section 15. Section 58-11a-302.24 is amended to read:**

955 **58-11a-302.24. Practice of barbering -- Legacy barbering license -- Qualifications.**

957 (1) Except as provided in Subsection (3), the division may not issue a legacy barbering license after January 1, 2026.

959 (2) An individual with a legacy barbering license may engage in the practice of barbering, which includes:

961 (a) cutting, clipping, or trimming the hair of the head of an individual by using scissors, shears, clippers, or other appliances;

963 (b) engaging in draping, shampooing, scalp treatments, basic wet styling, and blow drying;

965 (c) cutting, wet styling, fitting, measuring, or forming caps for wigs and hairpieces on the human head;

967 (d) removing hair from the face or neck of an individual by using shaving equipment; and

969 (e) when providing other services described in this Subsection (2), gently massaging the head, back of the neck, and shoulders by manual or mechanical means.

971 (3) The division shall grant a legacy barbering license to an individual [that completes the requirement described in Subsection (4) and] who:

973 (a)

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(i) has registered a barbering apprenticeship that meets the requirements of Subsection (4)(a) with the division on or before January 1, 2026; [or] and

975 (ii) completes the requirements described in Subsection (4)(a); or

976 (b)

(i) has enrolled and started a barbering program that meets the requirements of Subsection (4)(b) with a licensed school on or before January 1, 2026[.] ; and

978 (ii) completes the requirements described in Subsection (4)(b).

979 (4)

(a) An individual described in Subsection (3)(a) shall complete at least 1,250 hours of apprenticeship training that is supervised by a licensed barbering instructor who provides one-on-one supervision of the apprentice during the apprenticeship.

982 (b) An individual described in Subsection (3)(b) shall graduate from a licensed school with a minimum of 1,000 hours or the equivalent number of credit hours.

984 (5) An individual with a legacy barbering license may apply credit hours to another license or permit under this chapter, as allowed in Subsection 58-11a-302(2).

986 Section 16. Section 58-11a-302.25 is amended to read:

58-11a-302.25. License transitions.

Beginning on January 1, 2026:

989 (1) a cosmetology/barbering license shall be renewed as a [cosmetology] legacy cosmetology/barbering license;

991 (2) a master-level esthetics license shall be renewed as a master esthetics license;

992 (3) a hair design license shall be renewed as a master hair design license or a master barbering license;

994 (4) an individual with a barbering license may renew the license as a legacy barbering license; and

996 (5) an individual with an esthetics license may renew the license as [an] a legacy esthetics license.

998 Section 17. Section 17 is enacted to read:

58-11a-302.26. Practice of cosmetology/barbering -- Legacy cosmetology/barbering license -- Qualifications.

1001 (1) Except as provided in Subsection (3), the division may not issue a legacy cosmetology/barbering license after January 1, 2026.

1003 (2) An individual with a legacy cosmetology/barbering license may engage in the practice of cosmetology/barbering, which includes the scope of practice for:

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1005 (a) a cosmetology license under Subsection 58-11a-302.13(1); and
1006 (b) a legacy esthetics license under Subsection 58-11a-302.23(2).
1007 (3) The division shall grant a legacy cosmetology/barbering license to an individual who:
1008 (a)
1009 (i) has registered a cosmetology/barbering apprenticeship that meets the requirements of Subsection (4)
1010 (a) with the division on or before January 1, 2026; and
1011 (ii) completes the requirements described in Subsection (4)(a); or
1012 (b)
1013 (i) has enrolled and started a cosmetology/barbering program that meets the requirements of Subsection
1014 (4)(b) with a licensed school on or before January 1, 2026; and
1015 (ii) completes the requirements described in Subsection (4)(b).
1016 (4)
1017 (a) An individual described in Subsection (3)(a) shall complete at least 2,500 hours of cosmetology/
1018 barbering apprenticeship training that is supervised by a licensed cosmetology/barbering instructor
1019 who provides one-on-one supervision of the apprentice during the apprenticeship.
1020 (b) An individual described in Subsection (3)(b) shall graduate from a licensed school with a minimum
1021 of 1,600 hours or the equivalent number of credit hours.
1022 (5) An individual with a legacy cosmetology/barbering license may apply credit hours to another
1023 license or permit under this chapter, as allowed in Subsection 58-11a-302(2).

1024 Section 18. Section **58-13-5** is amended to read:

1025 **58-13-5. Information relating to adequacy and quality of medical care -- Immunity from**
1026 **liability.**

1027 (1) As used in this section, "health care provider" has the same meaning as defined in Section
1028 78B-3-403.
1029 (2)
1030 (a) The division, and the boards within the division that act regarding the health care providers defined
1031 in this section, shall adopt rules to establish procedures to obtain information concerning the quality
1032 and adequacy of health care rendered to patients by those health care providers.
1033 (b) It is the duty of [an individual] a health care provider licensed under Title 58, Occupations and
1034 Professions, [as a health care provider] to furnish information known to [him] the health care
1035 provider with respect to health care rendered to patients by any health care provider licensed under

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Title 58, Occupations and Professions, as the division or a board may request during the course of the performance of its duties.

1026 (3) A health care facility as defined in Section 26B-2-201 which employs, grants privileges to, or otherwise permits a licensed health care provider to engage in licensed practice within the health care facility, and any professional society of licensed health care providers, shall report any of the following events in writing to the division within 60 days after the event occurs regarding the licensed health care provider:

1031 (a) terminating employment of an employee for cause related to the employee's practice as a licensed health care provider;

1033 (b) terminating or restricting privileges for cause to engage in any act or practice related to practice as a licensed health care provider;

1035 (c) terminating, suspending, or restricting membership or privileges associated with membership in a professional association for acts of unprofessional, unlawful, incompetent, or negligent conduct related to practice as a licensed health care provider;

1039 (d) subjecting a licensed health care provider to disciplinary action for a period of more than 30 days;

1041 (e) a finding that a licensed health care provider has violated professional standards or ethics;

1043 (f) a finding of incompetence in practice as a licensed health care provider;

1044 (g) a finding of acts [of moral turpitude by] which, when considered with the functions and duties of the profession, bear a substantial relationship to the individual's ability to safely or competently perform the duties expected of a licensed health care provider; or

1048 (h) a finding that a licensed health care provider is engaged in abuse of alcohol or drugs.

1049 (4) This section does not prohibit any action by a health care facility, or professional society comprised primarily of licensed health care providers to suspend, restrict, or revoke the employment, privileges, or membership of a health care provider.

1052 (5) The data and information obtained in accordance with this section is classified as a "protected" record under Title 63G, Chapter 2, Government Records Access and Management Act.

1055 (6)

(a) Any person or organization furnishing information in accordance with this section in response to the request of the division or a board, or voluntarily, is immune from liability with respect to information provided in good faith and without malice, which good faith and lack of malice is presumed to exist absent clear and convincing evidence to the contrary.

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1060 (b) The members of the board are immune from liability for any decisions made or actions taken in response to information [acquired by] the board acquires if those decisions or actions are made in good faith and without malice, which good faith and lack of malice is presumed to exist absent clear and convincing evidence to the contrary.

1065 (7) An individual who is a member of a hospital administration, board, committee, department, medical staff, or professional organization of health care providers, and any hospital, other health care entity, or professional organization conducting or sponsoring the review, is immune from liability arising from participation in a review of a health care provider's professional ethics, medical competence, [moral turpitude] or a behavior which, when considered with the functions and duties of the profession, bears a substantial relationship to the individual's ability to safely or competently perform the duties expected of a health care provider including any mental or physical illness or condition, or engagement in any of the behaviors listed in Subsection 58-1-501(2)(a)(v), or substance abuse.

1075 (8) This section does not exempt a person licensed under Title 58, Occupations and Professions, from complying with any reporting requirements established under state or federal law.

1091 Section 19. Section **58-15-101** is amended to read:

1092 **58-15-101. Definitions.**

1081 [In addition to the definitions in Section 58-1-102, as] As used in this chapter:

1083 (1) "Administrator" means a [person who] person that is charged with the general administration of a health facility, regardless of whether:

1084 (a) the person has an ownership interest in the facility; or

1085 (b) the person's functions and duties are shared with one or more persons.

1087 (2) "Board" means the Health Facility Administrators Licensing Board created in Section 58-15-201.

1089 (3) "Health facility" means a skilled nursing facility, an intermediate care facility, or an intermediate care facility for individuals with an intellectual disability.

1093 (4) "Intermediate care facility" means an institution that provides, on a regular basis, health care and services to individuals who do not require the degree of care and treatment a hospital or skilled nursing facility provides, but who require health care and services in addition to room and board.

1093 (5) "Intermediate care facility for people with an intellectual disability" means an institution that provides, on a regular basis, health-related care and service to individuals with intellectual disabilities as defined in Section 68-3-12.5 or individuals with related conditions, who do not

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require the degree of care and treatment a hospital or skilled nursing facility provides, but who require health-related care and services above the need for room and board.

1099 (6) "Skilled nursing facility" means an institution primarily providing inpatients with skilled nursing care and related services on a continuing basis for patients who require mental, medical, or nursing care, or service for the rehabilitation of an injured individual, a sick individual, or an individual with a disability.

1103 (7) "Unprofessional conduct" as defined in Section 58-1-501 and as [may be further defined by rule] the division may define by rule the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, includes:

1106 (a) intentionally filing a false report or record, intentionally failing to file a report or record [required by] that state or federal law requires, or willfully impeding or obstructing the filing of a required report. These reports or records only include those which are signed in the capacity of a licensed health facility administrator; and

1110 (b) [acting in a manner inconsistent with the health and safety of the patients of the health facility in which he is the administrator] the administrator acting in a manner inconsistent with the health and safety of a patient of the health facility that employs the administrator.

1127 Section 20. Section **58-16a-305** is amended to read:

1128 **58-16a-305. License -- Exemptions.**

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

1119 (1) a person [who] that sells contact lenses on prescription [provided by a person] a person provides that is authorized under state law to practice either optometry or medicine and surgery if the person complies with Section 58-16a-801;

1122 (2) a person [who] that sells eyeglasses or spectacles as articles of merchandise or who fabricates them from a prescription if the person complies with Subsection 58-16a-801(2), and if the person:

1125 (a) does so in the ordinary course of trade from a permanently located and established place of business;

1127 (b) does not traffic or attempt to traffic upon assumed skill in testing the eye and adapting lenses according to the test;

1129 (c) does not duplicate, replace, or accept for replacement any ophthalmic lens, except in the case of an emergency;

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1131 (d) does not use in the testing of the eyes any lenses or instruments other than the lenses actually sold;
1133 and
1135 (e) does not give or offer eyeglasses or spectacles as premiums as defined in Section 13-26-2; and
1136 (3) a person [who] that fits contact lenses [under the following conditions] that:
1138 (a) [he-]has a current certification from both the American Board of Opticianry and the National
1139 Contact Lens Examiners;
1141 (b) [he-]does not give or offer contact lenses as premiums;
1143 (c) [he-]does not perform a refraction, over-refraction, or attempt to traffic upon assumed skill in testing
1145 the eye;
1147 (d) [he-]operates in the ordinary course of trade from a permanently located and established place of
1149 business;
1151 (e) [he-]performs the work involved in fitting contact lenses himself and does not delegate the contact
1153 lens fitting to any other individual who is not qualified under this Subsection (3);
1155 (f) [he-]does not use in the testing of the eye any lenses or instruments other than the lenses [he actually
1157 will sell] that will actually be sold;
1159 (g) [he-]provides services only to a patient who:
1161 (i) presents an unexpired contact lens prescription; or
1163 (ii) has had an eye examination within the prior six months [by] that an optometrist or ophthalmologist
1165 meeting the requirements under Section 58-16a-306 performs; and
1167 (h) [he-]maintains a copy of the patient's contact lens prescription for not less than seven years[.].
1169 (i) he enters into a written agreement with an optometrist or an ophthalmologist before July 1, 2000, to
1171 fit contact lenses prescribed by that optometrist or ophthalmologist;]
1173 (j) he fits contact lenses for at least two years under the direct supervision of the optometrist or
1175 ophthalmologist identified in Subsection (3)(i) before July 1, 2000, as documented in the written
1177 agreement; and]
1179 (k) the optometrist or ophthalmologist described in Subsection (3)(i):]
1181 (i) ensures that the final contact lens is accurate;]
1183 (ii) presents a written copy of the prescription to the person fitting the contact lens; and]
1185 (iii) ensures that a copy of the prescription is provided to the patient, except as provided in Section
1187 58-16a-306.]

1179 Section 21. Section **58-16a-502** is amended to read:

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1180 58-16a-502. Unprofessional conduct.

1169 "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

- 1169 (1) using or employing the services of an optometric assistant to assist a licensee in any manner not in accordance with:
 - 1171 (a) the generally recognized practices and standards of ethics of the profession; or
 - 1172 (b) applicable state law or division rule;
- 1173 (2) failure to refer a patient to an appropriate licensed practitioner when:
 - 1174 (a) the patient's condition does not respond to treatment; or
 - 1175 (b) the treatment is not within the scope of competence or licensure of the licensee;
- 1176 (3) providing confidential information regarding a patient to any third party who does not have a legal and professional ground for obtaining the information;
- 1178 (4) knowingly prescribing, selling, giving away, or administering any prescription drug unless:
 - 1180 (a) for a legitimate medical purpose;
 - 1181 (b) upon a proper diagnosis indicating the use of the drug in the amount prescribed or provided; and
 - 1183 (c) in compliance with Section 58-17b-309;
- 1184 (5) giving or receiving directly or indirectly any fee, commission, rebate, or other compensation for professional services not actually and personally rendered, except as part of a legal relationship within a lawful professional partnership, corporation, or association;
- 1188 (6) failure to transfer pertinent and necessary information from a patient's medical records to another optometrist or physician when [so requested by]the patient or [his] the patient's representative, as designated in writing, requests;
- 1191 (7) failure to provide a contact lens prescription to a person who person that sells contact lenses in accordance with Section 58-16a-306; or
- 1193 (8) falsely making an entry in, or altering, a medical record with the intent to conceal:
 - 1194 (a) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or
 - 1197 (b) conduct described in Subsections (1) through (7) or Subsection 58-1-501(1).

1211 Section 22. Section **58-16a-801** is amended to read:

1212 **58-16a-801. Contact lens and ophthalmic lens seller or provider.**

- 1201 (1) A person may sell or provide contact lenses if the person:
 - 1202 (a) does so in the ordinary course of trade from a permanently located and established place of business;

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1204 (b) does not perform refractions, over-refractions, or attempts to traffic upon assumed skill in testing the
1205 eye;

1206 (c) provides all contact lenses consistent with and in accordance with a valid contact lens prescription;

1207 (d) does not fit contact lenses;

1208 (e) provides a contact lens to a patient after:

1209 (i) receiving an unexpired verbal or written prescription; or

1210 (ii) sending a contact lens prescription verification to the prescribing optometrist or physician,
1211 regardless of whether the prescribing optometrist or physician responds to or confirms the
1212 verification, provided that:

1213 (A) the person has all of the information necessary to fill the prescription;

1214 (B) the prescribing optometrist or physician has not informed the person that the prescription has
1215 expired or is otherwise inaccurate prior to the person shipping or hand-delivering the contact lens to
1216 the patient;

1217 (C) the person confirms a valid, unexpired contact lens prescription for the patient if the person is aware
1218 that the patient provided inaccurate prescription information in [his] that patient's last order; and

1219 (D) the person informs the patient that the prescription has expired or that there is a medical problem
1220 associated with the prescription if the information is communicated by the prescribing optometrist
1221 or physician] prescribing optometrist or physician communicates the information to the person
1222 within 72 hours of the contact lens prescription verification being sent; and

1223 (f) maintains patient information, including the method and date of any prescription verification, for no
1224 less than seven years.

1225 (2)

1226 (a) A person may engage in the activities described in Subsection (2)(b), without a license under this
1227 title, if the person:

1228 (i) provides the ophthalmic lenses consistent with and in accordance with a prescription from a
1229 licensed physician or optometrist that is unexpired as provided in Subsection 58-16a-102(8)(b);

1230 (ii) dispenses the ophthalmic lenses within or from the state;

1231 (iii) does so in the ordinary course of trade from a permanently located and established place of
1232 business;

1233 (iv) does not perform refractions, over-refractions, or attempt to traffic upon assumed skill in
1234 licensed physician or optometrist testing of the eye; and

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1238 (v) complies with impact tolerance standards based on ANSI Z80.1-2010, American National
1239 Standard for Ophthalmics - Prescription Lenses.

1240 (b) In accordance with Subsection (2)(a), a person may:
1241 (i) sell, reproduce, or dispense ophthalmic lenses;
1242 (ii) fit or adjust ophthalmic lenses or frames;
1243 (iii) assist with the selection of frames for ophthalmic lenses;
1244 (iv) measure pupillary distance and interpret pupillary distance measurements; or
1245 (v) measure or interpret the reading segment height in bifocal, tri-focal, progressive, or multi-focal
lenses.

1247 (3) Nothing in this section may be construed as requiring a person to be licensed or certified in any way
under this or any another chapter of this title to sell contact lenses in accordance with Subsection
(1), or to sell ophthalmic lenses in accordance with Subsection (2).

1264 Section 23. Section **58-17b-201** is amended to read:

1265 **58-17b-201. Board -- Membership -- Qualifications -- Terms.**

1266 (1) There is created the Utah State Board of Pharmacy consisting of five pharmacists, one pharmacy
1267 technician, and one member of the general public.

1268 (a) The public member of the board shall be a Utah resident who:
1269 (i) is ~~21 years of age or older~~ at least 21 years old;
1270 (ii) has never been licensed to engage in the practice of pharmacy;
1271 (iii) has never been the spouse of a person licensed to engage in the practice of pharmacy;
1272 (iv) has never held any material financial interest in pharmacy practice; and
1273 (v) has never engaged in any activity directly related to the practice of pharmacy.

1274 (b) The licensed pharmacist and licensed pharmacy technician members of the board shall:
1275 (i) have been Utah residents continuously for at least three years;
1276 (ii) have at least five years experience in the practice of pharmacy in good standing with the division in
Utah after licensure; and
1277 (iii) maintain licensure in good standing to engage in the practice of pharmacy or practice as a
pharmacy technician in Utah for the duration of the appointment.

1278 (2) The board shall be appointed and serve in accordance with Section 58-1-201.

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(3) The duties and responsibilities of the board are in accordance with Sections 58-1-202 and 58-1-203, and as required under Section 58-37f-202 regarding the controlled substance database. In addition, the board shall designate an appropriate member on a permanent or rotating basis to:

1274 (a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

1276 (b) advise the division in its investigation of these complaints.

1277 (4) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

1280 (5) A board member may be removed in accordance with Subsection 58-1-201(2)(e) or upon one of the following grounds:

1282 (a) refusal or inability for any reason of a board member to perform [his-] the board member's duties as a member of the Board in an efficient, responsible, and professional manner;

1285 (b) misuse of appointment to obtain personal, pecuniary, or material gain or advantage for [himself] the board member or another through such appointment; or

1287 (c) violation of the laws governing the practice of pharmacy or Chapter 37, Utah Controlled Substances Act.

1302 Section 24. Section **58-17b-306** is amended to read:

58-17b-306. Qualifications for licensure as a pharmacy.

1291 (1) Each applicant for licensure under this section, except for those applying for a class D license, shall:

1293 (a) submit a written application in the form the division approves;

1294 (b) pay a fee [as determined by the department under] the department determines in accordance with Section 63J-1-504;

1296 (c) satisfy the division that the applicant, and each owner, officer, or manager of the applicant, has not engaged in any act, practice, or omission, which when considered with the duties and responsibilities of a licensee under this section indicates there is cause to believe that issuing a license to the applicant is inconsistent with the interest of the public's health, safety, or welfare;

1301 (d) demonstrate the licensee's operations will be in accordance with all federal, state, and local laws relating to the type of activity [engaged in by the licensee] that the licensee engages in, including regulations of the Federal Drug Enforcement Administration and Food and Drug Administration;

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(e) maintain operating standards [established by] the division determines by rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1308 (f)

(i) [for each pharmacy license, ensure that the pharmacist-in-charge, as defined by the division consents to, and completes, a criminal background check, described in Section 58-1-301.5] for each pharmacy license, ensure that the pharmacist-in-charge, or the pharmacy manager if the pharmacy is not required to have a pharmacist-in-charge, consents to and completes a criminal background check as described in Section 58-1-301.5;

1314 (ii) [meets-] meet any other standard related to the criminal background check described in Subsection (1)(f)(i), that the division [establishes] makes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

1317 (iii) [discloses-] disclose any criminal history the division requests on a form the division approves; and

1319 (g) acknowledge the division's authority to inspect the licensee's business premises [pursuant to] in accordance with Section 58-17b-103.

1321 (2) Each applicant applying for a class D license shall:

1322 (a) submit a written application in the form the division approves;

1323 (b) pay a fee as [determined by the department under] the department determines in accordance with Section 63J-1-504;

1325 (c) present to the division verification of licensure in the state where physically located and verification that such license is in good standing;

1327 (d) satisfy the division that the applicant and each of the applicant's pharmacy managers has not engaged in any act, practice, or omission, which when considered with the duties and responsibilities of a licensee under this section, indicates there is cause to believe that issuing a license to the applicant is inconsistent with the interest of the public's health, safety, or welfare;

1332 (e) for each pharmacy manager:

1333 (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

1335 (ii) meet any other standard related to the criminal background check described in Subsection (2)(e) (i), that the division [establishes] makes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

1338 (iii) disclose any criminal history the division requests on a form the division approves;

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(f) as the division requires by rule the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide a statement of the scope of pharmacy services that will be provided and a detailed description of the protocol[as described by rule by], which pharmacy care will be provided, including any collaborative practice arrangements with other health care practitioners;

1345 (g) sign an affidavit attesting that any healthcare practitioners employed by the applicant and physically located in Utah have the appropriate license issued by the division and in good standing;

1348 (h) sign an affidavit attesting that the applicant will abide by the pharmacy laws and regulations of the jurisdiction in which the pharmacy is located; and

1350 (i) if an applicant engages in compounding, submit the most recent inspection report:

1351 (i) conducted within two years before the application for licensure; and

1352 (ii)

1354 (A) conducted as part of the National Association of Boards of Pharmacy Verified Pharmacy Program; or

1357 (B) performed by the state licensing agency of the state in which the applicant is a resident and in accordance with the National Association of Boards of Pharmacy multistate inspection blueprint program.

1359 (3)

1367 (a) Each license issued under this section shall be associated with a single, specific address.

1367 (b) By rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall allow a licensee to update, by request to the division, the address associated with the licensee under Subsection (3)(a), to a new address if the licensee requests the change of address at least 90 days before the day on which the licensee begins operating at the new address.

1378 Section 25. Section **58-17b-308** is amended to read:

1379 **58-17b-308. Term of license -- Expiration -- Renewal.**

1367 (1)

1367 (a) Except as provided in Subsection (2), [each license issued under this chapter shall be issued in accordance with a two-year renewal cycle established by rule] the division shall issue a license for a term of two years as the division establishes by rule the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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1372 (b) ~~[A renewal period may be extended or shortened by as much as one year to maintain established renewal cycles or to change an established renewal cycle]~~ The division may extend or shorten a license term by up to one year to stagger renewals as the division determines by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1377 (c) ~~[Each license automatically expires on the expiration date shown on the license unless renewed by the licensee in accordance with Section 58-1-308]~~ A license expires on the expiration date shown on the license.

1380 (2) The duration of a pharmacy intern license may be no longer than:

1381 (a) ~~[one year]~~ two years for a license issued under Subsection 58-17b-304(6)(b); or

1382 (b) five years for a license issued under Subsection 58-17b-304(6)(a).

1383 (3) A pharmacy intern license issued under this chapter may not be renewed, but ~~[may be extended by~~ the division may extend the pharmacy intern license in collaboration with the board.

1386 (4) As a prerequisite for renewal of a class D pharmacy license of a pharmacy that engages in compounding, a licensee shall submit the most recent inspection report:

1388 (a) conducted within two years before the application for renewal; and

1389 (b)

1391 (i) conducted as part of the National Association of Boards of Pharmacy Verified Pharmacy Program; or

1391 (ii) performed by the state licensing agency of the state in which the applicant is a resident and in accordance with the National Association of Boards of Pharmacy multistate inspection blueprint program.

1407 Section 26. Section **58-17b-309** is amended to read:

1408 **58-17b-309. Exemptions from licensure.**

In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the acts or practices described in this section without being licensed under this chapter:

1399 (1) a person selling or providing contact lenses in accordance with Section 58-16a-801;

1400 (2) an animal shelter that:

1401 (a) under the indirect supervision of a veterinarian, stores, handles, or administers a drug used for ~~[euthanising]~~ euthanizing an animal; and

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- (b) under the indirect supervision of a veterinarian who is under contract with the animal shelter, stores, handles, or administers a rabies vaccine;
- 1405 (3) an overdose outreach provider, as defined in Section 26B-4-501, that obtains, stores, or furnishes an opiate antagonist in accordance with Title 26B, Chapter 4, Part 5, Treatment Access; and
- 1408 (4) a dispensing practitioner, as defined in Section 58-88-201, dispensing a drug under Chapter 88, Part 2, Dispensing Practice.

1423 Section 27. Section **58-17b-501** is amended to read:

58-17b-501. Unlawful conduct.

"Unlawful conduct" includes:

- 1413 (1) knowingly preventing or refusing to permit an authorized agent of the division to conduct an inspection [pursuant to] in accordance with Section 58-17b-103;
- 1415 (2) failing to deliver the license, permit, or certificate to the division upon demand, if [it] the license, permit, or certificate has been revoked, suspended, or refused;
- 1417 (3)
 - (a) using the title "pharmacist," "druggist," "pharmacy intern," "pharmacy technician," or a term having similar meaning, except by [a person] an individual who is licensed as a pharmacist, pharmacy intern, or pharmacy technician; or
 - (b) conducting or transacting business under a name that contains, as part of that name, the words "drugstore," "pharmacy," "drugs," "medicine store," "medicines," "drug shop," "apothecary," "prescriptions," or a term having a similar meaning, or in any manner advertising, otherwise describing, or referring to the place of the conducted business or profession, unless the place is a pharmacy issued a license by the division, except an establishment selling nonprescription drugs and supplies may display signs bearing the words "packaged drugs," "drug sundries," or "nonprescription drugs," and is not considered to be a pharmacy or drugstore by reason of the display;
- 1420 (4) buying, selling, causing to be sold, or offering for sale, a drug or device that bears, or the package bears or originally did bear, the inscription "sample," "not for resale," "for investigational or experimental use only," or other similar words, except when a cost is incurred in the bona fide acquisition of an investigational or experimental drug;
- 1429 (5) using to a person's own advantages or revealing to anyone other than the division, board, and its authorized representatives, or to the courts, when relevant to a judicial or administrative proceeding

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under this chapter, information acquired under authority of this chapter or concerning a method of process that is a trade secret;

1437 (6) procuring or attempting to procure a drug or to have someone else procure or attempt to procure a drug:

1439 (a) by fraud, deceit, misrepresentation, or subterfuge;

1440 (b) by forgery or alteration of a prescription or a written order;

1441 (c) by concealment of a material fact;

1442 (d) by use of a false statement in a prescription, chart, order, or report; or

1443 (e) by theft;

1444 (7) filling, refilling, or advertising the filling or refilling of prescriptions for a consumer or patient residing in this state if the person is not licensed:

1446 (a) under this chapter; or

1447 (b) in the state from which [he] the individual is dispensing;

1448 (8) requiring an employed pharmacist, pharmacy intern, pharmacy technician, or authorized supportive personnel to engage in conduct in violation of this chapter;

1450 (9) being in possession of a prescription drug for an unlawful purpose;

1451 (10) dispensing a prescription drug to a [person who] person that does not have a prescription from a practitioner, except as permitted under Title 26B, Chapter 4, Part 5, Treatment Access;

1454 (11) dispensing a prescription drug to a [person who] person that the person dispensing the drug knows or should know is attempting to obtain drugs by fraud or misrepresentation;

1456 (12) selling, dispensing, distributing, or otherwise trafficking in prescription drugs when not licensed to do so or when not exempted from licensure; and

1458 (13) a person using a prescription drug or controlled substance that was not lawfully prescribed for the person by a practitioner.

1473 Section 28. Section **58-17b-502** is amended to read:

58-17b-502. Unprofessional conduct.

1462 (1) "Unprofessional conduct" includes:

1463 (a) willfully deceiving or attempting to deceive the division, the board, or their agents as to any relevant matter regarding compliance under this chapter;

1465 (b) except as provided in Subsection (2):

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- (i) paying or offering rebates to practitioners or any other health care providers, or receiving or soliciting rebates from practitioners or any other health care provider; or
- 1469 (ii) paying, offering, receiving, or soliciting compensation in the form of a commission, bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care provider, for the purpose of obtaining referrals;
- 1472 (c) misbranding or adulteration of any drug or device or the sale, distribution, or dispensing of any outdated, misbranded, or adulterated drug or device;
- 1474 (d) engaging in the sale or purchase of drugs or devices that are samples or packages bearing the inscription "sample" or "not for resale" or similar words or phrases;
- 1476 (e) except as provided in Section 58-17b-503, accepting back and redistributing any unused drug, or a part of [it] the unused drug, after [it] the unused drug has left the premises of a pharmacy;
- 1479 (f) an act in violation of this chapter ~~[e]committed by~~ that a person commits for any form of compensation if the act is incidental to the person's professional activities, including the activities of a pharmacist, pharmacy intern, or pharmacy technician;
- 1482 (g) violating:
 - 1483 (i) the federal Controlled Substances Act, Title II, P.L. 91-513;
 - 1484 (ii) Title 58, Chapter 37, Utah Controlled Substances Act; or
 - 1485 (iii) rules or regulations adopted under either act;
- 1486 (h) requiring or permitting pharmacy interns or technicians to engage in activities outside the scope of practice for their respective license classifications, as defined in this chapter and division rules made in collaboration with the board, or beyond their scope of training and ability;
- 1490 (i) administering:
 - 1491 (i) without appropriate training, as ~~[defined by rule]~~ the division defines by rule the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - 1494 (ii) without a physician's order, when ~~[one is required by law]~~ the law requires a physician's order; [and] or
 - 1496 (iii) in conflict with a practitioner's written guidelines or written protocol for administering;
- 1498 (j) disclosing confidential patient information in violation of the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended, or other applicable law;

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- (k) engaging in the practice of pharmacy without a licensed pharmacist designated as the pharmacist-in-charge;
- 1503 (l) failing to report to the division any adverse action [taken by] that another licensing jurisdiction, government agency, law enforcement agency, or court takes for conduct that in substance would be considered unprofessional conduct under this section;
- 1506 (m) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage form which is [regularly and] commonly available from a manufacturer in quantities and strengths [prescribed by] a practitioner prescribes;
- 1509 (n) failing to act in accordance with Title 26B, Chapter 4, Part 5, Treatment Access, when dispensing a self-administered hormonal contraceptive under a standing order;
- 1511 (o) violating the requirements of Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, or Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or
- 1514 (p) falsely making an entry in, or altering, a medical record with the intent to conceal:
- 1515 (i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or
- 1518 (ii) conduct described in Subsections (1)(a) through (o) or Subsection 58-1-501(1).
- 1519 (2) Subsection (1)(b) does not apply to:
 - (a) giving or receiving a price discount based on purchase volume;
 - (b) passing along a pharmaceutical manufacturer's rebate; or
 - (c) providing compensation for services to a veterinarian.
- 1523 (3) "Unprofessional conduct" does not include:
 - (a) in accordance with
 - Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis when registered as a pharmacy medical provider, as that term is defined in Section 26B-4-201, providing pharmacy medical provider services in a medical cannabis pharmacy; or
 - 1528 (b) if a pharmacist reasonably believes that a prescription drug will have adverse or harmful effects on an individual and warns the individual of the potential effects, filling a prescription prescribed by a health care provider who:
 - (i) is operating within the health care provider's scope of practice; and
 - 1531 (ii) is deviating from a medical norm or established practice in accordance with Subsection 58-1-501(2) (b)(i).

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1534 (4) Notwithstanding Subsection (3), the division, in consultation with the board and in accordance with
Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for
a pharmacist described in Subsections (3)(a) and (b).

1550 Section 29. Section **58-17b-606** is amended to read:

1551 **58-17b-606. Restrictive drug formulary prohibited.**

1539 (1) As used in this section:

1540 (a) "Generic form" means a prescription drug that is available in generic form and has an A rating in the
United States Pharmacopeia and Drug Index.

1542 (b) "Legend drug" has the same meaning as prescription drug.

1543 (c) "Restrictive drug formulary" means a list of legend drugs, other than drugs for cosmetic purposes,
that [are prohibited by] the Department of Health and Human Services prohibits from dispensation,
but are approved by the Federal Food and Drug Administration.

1547 (2) A practitioner may prescribe legend drugs in accordance with this chapter that, in [his] the
practitioner's professional judgment and within the lawful scope of [his] the practitioner's practice,
[he] and that the practitioner considers appropriate for the diagnosis and treatment of [his] the
practitioner's patient.

1551 (3) Except as provided in Subsection (4), the Department of Health and Human Services may not
maintain a restrictive drug formulary that restricts a physician's ability to treat a patient with a
legend drug that [has been approved and designated as safe and effective by] the Federal Food and
Drug Administration approves and designates as safe and effective, except for drugs for cosmetic
purposes.

1556 (4) When a multisource legend drug is available in the generic form, the Department of Health and
Human Services may only reimburse for the generic form of the drug unless the treating physician
demonstrates to the Department of Health and Human Services a medical necessity for dispensing
the nongeneric, brand-name legend drug.

1560 (5) The Department of Health and Human Services pharmacists may override the generic mandate
provisions of Subsection (4) if a financial benefit will accrue to the state.

1562 (6) This section does not affect the state's ability to exercise the exclusion options available under the
Federal Omnibus Budget Reconciliation Act of 1990.

1577 Section 30. Section **58-17b-607** is amended to read:

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58-17b-607. Drug substitution is not the practice of medicine -- Other causes of action not denied.

1567 (1) The substitution of any drug by a licensed pharmacist or pharmacy intern under this chapter does not constitute the practice of medicine.

1569 (2) This chapter may not be construed to deny any individual a cause of action against a pharmacist, pharmacy intern, or [his] the pharmacist's or pharmacy intern's employer for violations of this chapter, including failure to observe accepted standards of care of the pharmaceutical profession.

1586 Section 31. Section **58-17b-615** is amended to read:

58-17b-615. Sale of prescription drugs not in normal course of business.

1576 (1) As used in this section, "seller" means a person selling prescription drugs or devices owned or lawfully controlled by [him] the person, or a party arranging for the sale of prescription drugs or devices owned by or lawfully controlled by another person, including salvage companies that acquire prescription drugs and devices from, or act as an agent or representative for freight haulers and forwarders.

1581 (2) Any sale of prescription drugs in bankruptcy, at public auction, at freight liquidation sales, or any other sale of prescription drugs other than in the normal course of business or practice shall comply with the following:

1584 (a) a seller of prescription drugs shall be licensed by the division as a prescription drug distributor or wholesaler with a regular license, or a temporary license for that sale only, before engaging in the sale of any prescription drugs; and

1587 (b) a person licensed as a pharmacy under this chapter may not acquire by purchase or other means prescription drugs or devices outside the normal course of business within the meaning of this section unless:

1590 (i) the prescription drugs or devices are accompanied by a certificate signed by a licensed pharmacist employed or retained by the seller, as required in Subsection (3), attesting that the prescription drugs or devices have not been adversely affected by circumstances relating to their transportation, storage, or distribution; and

1595 (ii) the licensee acquiring the prescription drugs or devices employs a qualified pharmacist who is responsible for determining that all prescription drugs being acquired do not pose any threat to the public welfare if introduced into commerce than would be presented by the acquisition of those

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prescription drugs and devices in the normal course of business through established channels of prescription drug distribution.

1601 (3) A seller of prescription drugs outside the normal course of business shall retain the services of a qualified pharmacist licensed to practice in the state to serve as either an employee or independent consultant to determine if the:

1604 (a) prescription drugs and devices to be offered for sale have been transported, stored, and distributed in accordance with applicable federal, state, and local laws; and

1606 (b) condition of the prescription drugs and devices to be offered for sale has been adversely affected by the circumstances of transportation, storage, or distribution.

1608 (4) The written notice provided to the division prior to the sale of any prescription drugs or devices under this section shall contain written verification of the pharmacist retained by the seller, stating the drugs or devices offered for sale have not been adversely affected by the circumstances of transportation, storage, or distribution.

1612 (5) A pharmacist employed by a seller under Subsection (3) or a pharmacy, distributor, or wholesaler for whom that pharmacist may be employed or in which [he] that pharmacist may have an interest, may not purchase any prescription drugs or devices from the seller for which that pharmacist has provided verification regarding the drugs or devices.

1629 Section 32. Section **58-22-103** is amended to read:

58-22-103. Education and enforcement fund.

1618 (1) There is created an expendable special revenue fund known as the "Professional Engineer, Professional Structural Engineer, and Professional Land Surveyor Education and Enforcement Fund."

1621 (2) The fund consists of money from:

1622 (a) a surcharge fee placed on initial, renewal, and reinstatement licensure fees under this chapter in accordance with the following:

1624 (i) [the surcharge fee shall be established by] the department shall determine the surcharge in accordance with Section 63J-1-504; and

1626 (ii) the surcharge fee shall not exceed 50% of the respective initial, renewal, or reinstatement licensure fee; and

1628 (b) administrative penalties collected [pursuant to] in accordance with this chapter.

1629 (3) The fund shall earn interest and all interest earned on fund money shall be deposited into the fund.

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1631 (4) The director may, with concurrence of the board, make distributions from the fund for the following
1632 purposes:
1633 (a) education and training of licensees under this chapter;
1634 (b) education and training of the public or other interested persons in matters concerning engineering,
1635 structural engineering, and land surveying laws and practices; and
1636 (c) enforcement of this chapter by:
1637 (i) investigating unprofessional or unlawful conduct; and
1638 (ii) providing legal representation to the division when the division takes legal action against a person
1639 engaging in unprofessional or unlawful conduct.

1640 (5) If the balance in the fund exceeds ~~[\$100,000]~~ \$200,000 at the close of any fiscal year, the excess
1641 shall be transferred to the General Fund.

1642 (6) The division shall report annually to the appropriate appropriations subcommittee of the Legislature
1643 concerning the fund.

1644 Section 33. Section **58-24b-201** is amended to read:

1645 **58-24b-201. Physical and Occupational Therapy Licensing Board -- Creation -- Membership
-- Duties.**

1646 (1) There is created the ~~Physical Therapies Licensing Board~~ Physical and Occupational Therapy
1647 Licensing Board, consisting of:
1648 (a) three licensed physical therapists;
1649 (b) one physical therapist assistant;
1650 (c) two licensed occupational therapists;
1651 (d) one occupational therapy assistant; and
1652 (e) one member of the general public.

1653 (2) Members of the board shall be appointed and serve in accordance with Section 58-1-201.

1654 (3) The duties and responsibilities of the board are described in Subsection (4) and Sections 58-1-201
1655 through 58-1-203 with respect to this chapter or Chapter 42a, Occupational Therapy Practice Act.

1656 (4) The board shall designate a member of the board, on a permanent or rotating basis, to:
1657 (a) assist the division in reviewing complaints concerning the conduct of an individual licensed under
1658 this chapter or Chapter 42a, Occupational Therapy Practice Act; and
1659 (b) advise the division during the division's investigation of the complaints described in Subsection (4)
1660 (a).

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1663 (5) A board member who has reviewed a complaint or been involved in an investigation under Subsection (4) is disqualified from participating in an adjudicative proceeding relating to the complaint or investigation.

1679 Section 34. Section **58-26a-302** is amended to read:

1680 **58-26a-302. Qualifications for licensure and registration -- Licensure by endorsement.**

1669 (1) Each applicant for licensure under this chapter as a certified public accountant shall:

1670 (a) submit an application in a form the division approves by rule;

1671 (b) pay a fee [determined by] the department [under] determines in accordance with Section 63J-1-504;

1673 (c) submit a certified transcript of credits from an accredited institution acceptable to the board showing:

1675 (i) successful completion of:

1676 (A) [a bachelor's degree, master's degree,] a bachelor's degree or a master's degree in accounting at a college or university approved by the board; or

1678 (B) [the equivalent with] at least a bachelor's degree with a concentration [of] in accounting and business as the {division} division defines by rule the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, at a college or university [approved by] the board approves; and

1682 (ii) compliance with any other education requirements [established by rule by] the division makes by rule made in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1685 (d) submit evidence of accounting experience in a form the division approves by rule {made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, }[of at least:] made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1688 (i) one year of accounting experience for an individual with a master's degree{f} or the equivalent with a concentration of accounting and business{}}; or

1690 (ii) two years of accounting experience for an individual with a bachelor's degree{f} or the equivalent with a concentration of accounting and business{}};

1692 (e) submit evidence of having successfully completed the qualifying examinations in accordance with Section 58-26a-306; and

1694 (f) submit to an interview [by the board, if requested,] as the board may request for the purpose of examining the applicant's competence and qualifications for licensure.

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1696 (2)

1699 (a) The division may issue a license under this chapter to an individual who holds a license as a certified
1700 public accountant issued by another state if the applicant for licensure by endorsement:
1702 (i) submits an application in a form the division approves by rule;
1704 (ii) pays a fee [determined by] the department [under] determines in accordance with Section
1705 63J-1-504;
1706 (iii) submits to an interview [by the board, if requested,] as the board may request for the purpose of
1708 examining the applicant's competence and qualifications for licensure; and
1710 (iv)

1712 (A)

1714 (I) shows evidence of having passed the qualifying examinations; and
1716 (II)

1718 (Aa) meets the requirements for licensure that were applicable in this state at the time of the issuance
1720 of the applicant's license by the state from which the original licensure by satisfactorily passing the
1722 AICPA Uniform CPA Examination was issued; or
1724 (Bb) had four years of professional experience after passing the AICPA Uniform CPA Examination
1726 upon which the original license was based, within the 10 years immediately preceding the
1728 application for licensure by endorsement; or
1730 (B) shows evidence that the applicant's education, examination record, and experience are substantially
1732 equivalent to the requirements of Subsection (1), as [provided by rule] the division requires by rule
1734 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1736 (b) This Subsection (2) applies only to an individual seeking to obtain a license issued by this state
1738 and does not apply to an individual practicing as a certified public accountant in the state under
1740 Subsection 58-26a-305(1).

1742 (3)

1744 (a) Each applicant for registration as a [Certified Public Accountant] certified public accountant firm
1746 shall:
1748 (i) submit an application in a form the division approves by rule;
1750 (ii) pay a fee [determined by] the department [under] determines in accordance with Section
1752 63J-1-504;

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(iii) have, notwithstanding any other provision of law, a simple majority of the ownership of the [Certified Public Accountant] certified public accountant firm, in terms of financial interests and voting rights of all partners, officers, shareholders, members, or managers, held by individuals who are certified public accountants, licensed under this chapter or another state of the United States of America, and the partners, officers, shareholders, members, or managers, whose principal place of business is in this state, and who perform professional services in this state hold a valid license issued under Subsection 58-26a-301(2) or the corresponding provisions of prior law; and

1735 (iv) meet any other requirements [established by rule by] the division makes in collaboration with the board, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1738 (b) Each separate location of a qualified business entity within the state seeking registration as a [Certified Public Accountant] certified public accountant firm shall register separately.

1741 (c) A [Certified Public Accountant] certified public accountant firm may include owners who are not licensed under this chapter as outlined in Subsection (3)(a)(iii), provided that:

1744 (i) the firm designates a licensee of this state who is responsible for the proper registration of the [Certified Public Accountant] certified public accountant firm and identifies that individual to the division; and

1747 (ii) all nonlicensed owners are active individual participants in the [CPA] certified public accounting firm.

1762 Section 35. Section 58-31b-303 is amended to read:

1763 **58-31b-303. Qualifications for licensure -- Graduates of nonapproved nursing programs.**
An applicant for licensure as a practical nurse or registered nurse who is a graduate of a nursing education program not approved by the division in collaboration with the board must comply with the requirements of this section.

1768 (1) An applicant for licensure as a licensed practical nurse shall:

1769 (a) meet all requirements of Subsection 58-31b-302(2), except Subsection 58-31b-302(2)(e); and

1771 (b) produce evidence acceptable to the division and the board that the nursing education program completed by the applicant is equivalent to the minimum standards established by the division in collaboration with the board for an approved licensed practical nursing education program.

1775 (2) An applicant for licensure as a registered nurse shall:

1776 (a) meet all requirements of Subsection 58-31b-302(4), except Subsection 58-31b-302(4)(e); and

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1778 (b)

(i) pass [the Commission on Graduates of Foreign Nursing Schools (CGFNS) Examination] an examination the division determines by rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, demonstrating knowledge of the practice, skills, theory, and professional ethics related to nursing; or

1783 (ii) produce evidence acceptable to the division and the board that the applicant is currently licensed as a registered nurse in one of the states, territories, or the District of Columbia of the United States or in Canada and has passed the NCLEX-RN examination in English.

1787 Section 36. Section **58-31b-702** is amended to read:

1788 **58-31b-702. Reporting of disciplinary action -- Immunity from liability.**

1752 (1) A licensed health care facility or organization or a professional society of nurses in the state that takes disciplinary action against [a person] an individual licensed under this chapter relating to any of the following, shall report the action in writing to the division within 30 days after the action is taken:

1756 (a) that [person's] individual's professional acts or omissions as a licensed nurse;

1757 (b) that [person's] individual's nursing competence or ability to practice nursing safely; or

1758 (c) that [person's] individual's use of alcohol or drugs in an unlawful manner or to the extent the [person] individual is impaired in [his] the ability to practice nursing safely.

1760 (2) Any person or organization furnishing information in accordance with this section is immune from liability to the extent that the information is furnished in good faith and without malice.

1801 Section 37. Section **58-37-2** is amended to read:

1802 **58-37-2. Definitions.**

1765 (1) As used in this chapter:

1766 (a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

1769 (i) a practitioner or, in the practitioner's presence, by the practitioner's authorized agent; or

1771 (ii) the patient or research subject at the direction and in the presence of the practitioner.

1773 (b) "Agent" means an authorized [person who] person that acts on behalf of or at the direction of a manufacturer, distributor, or practitioner but does not include a motor carrier, public warehouseman, or employee of any of them.

1776

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- (c) "Consumption" means ingesting or having any measurable amount of a controlled substance in a person's body, but this Subsection (1)(c) does not include the metabolite of a controlled substance.
- 1779 (d) "Continuing criminal enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or groups of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities created or maintained for the purpose of engaging in conduct which constitutes the commission of episodes of activity made unlawful by this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise.
- 1791 (e) "Control" means to add, remove, or change the placement of a drug, substance, or immediate precursor under Section 58-37-3.
- 1793 (f)
 - (i) "Controlled substance" means a drug or substance:
 - 1794 (A) included in Schedules I, II, III, IV, or V of Section 58-37-4;
 - 1795 (B) included in Schedules I, II, III, IV, or V of the federal Controlled Substances Act, Title II, P.L. 91-513;
 - 1797 (C) that is a controlled substance analog; or
 - 1798 (D) listed in Section 58-37-4.2.
 - (ii) "Controlled substance" does not include:
 - 1800 (A) distilled spirits, wine, or malt beverages, as those terms are defined in Title 32B, Alcoholic Beverage Control Act;
 - 1802 (B) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human or other animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription; or
 - 1807 (C) dietary supplements, vitamins, minerals, herbs, or other similar substances including concentrates or extracts, which:
 - 1809 (I) are not otherwise regulated by law; and

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1810 (II) may contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules adopted [pursuant to] in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1813 (g)

1814 (i) "Controlled substance analog" means:

1818 (A) a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in Schedules I and II of Section 58-37-4, a substance listed in Section 58-37-4.2, or in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513;

1818 (B) a substance that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of controlled substances listed in Schedules I and II of Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513; or

1824 (C) A substance that, with respect to a particular individual, is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of controlled substances listed in Schedules I and II of Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513.

1831 (ii) "Controlled substance analog" does not include:

1832 (A) a controlled substance currently scheduled in Schedules I through V of Section 58-37-4;

1834 (B) a substance for which there is an approved new drug application;

1835 (C) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355, to the extent the conduct with respect to the substance is permitted by the exemption;

1839 (D) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance;

1841 (E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in [man] humans or other animals, which contains ephedrine, pseudoephedrine,

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norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription; or

1846 (F) dietary supplements, vitamins, minerals, herbs, or other similar substances including concentrates or extracts, which are not otherwise regulated by law, which may contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules adopted [pursuant to] in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1851 (h)

(i) "Conviction" means a determination of guilt by verdict, whether jury or bench, or plea, whether guilty or no contest, for any offense proscribed by:

1853 (A) this chapter;

1854 (B) Chapter 37a, Utah Drug Paraphernalia Act;

1855 (C) Chapter 37b, Imitation Controlled Substances Act;

1856 (D) Chapter 37c, Utah Controlled Substance Precursor Act; or

1857 (E) Chapter 37d, Clandestine Drug Lab Act; or

1858 (ii) for any offense under the laws of the United States and any other state which, if committed in this state, would be an offense under:

1860 (A) this chapter;

1861 (B) Chapter 37a, Utah Drug Paraphernalia Act;

1862 (C) Chapter 37b, Imitation Controlled Substances Act;

1863 (D) Chapter 37c, Utah Controlled Substance Precursor Act; or

1864 (E) Chapter 37d, Clandestine Drug Lab Act.

1865 (i) "Counterfeit substance" means:

1866 (i) any controlled substance or container or labeling of any controlled substance that:

1867 (A) without authorization bears the trademark, trade name, or other identifying mark, imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser other than the person ~~[or persons who]~~ that in fact manufactured, distributed, or dispensed the substance which falsely purports to be a controlled substance distributed by any other manufacturer, distributor, or dispenser; and

1873 (B) a reasonable person would believe to be a controlled substance distributed by an authorized manufacturer, distributor, or dispenser based on the appearance of the substance as described under Subsection (1)(i)(i)(A) or the appearance of the container of that controlled substance; or

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1877 (ii) any substance other than under Subsection (1)(i)(i) that:

1878 (A) is falsely represented to be any legally or illegally manufactured controlled substance; and

1880 (B) a reasonable person would believe to be a legal or illegal controlled substance.

1881 (j) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a controlled substance or a listed chemical, whether or not an agency relationship exists.

1883 (k) "Department" means the Department of Commerce.

1884 (l) "Depressant or stimulant substance" means:

1885 (i) a drug which contains any quantity of barbituric acid or any of the salts of barbituric acid;

1887 (ii) a drug which contains any quantity of:

1888 (A) amphetamine or any of its optical isomers;

1889 (B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or

1890 (C) any substance which the Secretary of Health and Human Services or the Attorney General of the United States after investigation has found and by regulation designated habit-forming because of its stimulant effect on the central nervous system;

1894 (iii) lysergic acid diethylamide; or

1895 (iv) any drug which contains any quantity of a substance which the Secretary of Health and Human Services or the Attorney General of the United States after investigation has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

1900 (m) "Dispense" means the delivery of a controlled substance by a pharmacist to an ultimate user [pursuant to] in accordance with the lawful order or prescription of a practitioner, and includes distributing to, leaving with, giving away, or disposing of that substance as well as the packaging, labeling, or compounding necessary to prepare the substance for delivery.

1905 (n) "Dispenser" means a pharmacist who dispenses a controlled substance.

1906 (o) "Distribute" means to deliver other than by administering or dispensing a controlled substance or a listed chemical.

1908 (p) "Distributor" means a [person who] person that distributes controlled substances.

1909 (q) "Division" means the Division of Professional Licensing created in Section 58-1-103.

1910 (r)

1911 (i) "Drug" means:

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(A) a substance recognized in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

1916 (B) a substance that is required by any applicable federal or state law or rule to be dispensed by prescription only or is restricted to administration by practitioners only;

1919 (C) a substance other than food intended to affect the structure or any function of the body of humans or other animals; and

1921 (D) substances intended for use as a component of any substance specified in Subsections (1)(r)(i) (A), (B), and (C).

1923 (ii) "Drug" does not include dietary supplements.

1924 (iii) "Drug" includes a food intended for human consumption that intentionally contains a vaccine or vaccine material as provided in Section 4-5-107.

1926 (s) "Drug dependent person" means any individual who unlawfully and habitually uses any controlled substance to endanger the public morals, health, safety, or welfare, or who is so dependent upon the use of controlled substances as to have lost the power of self-control with reference to the individual's dependency.

1930 (t)

1931 (i) "Food" means:

1933 (A) any nutrient or substance of plant, mineral, or animal origin other than a drug as specified in this chapter, and normally ingested by human beings; and

(B) foods for special dietary uses as exist by reason of a physical, physiological, pathological, or other condition including the conditions of disease, convalescence, pregnancy, lactation, allergy, hypersensitivity to food, underweight, and overweight; uses for supplying a particular dietary need which exist by reason of age including the ages of infancy and childbirth, and also uses for supplementing and for fortifying the ordinary or unusual diet with any vitamin, mineral, or other dietary property for use of a food.

1940 (ii) Any particular use of a food is a special dietary use regardless of the nutritional purposes.

1942 (u) "Immediate precursor" means a substance which the Attorney General of the United States has found to be, and by regulation designated as being, the principal compound used or produced primarily for use in the manufacture of a controlled substance, or which is an immediate chemical

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intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

- 1948 (v) "Indian" means a member of an Indian tribe.
- 1949 (w) "Indian religion" means a religion:
 - 1950 (i) the origin and interpretation of which is from within a traditional Indian culture or community; and
 - 1952 (ii) that is practiced by Indians.
- 1953 (x) "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Alaska Native village, which is legally recognized as eligible for and is consistent with the special programs, services, and entitlements provided by the United States to Indians because of their status as Indians.
- 1958 (y) "Manufacture" means the production, preparation, propagation, compounding, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis.
- 1962 (z) "Manufacturer" includes any person who person that packages, repackages, or labels any container of any controlled substance, except pharmacists who dispense or compound prescription orders for delivery to the ultimate consumer.
- 1965 (aa)
 - (i) "Marijuana" means all species of the genus cannabis and all parts of the genus, whether growing or not, including:
 - 1967 (A) seeds;
 - 1968 (B) resin extracted from any part of the plant, including the resin extracted from the mature stalks;
 - 1970 (C) every compound, manufacture, salt, derivative, mixture, or preparation of the plant, seeds, or resin;
 - 1972 (D) any synthetic equivalents of the substances contained in the plant cannabis sativa or any other species of the genus cannabis which are chemically indistinguishable and pharmacologically active; and
 - 1975 (E) any component part or cannabinoid extracted or isolated from the plant, including extracted or isolated tetrahydrocannabinols.
 - 1977 (ii) "Marijuana" does not include:
 - 1978 (A) the mature stalks of the plant;

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1979 (B) fiber produced from the stalks;

1980 (C) oil or cake made from the seeds of the plant;

1981 (D) except as provided in Subsection (1)(aa)(i), any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil or cake;

1984 (E) the sterilized seed of the plant which is incapable of germination;

1985 (F) any compound, mixture, or preparation approved by the federal Food and Drug Administration under the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq. that is not listed in a schedule of controlled substances in Section 58-37-4 or in the federal Controlled Substances Act, Title II, P.L. 91-513; or

1990 (G) transportable industrial hemp concentrate as that term is defined in Section 4-41-102.

1992 (bb) "Money" means officially issued coin and currency of the United States or any foreign country.

1994 (cc) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

1997 (i) opium, coca leaves, and opiates;

1998 (ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;

2000 (iii) opium poppy and poppy straw; or

2001 (iv) a substance, and any compound, manufacture, salt, derivative, or preparation of the substance, which is chemically identical with any of the substances referred to in Subsection (1)(cc)(i), (ii), or (iii), except narcotic drug does not include decocainized coca leaves or extracts of coca leaves which do not contain cocaine or ecgonine.

2006 (dd) "Negotiable instrument" means documents, containing an unconditional promise to pay a sum of money, which are legally transferable to another party by endorsement or delivery.

2009 (ee) "Opiate" means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability.

2012 (ff) "Opium poppy" means the plant of the species *papaver somniferum* L., except the seeds of the plant.

2014 (gg) "Person" means any corporation, association, partnership, trust, other institution or entity or one or more individuals.

2016 (hh) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

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2017 (ii) "Possession" or "use" means the joint or individual ownership, control, occupancy, holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection, or consumption, as distinguished from distribution, of controlled substances and includes individual, joint, or group possession or use of controlled substances. For a person to be a possessor or user of a controlled substance, it is not required that the person be shown to have individually possessed, used, or controlled the substance, but it is sufficient if it is shown that the person jointly participated with one or more persons in the use, possession, or control of any substances with knowledge that the activity was occurring, or the controlled substance is found in a place or under circumstances indicating that the person had the ability and the intent to exercise dominion and control over the controlled substance.

2028 (jj) "Practitioner" means a physician, dentist, naturopathic physician, veterinarian, pharmacist, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis a controlled substance in the course of professional practice or research in this state.

2033 (kk) "Prescribe" means to issue a prescription:

2034 (i) orally or in writing; or

2035 (ii) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

2037 (ll) "Prescription" means an order issued:

2038 (i) by a licensed practitioner, in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and

2040 (ii) for a controlled substance or other prescription drug or device for use by a patient or an animal.

2042 (mm) "Production" means the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

2044 (nn) "Securities" means any stocks, bonds, notes, or other evidences of debt or of property.

2046 (oo) "State" means the state of Utah.

2047 (pp) "Ultimate user" means [any person who] a person that lawfully possesses a controlled substance for the person's own use, for the use of a member of the person's household, or for administration to an animal owned by the person or a member of the person's household.

2051 (2) If a term used in this chapter is not defined, the definition and terms of Title 76, Utah Criminal Code, shall apply.

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2091 Section 38. Section **58-37-10** is amended to read:

2092 **58-37-10. Search warrants -- Administrative inspection warrants -- Inspections and seizures
of property without warrant.**

2056 (1) Search warrants relating to offenses involving controlled substances may be authorized [pursuant] in
accordance with to the Utah Rules of Criminal Procedure.

2058 (2) Issuance and execution of administrative inspection warrants shall be as follows:

2059 (a)

2060 (i) [Any] any judge or magistrate of this state [within his] with jurisdiction upon proper oath or
affirmation showing probable cause, may issue [warrants] a warrant for the purpose of conducting
an administrative [inspections] inspection authorized by this act or regulations thereunder and
seizures of property appropriate to such [inspections.] an inspection; and

2064 (ii) [Probable] probable cause for purposes of this act exists upon showing a valid public interest in the
effective enforcement of the act or rules promulgated thereunder sufficient to justify administrative
inspection of the area, premises, building, or conveyance in the circumstances specified in the
application for the warrant[.];

2069 (b)

2070 (i) [A-] a warrant shall issue only upon an affidavit of an officer or employee duly designated and
having knowledge of the facts alleged sworn to before a judge or magistrate which establish the
grounds for issuing the warrant[.];

2072 (ii) [If] if the judge or magistrate is satisfied that grounds for the application exist or that there is
probable cause to believe [they] that grounds for the application exist, [he] the judge or magistrate
shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the
purpose of the inspection, and if appropriate, the type of property to be inspected[, if any.] ; and

2077 (iii) [The] the warrant shall:

2078 [(i)] (A) state the grounds for [its] the warrant's issuance and the name of each [person] individual
whose affidavit has been taken to support [it] the warrant;

2080 [(ii)] (B) be directed to a person authorized by Section 58-37-9 of this act to execute [it] the warrant;

2082 [(iii)] (C) command the person to whom [it] the warrant is directed to inspect the area, premises,
building, or conveyance identified for the purpose specified and if appropriate, direct the seizure of
the property [specified] the warrant specifies;

2085 [(iv)] (D) identify the item or types of property to be seized, if any; and

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2086 [v] (E) direct that [it] the warrant be served during normal business hours and designate the judge or magistrate to whom [it] the warrant shall be returned[.] ;

2088 (c)

(i) [A] a warrant issued [~~pursuant to~~] in accordance with this section [~~must~~] shall be executed and returned within 10 days after [its] the warrant's date unless, upon a showing of a need for additional time, the court instructs otherwise in the warrant[.] ;

2091 (ii) [H] if property is seized [~~pursuant to~~] in accordance with a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or leave the copy of the warrant and a receipt for the property taken at the place [where] from which the property was taken[.] ;

2096 (iii) [Return] return of the warrant shall be made promptly and be accompanied by a written inventory of any property taken[.] ;

2098 (iv) [The] the inventory shall be made in the presence of the [person] individual executing the warrant and of the [person] individual from whose possession or premises the property was taken, if [they are] that individual is present, or in the presence of at least one credible [person] individual other than the [person] executing the warrant[.] ; and

2103 (v) [A] a copy of the inventory shall be delivered to the [person] individual from whom or from whose premises the property was taken and to the applicant for the warrant[.] ;

2106 (d) [The] the judge or magistrate who [issued] issues the warrant under this section shall attach a copy of the return and all other papers to the warrant and file [them] the papers and warrant with the court.

2109 (3) The department is authorized to make administrative inspections of controlled premises in accordance with the following provisions:

2111 (a) For purposes of this section only, "controlled premises" means:

2112 (i) [Plaees] places where persons licensed or exempted from licensing requirements under this act are required to keep records.

2114 (ii) [Plaees] places including factories, warehouses, establishments, and conveyances where persons licensed or exempted from licensing requirements are permitted to possess, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.

2118 (b) When authorized by an administrative inspection warrant a law enforcement officer or employee designated in Section 58-37-9, upon presenting the warrant and appropriate credentials to the owner,

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operator, or agent in charge, has the right to enter controlled premises for the purpose of conducting an administrative inspection.

2122 (c) When authorized by an administrative inspection warrant, a law enforcement officer or employee designated in Section 58-37-9 has the right:

2124 (i) [To] to inspect and copy records required by this chapter.

2125 (ii) [To] to inspect within reasonable limits and a reasonable manner, the controlled premises and all pertinent equipment, finished and unfinished material, containers, and labeling found, and except as provided in Subsection (3)(e), all other things including records, files, papers, processes, controls, and facilities subject to regulation and control by this chapter or by rules promulgated by the department.

2130 (iii) [To] to inventory and take stock of any controlled substance and obtain samples of any substance.

2132 (d) This section shall not be construed to prevent the inspection of books and records without a warrant [pursuant to] in accordance with an administrative subpoena issued by a court or the department nor shall [it] this section be construed to prevent entries and administrative inspections including seizures of property without a warrant:

2136 (i) with the consent of the owner, operator, or agent in charge of the controlled premises;

2138 (ii) in situations presenting imminent danger to health or safety;

2139 (iii) in situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes [it] obtaining a warrant impracticable[to obtain a warrant];

2142 (iv) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; and

2144 (v) in all other situations where a warrant is not constitutionally required.

2145 (e) No inspection authorized by this section shall extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator, or agent in charge of the controlled premises consents in writing.

2186 Section 39. Section **58-37c-8** is amended to read:

58-37c-8. License -- Exceptions from licensure or regulation.

2150 (1) A person engaged in a regulated transaction under this chapter shall hold a controlled substance precursor license issued under Section 58-37c-7, unless excepted from licensure under this chapter.

2153 (2) The division shall:

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- (a) establish the form of application for a license, the requirements for licensure, and fees for initial licensure and renewal; and
- (b) identify required information to be contained in the application as a condition of licensure.

2156 (3) A practitioner who holds a Utah Controlled Substance License and a Controlled Substance

2158 Registration issued by the Drug Enforcement Administration of the [U.S.] United States [Government] government is excepted from licensure under this chapter.

2161 (4) The purchase, sale, transfer, furnishing, or receipt of a drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in [man] humans or other animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine, if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription [pursuant to] in accordance with the federal Food, Drug and Cosmetic Act, 21 USC, Sec. 301 et seq., or regulations adopted under that act, are excepted from licensure, reporting, and recordkeeping under this chapter, except that products containing ephedrine, pseudoephedrine, or phenylpropanolamine are subject to Section 58-37c-20.5.

2170 (5) The purchase, sale, transfer, receipt, or manufacture of dietary supplements, vitamins, minerals, herbs, or other similar substances, including concentrates or extracts, which are not otherwise prohibited by law, and which may contain naturally occurring amounts of chemicals or substances listed in this chapter, or in rules adopted [pursuant to] in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, are exempt from licensure under this chapter.

2176 (6) A purchaser of two ounces or less of crystal iodine in a single transaction is not required to be licensed as a regulated purchaser if the transaction complies with Section 58-37c-18.

2178 (7) The purchase, sale, transfer, receipt, or manufacture of a product that contains a precursor chemical listed in Subsection 58-37c-3(1)(ff) or (gg) and that is not intended for human consumption is exempt from licensure or regulation and is not subject to criminal penalties under this chapter.

2220 Section 40. Section **58-37c-17** is amended to read:

2221 **58-37c-17. Inspection authority.**

For the purpose of inspecting, copying, and auditing records and reports required under this chapter and rules adopted pursuant thereto, and for the purpose of inspecting and auditing inventories of listed controlled substance precursors, the director, or [his-] the director's authorized agent, and law enforcement personnel of any federal, state, or local law enforcement agency is authorized to enter the premises of regulated distributors and regulated

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2228 purchasers during normal business hours to conduct administrative inspections.

2229 Section 41. Section **58-37f-301** is amended to read:

2192 **58-37f-301. Access to database.**

2194 (1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
2196 Rulemaking Act, to:
2198 (a) effectively enforce the limitations on access to the database as described in this part; and
2199 (b) establish standards and procedures to ensure accurate identification of individuals requesting
2200 information or receiving information without request from the database.

2202 (2) The division shall make information in the database and information obtained from other state or
2204 federal prescription monitoring programs by means of the database available only to the following
2206 individuals, in accordance with the requirements of this chapter and division rules:

2208 (a) (i) personnel of the division specifically assigned to conduct investigations related to controlled
2209 substance laws under the jurisdiction of the division; and
2211 (ii) the following law enforcement officers, but the division may only provide nonidentifying
2213 information, limited to gender, year of birth, and postal ZIP code, regarding individuals for whom a
2215 controlled substance has been prescribed or to whom a controlled substance has been dispensed:
2217 (A) a law enforcement agency officer who is engaged in a joint investigation with the division; and
2219 (B) a law enforcement agency officer to whom the division has referred a suspected criminal violation
2221 of controlled substance laws;

2223 (b) authorized division personnel engaged in analysis of controlled substance prescription information
2225 as a part of the assigned duties and responsibilities of their employment;

2227 (c) a board member if:
2229 (i) the board member is assigned to monitor a licensee on probation; and
2231 (ii) the board member is limited to obtaining information from the database regarding the specific
2233 licensee on probation;

2235 (d) a person the division authorizes to obtain that information on behalf of the Utah Professionals
2237 Health Program established in Subsection 58-4a-103(1) if:
2239 (i) the person the division authorizes is limited to obtaining information from the database regarding the
2241 [person whose] individual whose conduct is the subject of the division's consideration; and

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- (ii) the conduct that is the subject of the division's consideration includes a violation or a potential violation of Chapter 37, Utah Controlled Substances Act, or another relevant violation or potential violation under this title;
- 2227 (e) in accordance with a written agreement entered into with the department, employees of the Department of Health and Human Services:
- 2229 (i) whom the director of the Department of Health and Human Services assigns to conduct scientific studies regarding the use or abuse of controlled substances, if the identity of the individuals and pharmacies in the database are confidential and are not disclosed in any manner to any individual who is not directly involved in the scientific studies;
- 2234 (ii) when the information is requested by the Department of Health and Human Services in relation to a person or provider whom the Department of Health and Human Services suspects may be improperly obtaining or providing a controlled substance; or
- 2238 (iii) in the medical examiner's office;
- 2239 (f) in accordance with a written agreement entered into with the department, a designee of the director of the Department of Health and Human Services, who is not an employee of the Department of Health and Human Services, whom the director of the Department of Health and Human Services assigns to conduct scientific studies regarding the use or abuse of controlled substances [pursuant to] in accordance with an application process established in rule by the Department of Health and Human Services, if:
 - 2246 (i) the designee provides explicit information to the Department of Health and Human Services regarding the purpose of the scientific studies;
 - 2248 (ii) the scientific studies to be conducted by the designee:
 - 2249 (A) fit within the responsibilities of the Department of Health and Human Services for health and welfare;
 - 2251 (B) are reviewed and approved by an Institutional Review Board that is approved for human subject research by the United States Department of Health and Human Services;
 - 2254 (C) are not conducted for profit or commercial gain; and
 - 2255 (D) are conducted in a research facility, as defined by division rule, that is associated with a university or college accredited by one or more regional or national accrediting agencies recognized by the United States Department of Education;
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- (iii) the designee protects the information as a business associate of the Department of Health and Human Services; and
- (iv) the identity of the prescribers, patients, and pharmacies in the database are de-identified, confidential, and not disclosed in any manner to the designee or to any individual who is not directly involved in the scientific studies;

2261 (g) in accordance with a written agreement entered into with the department and the Department of Health and Human Services, authorized employees of a managed care organization, as defined in 42 C.F.R. Sec. 438, if:

2264 (i) the managed care organization contracts with the Department of Health and Human Services under the provisions of Section 26B-3-202 and the contract includes provisions that:

2267 (A) require a managed care organization employee who will have access to information from the database to submit to a criminal background check; and

2270 (B) limit the authorized employee of the managed care organization to requesting either the division or the Department of Health and Human Services to conduct a search of the database regarding a specific Medicaid enrollee and to report the results of the search to the authorized employee; and

2273 (ii) the information is requested by an authorized employee of the managed care organization in relation to ~~[a person who]~~ an individual who is enrolled in the Medicaid program with the managed care organization, and the managed care organization suspects the ~~[person]~~ individual may be improperly obtaining or providing a controlled substance;

2276 (h) a licensed practitioner having authority to prescribe controlled substances, to the extent the information:

2279 (i) (A) relates specifically to a current or prospective patient of the practitioner; and

2282 (B) is provided to or sought by the practitioner for the purpose of:

2285 (I) prescribing or considering prescribing any controlled substance to the current or prospective patient;

2288 (II) diagnosing the current or prospective patient;

2291 (III) providing medical treatment or medical advice to the current or prospective patient; or

2294 (IV) determining whether the current or prospective patient:

2297 (Aa) is attempting to fraudulently obtain a controlled substance from the practitioner; or

2300 (Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the practitioner;

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2295 (ii)

(A) relates specifically to a former patient of the practitioner; and

2296 (B) is provided to or sought by the practitioner for the purpose of determining whether the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a controlled substance from the practitioner;

2299 (iii) relates specifically to an individual who has access to the practitioner's Drug Enforcement Administration identification number, and the practitioner suspects that the individual may have used the practitioner's Drug Enforcement Administration identification number to fraudulently acquire or prescribe a controlled substance;

2304 (iv) relates to the practitioner's own prescribing practices, except when specifically prohibited by the division by administrative rule;

2306 (v) relates to the use of the controlled substance database by an employee of the practitioner, described in Subsection (2)(i); or

2308 (vi) relates to any use of the practitioner's Drug Enforcement Administration identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a controlled substance;

2311 (i) in accordance with Subsection (3)(a), an employee of a practitioner described in Subsection (2)(h), for a purpose described in Subsection (2)(h)(i) or (ii), if:

2313 (i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

2315 (ii) the practitioner provides written notice to the division of the identity of the employee; and

2317 (iii) the division~~[:] grants the employee access to the database;~~

2318 ~~[A) grants the employee access to the database; and]~~

2319 ~~[B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(7) with respect to the employee;]~~

2322 (j) an employee of the same business that employs a licensed practitioner under Subsection (2)(h) if:

2324 (i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

2326 (ii) the practitioner and the employing business provide written notice to the division of the identity of the designated employee; and

2328 (iii) the division~~[:] grants the employee access to the database;~~

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2329 ~~[(A) grants the employee access to the database; and]~~

2330 ~~[(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(7) with respect to the employee;]~~

2333 (k) a licensed pharmacist having authority to dispense a controlled substance, or a licensed pharmacy intern or pharmacy technician working under the general supervision of a licensed pharmacist, to the extent the information is provided or sought for the purpose of:

2337 (i) dispensing or considering dispensing any controlled substance;

2338 (ii) determining whether a person:

2339 (A) is attempting to fraudulently obtain a controlled substance from the pharmacy, practitioner, or health care facility; or

2341 (B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the pharmacy, practitioner, or health care facility;

2343 (iii) reporting to the controlled substance database; or

2344 (iv) verifying the accuracy of the data submitted to the controlled substance database on behalf of a pharmacy where the licensed pharmacist, pharmacy intern, or pharmacy technician is employed;

2347 (l) ~~[pursuant to]~~ in accordance with a valid search warrant, federal, state, and local law enforcement officers and state and local prosecutors who are engaged in an investigation related to:

2350 (i) one or more controlled substances; and

2351 (ii) a specific ~~[person who]~~ person that is a subject of the investigation;

2352 (m) subject to Subsection (7), a probation or parole officer, employed by the Division of Adult Probation and Parole created in Section 64-14-202 or by a political subdivision, to gain access to database information necessary for the officer's supervision of a specific probationer or parolee who is under the officer's direct supervision;

2357 (n) employees of the Office of Internal Audit within the Department of Health and Human Services who are engaged in their specified duty of ensuring Medicaid program integrity under Section 26B-3-104;

2360 (o) a mental health therapist, if:

2361 (i) the information relates to a patient who is:

2362 (A) enrolled in a licensed substance abuse treatment program; and

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(B) receiving treatment from, or under the direction of, the mental health therapist as part of the patient's participation in the licensed substance abuse treatment program described in Subsection (2)(o)(i)(A);

2366 (ii) the information is sought for the purpose of determining whether the patient is using a controlled substance while the patient is enrolled in the licensed substance abuse treatment program described in Subsection (2)(o)(i)(A); and

2369 (iii) the licensed substance abuse treatment program described in Subsection (2)(o)(i)(A) is associated with a practitioner who:

2371 (A) is a physician, a physician assistant, an advance practice registered nurse, or a pharmacist; and

2373 (B) is available to consult with the mental health therapist regarding the information obtained by the mental health therapist, under this Subsection (2)(o), from the database;

2376 (p) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to the division that the individual requesting the information is in fact the individual about whom the data entry was made;

2380 (q) an individual under Subsection (2)(p) for the purpose of obtaining a list of the persons and entities that have requested or received any information from the database regarding the individual, except if the individual's record is subject to a pending or current investigation as authorized under this Subsection (2);

2384 (r) the inspector general, or a designee of the inspector general, of the Office of Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in Title 63A, Chapter 13, Part 2, Office and Powers;

2387 (s) the following licensed physicians for the purpose of reviewing and offering an opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

2391 (i) a member of the medical panel described in Section 34A-2-601;

2392 (ii) a physician employed as medical director for a licensed workers' compensation insurer or an approved self-insured employer; or

2394 (iii) a physician offering a second opinion regarding treatment;

2395 (t) members of Utah's Opioid Fatality Review Committee, for the purpose of reviewing a specific fatality due to opioid use and recommending policies to reduce the frequency of opioid use fatalities;

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2398 (u) a licensed pharmacist who is authorized by a managed care organization as defined in Section
31A-1-301 to access the information on behalf of the managed care organization, if:

2401 (i) the managed care organization believes that an enrollee of the managed care organization has
obtained or provided a controlled substance in violation of a medication management program
contract between the enrollee and the managed care organization; and

2405 (ii) the managed care organization included a description of the medication management program in the
enrollee's outline of coverage described in Subsection 31A-22-605(7); and

2408 (v) the Utah Medicaid Fraud Control Unit of the attorney general's office for the purpose of
investigating active cases, in exercising the unit's authority to investigate and prosecute Medicaid
fraud, abuse, neglect, or exploitation under 42 U.S.C. Sec. 1396b(q).

2412 (3)
(a) A practitioner described in Subsection (2)(h) may designate one or more employees to access
information from the database under Subsection (2)(i), (2)(j), or (4)(c).

2415 (b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
Rulemaking Act, to:

2417 (i) establish background check procedures to determine whether an employee designated under
Subsection (2)(i), (2)(j), or (4)(c) should be granted access to the database;

2420 (ii) establish the information to be provided by an emergency department employee under Subsection
(4); and

2422 (iii) facilitate providing controlled substance prescription information to a third party under Subsection
(5).

2424 (c) The division shall grant an employee designated under Subsection (2)(i), (2)(j), or (4)(c) access to
the database, unless the division determines, based on a background check, that the employee poses
a security risk to the information contained in the database.

2428 (4)
(a) An individual who is employed in the emergency department of a hospital may exercise access
to the database under this Subsection (4) on behalf of a licensed practitioner if the individual is
designated under Subsection (4)(c) and the licensed practitioner:
(i) is employed or privileged to work in the emergency department;
(ii) is treating an emergency department patient for an emergency medical condition; and

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- (iii) requests that an individual employed in the emergency department and designated under Subsection (4)(c) obtain information regarding the patient from the database as needed in the course of treatment.
- 2438 (b) The emergency department employee obtaining information from the database shall, when gaining access to the database, provide to the database the name and any additional identifiers regarding the requesting practitioner as required by division administrative rule established under Subsection (3) (b).
- 2442 (c) An individual employed in the emergency department under this Subsection (4) may obtain information from the database as provided in Subsection (4)(a) if:
- 2444 (i) the employee is designated by the hospital as an individual authorized to access the information on behalf of the emergency department practitioner;
- 2446 (ii) the hospital operating the emergency department ~~[provide]~~ provides written notice to the division of the identity of the designated employee; and
- 2448 (iii) the division:
 - 2449 (A) grants the employee access to the database; and
 - 2450 (B) provides the employee with a password that is unique to that employee to access the database.
- 2452 (d) The division may impose a fee, in accordance with Section 63J-1-504, on a practitioner who designates an employee under Subsection (2)(i), (2)(j), or (4)(c) to pay for the costs incurred by the division to conduct the background check and make the determination described in Subsection (3) (b).
- 2456 (5)
 - (a)
 - (i) An individual may request that the division provide the information under Subsection (5)(b) to a third party who is designated by the individual each time a controlled substance prescription for the individual is dispensed.
 - 2459 (ii) The division shall upon receipt of the request under this Subsection (5)(a) advise the individual in writing that the individual may direct the division to discontinue providing the information to a third party and that notice of the individual's direction to discontinue will be provided to the third party.
 - 2463 (b) The information the division shall provide under Subsection (5)(a) is:
- 2464

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- (i) the fact a controlled substance has been dispensed to the individual, but without identifying the controlled substance; and
- (ii) the date the controlled substance was dispensed.

(c)

- (i) An individual who has made a request under Subsection (5)(a) may direct that the division discontinue providing information to the third party.
- (ii) The division shall:
 - (A) notify the third party that the individual has directed the division to no longer provide information to the third party; and
 - (B) discontinue providing information to the third party.

(6)

- (a) An individual who is granted access to the database based on the fact that the individual is a licensed practitioner or a mental health therapist shall be denied access to the database when the individual is no longer licensed.
- (b) An individual who is granted access to the database based on the fact that the individual is a designated employee of a licensed practitioner shall be denied access to the database when the practitioner is no longer licensed.

(7) A probation or parole officer is not required to obtain a search warrant to access the database in accordance with Subsection (2)(m).

(8) The division shall review and adjust the database programming which automatically logs off an individual who is granted access to the database under Subsections (2)(h), (2)(i), (2)(j), and (4)(c) to maximize the following objectives:

- (a) to protect patient privacy;
- (b) to reduce inappropriate access; and
- (c) to make the database more useful and helpful to a person accessing the database under Subsections (2)(h), (2)(i), (2)(j), and (4)(c), especially in high usage locations such as an emergency department.

(9) ~~[Any person who]~~ A person that knowingly and intentionally accesses the database without express authorization under this section is guilty of a class A misdemeanor.

Section 42. Section **58-37f-303** is amended to read:

58-37f-303. Access to controlled substance prescription information via an electronic data system.

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2494 (1) As used in this section:

2495 (a) "Controlled substance" means any substance listed in Subsection 58-37-4(2)(b) through (4)(2)(e).

2497 (b) "Dispense" means the same as that term is defined in Section 58-17b-102.

2498 [({b})] (c) "EDS user":

2499 (i) means:

2500 (A) a prescriber;

2501 (B) a pharmacist;

2502 (C) a pharmacy intern;

2503 (D) a pharmacy technician; or

2504 (E) an individual granted access to the database under Subsection 58-37f-301(3)(c); and

2506 (ii) does not mean an individual whose access to the database has been revoked by the division
[pursuant to] in accordance with Subsection 58-37f-301(5)(c).

2508 [({e})] (d) "Electronic data system" means a software product or an electronic service used by:

2510 (i) a prescriber to manage electronic health records; or

2511 (ii) a pharmacist, pharmacy intern, or pharmacy technician working under the general supervision of a
licensed pharmacist, for the purpose of:

2513 (A) managing the dispensing of prescription drugs; or

2514 (B) providing pharmaceutical care as defined in Section 58-17b-102 to a patient.

2515 [({d})] "Opioid" means any substance listed in Subsection 58-37-4(2)(b)(i) or (2)(b)(ii).]

2516 (e) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

2517 (f) "Prescriber" means a practitioner, as that term is defined in Section 58-37-2, who is licensed under
Section 58-37-6 to prescribe [an opioid] a controlled substance.

2519 (g) "Prescription drug" means the same as that term is defined in Section 58-17b-102.

2520 (2) Subject to Subsections (3) through (6), no later than January 1, 2017, the division shall make
[opioid] controlled substance prescription information in the database available to an EDS user via
the user's electronic data system.

2523 (3) An electronic data system may be used to make [opioid] controlled substance prescription
information in the database available to an EDS user only if the electronic data system complies
with rules [established by the division under] the division makes in accordance with Subsection (4).

2527 (4)

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(a) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying:

2529 (i) an electronic data system's:

2530 (A) allowable access to and use of [opioid] controlled substance prescription information in the database; and

2532 (B) minimum actions that [must] shall be taken to ensure that [opioid] controlled substance prescription information accessed from the database is protected from inappropriate disclosure or use; and

2535 (ii) an EDS user's:

2536 (A) allowable access to [opioid] controlled substance prescription information in the database via an electronic data system; and

2538 (B) allowable use of the information.

2539 (b) The rules shall establish:

2540 (i) minimum user identification requirements that in substance are the same as the database identification requirements in Section 58-37f-301;

2542 (ii) user access restrictions that in substance are the same as the database identification requirements in Section 58-37f-301; and

2544 (iii) any other requirements necessary to ensure that in substance the provisions of Sections 58-37f-301 and 58-37f-302 apply to [opioid] controlled substance prescription information in the database that has been made available to an EDS user via an electronic data system.

2548 (5) The division may not make [opioid] controlled substance prescription information in the database available to an EDS user via the user's electronic data system if:

2550 (a) the electronic data system does not comply with the rules [established by the division under] the division makes in accordance with Subsection (4); or

2552 (b) the EDS user does not comply with the rules established by the division under Subsection (4).

2554 (6)

2557 (a) The division shall periodically audit the use of [opioid] controlled substance prescription information made available to an EDS user via the user's electronic data system.

2558 (b) The audit shall review compliance by:

2558 (i) the electronic data system with rules established by the division under Subsection (4); and

2560 (ii) the EDS user with rules established by the division under Subsection (4).

2561 (c)

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(i) If the division determines by audit or other means that an electronic data system is not in compliance with rules ~~[established by the division under]~~ the division makes in accordance with Subsection (4), the division shall immediately suspend or revoke the electronic data system's access to [opioid] controlled substance prescription information in the database.

2566 (ii) If the division determines by audit or other means that an EDS user is not in compliance with rules ~~[established by the division under]~~ the division makes in accordance with Subsection (4), the division shall immediately suspend or revoke the EDS user's access to [opioid] controlled substance prescription information in the database via an electronic data system.

2571 (iii) If the division suspends or revokes access to [opioid] controlled substance prescription information in the database under Subsection (6)(c)(i) or (6)(c)(ii), the division shall also take any other appropriate corrective or disciplinary action ~~[authorized by]~~this chapter or title authorizes.

2613 Section 43. Section **58-37f-304** is amended to read:

58-37f-304. Database utilization.

2577 (1) As used in this section:

2578 (a) "Dispenser" means a licensed pharmacist, as described in Section 58-17b-303, the pharmacist's licensed intern, as described in Section 58-17b-304, or licensed pharmacy technician, as described in Section 58-17b-305, working under the supervision of a licensed pharmacist who is also licensed to dispense a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

2583 (b) "Outpatient" means a setting in which an individual visits a licensed healthcare facility or a healthcare provider's office for a diagnosis or treatment but is not admitted to a licensed healthcare facility for an overnight stay.

2586 (c) "Prescriber" means an individual authorized to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

2588 (d) "Schedule II opioid" means those substances listed in Subsection 58-37-4(2)(b)(i) or (2)(b)(ii).

2590 (e) "Schedule III opioid" means those substances listed in Subsection 58-37-4(2)(c) that are opioids.

2592 (2)

(a) A prescriber shall check the database for information about a patient before the first time the prescriber gives a prescription to a patient for a Schedule II opioid or a Schedule III opioid.

2595 (b) If a prescriber is repeatedly prescribing a Schedule II opioid or Schedule III opioid to a patient, the prescriber shall periodically review information about the patient in:

2597 (i) the database; or

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2598 (ii) other similar records of controlled substances the patient has filled.

2599 (c) A prescriber may assign the access and review required under Subsection (2)(a) to one or more employees in accordance with Subsections 58-37f-301(2)(i) and (j).

2601 (d)

(i) A prescriber may comply with the requirements in Subsections (2)(a) and (b) by checking an electronic health record system if the electronic health record system:

2604 (A) is connected to the database through a connection that ~~[has been approved by the division]~~ the division approves; and

2606 (B) displays the information from the database in a prominent manner for the prescriber.

2608 (ii) The division may not approve a connection to the database if the connection does not satisfy the requirements ~~[established by the division under]~~ the division makes in accordance with Section 58-37f-301.

2611 (e) A prescriber is not in violation of the requirements of Subsection (2)(a) or (b) if the failure to comply with Subsection (2)(a) or (b):

2613 (i) is necessary due to an emergency situation as the division defines by rule the division makes in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2616 (ii) is caused by a suspension or disruption in the operation of the database; or

2617 (iii) is caused by a failure in the operation or availability of the ~~[Internet]~~ internet.

2618 (f) The division may not take action against the license of a prescriber for failure to comply with this Subsection (2) unless the failure occurs after the earlier of:

2620 (i) December 31, 2018; or

2621 (ii) the date that the division has the capability to establish a connection that meets the requirements ~~[established by the division under]~~ the division makes in accordance with Section 58-37f-301 between the database and an electronic health record system.

2625 (3) The division shall, in collaboration with the licensing boards for prescribers and dispensers:

2627 (a) develop a system that gathers and reports to prescribers and dispensers the progress and results of the prescriber's and dispenser's individual access and review of the database, as provided in this section; and

2630 (b) reduce or waive the division's continuing education requirements regarding opioid prescriptions, described in Section 58-37-6.5, including the online tutorial and test relating to the database, for

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prescribers and dispensers whose individual utilization of the database, as [determined by the division] the division determines, demonstrates substantial compliance with this section.

2635 (4) If the dispenser's access and review of the database suggest that the individual seeking an opioid may be obtaining opioids in quantities or frequencies inconsistent with generally recognized standards as provided in this section and Section 58-37f-201, the dispenser shall reasonably attempt to contact the prescriber to obtain the prescriber's informed, current, and professional decision regarding whether the prescribed opioid is medically justified, notwithstanding the results of the database search.

2641 (5)

(a) The division shall review the database to identify any prescriber who has a pattern of prescribing opioids not in accordance with the recommendations of:

2643 (i) the CDC Guideline for Prescribing Opioids for Chronic Pain, published by the Centers for Disease Control and Prevention;

2645 (ii) the Utah Clinical Guidelines on Prescribing Opioids for Treatment of Pain, published by the Department of Health and Human Services; or

2647 (iii) other publications describing best practices related to prescribing opioids as [identified by division] the division identifies in rule the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the Medical Licensing Board.

2651 (b) The division shall offer education to a prescriber identified under this Subsection (5) regarding best practices in the prescribing of opioids.

2653 (c) A decision by a prescriber to accept or not accept the education [offered by the division] the division offers under this Subsection (5) is voluntary.

2655 (d) The division may not use an identification the division has made under this Subsection (5) or the decision by a prescriber to accept or not accept education [offered by the division] the division offers under this Subsection (5) in a licensing investigation or action by the division.

2659 (e) Any record [created by the division] the division creates as a result of this Subsection (5) is a protected record under Section 63G-2-305.

2661 (6) The division may consult with a prescriber or health care system to assist the prescriber or health care system in following evidence-based guidelines regarding the prescribing of controlled substances, including the recommendations listed in Subsection (5)(a).

2702 Section 44. Section **58-37f-402** is amended to read:

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2703 **58-37f-402. Online tutorial and test relating to the database -- Fees -- Rulemaking authority**

2667 **-- Continuing professional education credit.**

2667 (1) The division shall develop an online tutorial and an online test for registration to use the database
2669 that provides instruction regarding, and tests, the following:

2670 (a) the purpose of the database;

2671 (b) how to access and use the database; and

2672 (c) the law relating to:

2673 (i) the use of the database; and

2674 (ii) the information submitted to, and obtained from, the database[; and].

2674 [~~(d) basic knowledge that is important for all people who prescribe controlled substances to know
2675 in order to help ensure the health and safety of an individual to whom a controlled substance is
2676 prescribed.~~]

2677 (2) The division shall design the test described in this section as follows:

2678 (a) an individual shall answer all of the questions correctly in order to pass the test;

2679 (b) an individual shall be permitted to immediately retake the portion of the test that the individual
2680 answers incorrectly as many times as necessary for the individual to pass the test; and

2681 (c) after an individual takes the test, the test software shall:

2682 (i) immediately inform the individual of the number of questions that were answered incorrectly;

2683 (ii) provide the correct answers;

2684 (iii) replay the portion of the tutorial that relates to the incorrectly answered questions; and

2685 (iv) ask the individual the incorrectly answered questions again.

2686 (3) The division shall design the tutorial and test so that ~~it is possible to take the tutorial and complete
2687 the test in 20 minutes or less~~ an individual may complete the tutorial and test within 20 minutes, if
2688 the individual answers all of the questions correctly on the first attempt.

2689 (4) The division shall ensure that the tutorial and test described in this section are fully functional and
2690 available for use online on or before November 1, 2010.

2691 (5) The division shall impose a fee, in accordance with Section 63J-1-504, on an individual who takes
2692 the test described in this section, to pay the costs ~~incurred by the division~~ the division incurs to:

2693 (a) develop, implement, and administer the tutorial and test described in this section; and

2694 (b) fulfill the other duties imposed on the division under this part.

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(6) The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) develop, implement, and administer the tutorial and test described in this section; and
(b) fulfill the other duties imposed on the division under this part.

(7) The Department of Health and Human Services shall assist the division in developing the portion of the test described in Subsection (1)(d).

Section 45. Section **58-37f-702** is amended to read:

58-37f-702. Reporting prescribed controlled substance poisoning or overdose to a practitioner.

(1)

(a) The division shall take the actions described in Subsection (1)(b) if the division receives a report from a general acute hospital under Section 26B-2-225 regarding admission to a general acute hospital for poisoning or overdose involving a prescribed controlled substance.
(b) The division shall, within [three] five business days after the day on which a report in Subsection (1)(a) is received:
(i) attempt to identify, through the database, each practitioner who may have prescribed the controlled substance to the patient; and
(ii) [provide-] alert each practitioner identified under Subsection (1)(b)(i) [with:] concerning the information described in this Subsection (1).

~~[(A) a copy of the report provided by the general acute hospital under Section 26B-2-225; and]~~

~~[(B) the information obtained from the database that led the division to determine that the practitioner receiving the information may have prescribed the controlled substance to the person named in the report.]~~

(2)

(a) When the division receives a report from the medical examiner under Section 26B-8-210 regarding a death caused by poisoning or overdose involving a prescribed controlled substance, for each practitioner [identified by the medical examiner] the medical examiner identifies under Subsection 26B-8-210(1)(c), the division:
(i) shall, within five business days after the day on which the division receives the report, provide the practitioner with a copy of the report; and
(ii) may offer the practitioner an educational visit to review the report.

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2731 (b) A practitioner may decline an educational visit described in Subsection (2)(a)(ii).

2732 (c) The division may not use, in a licensing investigation or action by the division:

2733 (i) information from an educational visit described in Subsection (2)(a)(ii); or

2734 (ii) a practitioner's decision to decline an educational visit described in Subsection (2)(a)(ii).

2736 (3) It is the intent of the Legislature that the information provided under Subsection (1) or (2) is
provided for the purpose of assisting the practitioner in:

2738 (a) discussing with the patient or others issues relating to the poisoning or overdose;

2739 (b) advising the patient or others of measures that may be taken to avoid a future poisoning or overdose;
and

2741 (c) making decisions regarding future prescriptions written for the patient or others.

2742 (4) Any record [created by the division] the division creates as a result of an educational visit described
in Subsection (2)(a)(ii) is a protected record for purposes of Title 63G, Chapter 2, Government
Records Access and Management Act.

2745 (5) Beginning on July 1, 2010, the division shall, in accordance with Section 63J-1-504, increase the
licensing fee described in Subsection 58-37-6(1)(b) to pay the startup and ongoing costs of the
division for complying with the requirements of this section.

2786 Section 46. Section **58-37f-703** is amended to read:

2787 **58-37f-703. Entering certain convictions into the database and reporting them to
practitioners.**

2751 (1) When the division receives a report from a court under Subsection 41-6a-502(5) or 41-6a-502.5(5)

2752 (b) relating to a conviction for driving under the influence of, or while impaired by, a prescribed
controlled substance, the division shall:

2754 (a) [daily] within five business days enter into the database the information supplied in the report,
including the date on which the person was convicted;

2756 (b) attempt to identify, through the database, each practitioner who may have prescribed the controlled
substance to the convicted person; and

2758 (c) [provide] alert each practitioner identified under Subsection (1)(b) [with:] concerning the
information described in this Subsection (1).

2760 [(i) a copy of the information provided by the court; and]

2761 [(ii) the information obtained from the database that led the division to determine that the practitioner
receiving the information may have prescribed the controlled substance to the convicted person.]

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2764 (2) It is the intent of the Legislature that the information provided under Subsection (1)(b) is provided
for the purpose of assisting the practitioner in:

2766 (a) discussing the manner in which the controlled substance may impact the convicted person's driving;

2768 (b) advising the convicted person on measures that may be taken to avoid adverse impacts of the
controlled substance on future driving; and

2770 (c) making decisions regarding future prescriptions written for the convicted person.

2771 (3) Beginning on July 1, 2010, the division shall, in accordance with Section 63J-1-504, increase the
licensing fee described in Subsection 58-37-6(1)(b) to pay the startup and ongoing costs of the
division for complying with the requirements of this section.

2812 Section 47. Section **58-40a-305** is amended to read:

2813 **58-40a-305. Exemptions from licensure.**
In addition to the exemptions from licensure in Section 58-1-307, this chapter does not
require the licensure of a medical assistant as defined in Section 58-67-102 or 58-68-102 or an
individual who assists in an emergency or in providing services for which no fee is
contemplated, charged, or received, provided the individual does not hold himself out as
represent that the individual is an athletic trainer.

2819 Section 48. Section **58-49-4** is amended to read:

2820 **58-49-4. Qualifications for certification -- Fee.**

2783 (1) Each applicant for certification under this chapter shall provide proof satisfactory to the division that
the applicant:

2785 [(1)] (a) holds a baccalaureate or post-baccalaureate degree conferred by a college or university
approved by the division at the time the degree was conferred with a major course of study in the
sciences of food, dietetics, food systems management, or an equivalent major course of study;

2789 [(2)] (b) has completed an internship or preplanned professional baccalaureate or post-baccalaureate
experience in a dietetic program under the supervision of a certified dietitian who is certified under
this chapter or certified, registered, or licensed under the laws of another state or territory of the
United States;

2793 [(3)] (c) has satisfactorily passed a competency examination, approved by or given at the direction of
the division; and

2795

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[4] (d) has paid the appropriate fees determined by the Department of Commerce. The fee assessed by the Department of Commerce shall be fair and reasonable and shall reflect the cost of services provided.

2798 (2) In addition to the requirements of Subsection 58-49-4(1), an applicant seeking to exercise the compact privilege in accordance with Chapter 89, Dietitian Licensure Compact, shall:

2801 (a) complete a criminal background check in accordance with Section 58-1-301.5;

2802 (b) meet any other standard related to the criminal background check described in Chapters 58 through 89, that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

2805 (c) disclose any criminal history the division requests on a form the division approves.

2844 Section 49. Section **58-60-102** is amended to read:

58-60-102. Definitions.

As used in this chapter, unless a [different meaning is established by definition] definition establishes a different meaning under a specific section or part:

2810 (1) "Board" means the Behavioral Health Board created in Section 58-60-102.5.

2811 (2) "Client" or "patient" means an individual who [e]consults or is examined or interviewed by [an individual licensed under this chapter who is acting in the individual's professional capacity] consults, examines, or interviews.

2814 (3) "Clinical supervision" means work experience conducted under the supervision of a clinical supervisor, including the practice of mental health therapy, direct client care, direct clinical supervision, direct observation, and other duties and activities completed in the course of the day-to-day job functions and work of:

2818 (a) a certified social worker;

2819 (b) an associate marriage and family therapist;

2820 (c) an associate clinical mental health counselor; or

2821 (d) an associate master addiction counselor, wherein the supervisor is available to the supervisee for consultation [with the supervisee] by personal face-to-face contact, or by direct voice contact by telephone, [radio] video conference, or other means within a reasonable [time] timeframe consistent with the acts and practices in which the supervisee is engaged.

2826 (4) "Clinical supervisor" means an individual who oversees and mentors one or more mental health therapists licensed under this chapter, and who:

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2828 (a)

2829 (i) is licensed, in good standing, as a mental health therapist;

2829 (ii) is approved or certified in good standing as a supervisor by a national professional organization for social work, mental health counseling, addiction counseling, marriage and family therapy, psychology, medicine, or nursing, or other organization as [approved by the division] the division approves;

2833 (iii)

2833 (A) has completed eight or more hours of supervision instruction that meets minimum standards [established by the division in rule] the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

2836 (B) has completed a graduate course on clinical supervision from an accredited program;

2838 (iv) completes continuing education in clinical supervision, as [established by the division in rule] the division requires by rule the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

2841 (v) provides supervision to no more than the number of individuals to whom the supervisor can reasonably provide clinical supervision by performing the duties and responsibilities of a supervisor, including:

2844 (A) being available to the supervisee for consultation by personal face-to-face contact, or by direct voice contact by telephone, video conference, or other means within a reasonable time frame;

2847 (B) providing instruction, direction, oversight, observation, evaluation, and feedback, to enable the supervisee to acquire the knowledge, skills, techniques, and abilities necessary to engage in the practice of behavioral health care ethically, safely, and competently; and

2851 (C) maintaining routine personal contact with the supervisee; and

2852 (b)

2852 (i) is qualified and acting as a valid supervisor, in accordance with applicable law and division rules, as of April 30, 2024; and

2854 (ii) has satisfied the requirements of Subsection (4)(a), as of January 1, 2027.

2855 (5) "Confidential communication" means information obtained by an individual licensed under this chapter, including information obtained by the individual's examination of the client or patient, which is:

2858 (a)

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- (i) transmitted between the client or patient and an individual licensed under this chapter in the course of that relationship; or
- (ii) transmitted among the client or patient, an individual licensed under this chapter, and individuals who are participating in the diagnosis or treatment under the direction of an individual licensed under this chapter, including members of the client's or patient's family; and

2860

- (b) made in confidence, for the diagnosis or treatment of the client or patient by the individual licensed under this chapter, and by a means not intended to be disclosed to third persons other than those individuals:

2867 (i) present to further the interest of the client or patient in the consultation, examination, or interview;

2869 (ii) reasonably necessary for the transmission of the communications; or

2870 (iii) participating in the diagnosis and treatment of the client or patient under the direction of the mental health therapist.

2872 (6) "Designated examiner" means the same as that term is defined in Section 26B-5-301.

2873 (7)

- (a) "Direct client care" means the practice of mental health therapy performed as an applicant for licensure.
- (b) "Direct client care" includes:
 - (i) the practice of mental health therapy;
 - (ii) the utilization of patient-reported progress and outcomes to inform care; and
 - (iii) direct observation.

2879 (8)

- (a) "Direct clinical supervision" means an applicant for licensure and the applicant's direct clinical supervisor meeting in real time and in accordance with the applicant for licensure's supervision contract as ~~[defined by division rule]~~ the division defines by rule the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (b) "Direct clinical supervision" includes group supervision.

2884 (9) "Direct clinical supervisor" means the clinical supervisor who has signed the supervision contract with the applicant for licensure.

2885 (10) "Direct observation" means observation of an applicant for licensure's live or recorded direct client care:

2889 (a)

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- (i) by the applicant for licensure's clinical supervisor; or
- 2890 (ii) by a licensee under Subsection (4)(a) who the applicant for licensure's direct clinical supervisor approves; and
- 2892 (b) after which the applicant for licensure and the observer under Subsection (10)(a) meet, in-person or electronically, to discuss the direct client care for the purpose of developing the applicant for licensure's clinical knowledge and skill.
- 2895 (11) "FBI Rap Back System" means the same as that term is defined in Section 53-10-108.
- 2896 (12) "Group supervision" means an applicant for licensure meeting with the applicant's direct clinical supervisor and at least one of the direct clinical supervisor's other supervised applicants for licensure:
 - 2899 (a) while the clinical supervisor and the applicants:
 - 2900 (i) can see and openly communicate with each other; and
 - 2901 (ii) are present in the same room or via electronic video; and
 - 2902 (b) for the purpose of developing the applicants' clinical knowledge and skill.
- 2903 (13) "Hypnosis" means, when referring to individuals exempted from licensure under this chapter, a process by which an individual induces or assists another individual into a hypnotic state without the use of drugs or other substances and for the purpose of increasing motivation or to assist the individual to alter lifestyles or habits.
- 2907 (14) "Individual" means a natural person.
- 2908 (15) "Mental health therapist" means an individual who is practicing within the scope of practice defined in the individual's respective licensing act and is licensed under this title as:
 - 2911 (a) a physician and surgeon, or osteopathic physician engaged in the practice of mental health therapy;
 - 2913 (b) an advanced practice registered nurse, specializing in psychiatric mental health nursing;
 - 2915 (c) an advanced practice registered nurse intern, specializing in psychiatric mental health nursing;
 - 2917 (d) a psychologist qualified to engage in the practice of mental health therapy;
 - 2918 (e) a certified psychology resident qualifying to engage in the practice of mental health therapy;
 - 2920 (f) a physician assistant specializing in mental health care under Section 58-70a-501.1;
 - 2921 (g) a clinical social worker;
 - 2922 (h) a certified social worker;
 - 2923 (i) a marriage and family therapist;
 - 2924 (j) an associate marriage and family therapist;

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2925 (k) a clinical mental health counselor;

2926 (l) an associate clinical mental health counselor;

2927 (m) a master addiction counselor; or

2928 (n) an associate master addiction counselor.

2929 (16) "Mental illness" means a mental or emotional condition defined in an approved diagnostic and
statistical manual for mental disorders generally recognized in the professions of mental health
therapy listed under Subsection (15).

2932 (17) "Practice of mental health therapy" means treatment or prevention of another individual's mental
illness or emotional disorder, whether in person or remotely, including:

2935 (a) conducting a professional evaluation of an individual's condition of mental health, mental illness,
or emotional disorder consistent with standards generally recognized in the professions of mental
health therapy listed under Subsection (15);

2938 (b) establishing a diagnosis in accordance with established written standards generally recognized in the
professions of mental health therapy listed under Subsection (15);

2940 (c) conveying an opinion as to the validity of an individual's established diagnosis;

2941 (d) prescribing a plan for the prevention or treatment of a condition of mental illness or emotional
disorder; and

2943 (e) engaging in the conduct of professional intervention, including:

2944 (i) psychotherapy by the application of established methods and procedures generally recognized in the
professions of mental health therapy listed under Subsection (15); and

2947 (ii) modes of treatment designed to treat interpersonal dysfunction; and

2948 (f) holding oneself out as providing, or has having the skills, experience, or training to competently
provide, any of the services described in Subsections (17)(a) through (e).

2950 (18) "Remotely" means communicating via [Internet] internet, telephone, or other electronic means
that facilitate real-time audio or visual interaction between individuals when they are not physically
present in the same room at the same time.

2953 (19) "Unlawful conduct" [is-as] means the same as that term is defined in Sections 58-1-501 and
58-60-109.

2955 (20) "Unprofessional conduct" [is-as] means the same as that term is defined in Sections 58-1-501 and
58-60-110, and [may be further defined by division rule] as the division defines by rule the division
makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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2997 Section 50. Section **58-60-102.5** is amended to read:

2998 **58-60-102.5. Behavioral Health Board -- Advisory committees.**

2962 (1) There is created the Behavioral Health Board consisting of:

2963 (a) no less than six behavioral health care providers licensed in Utah to practice as a:

2964 (i) clinical social worker;

2965 (ii) marriage and family therapist;

2966 (iii) clinical mental health counselor;

2967 (iv) master addiction counselor;

2968 (v) psychologist under Chapter 61, Psychologist Licensing Act; or

2969 (vi) behavior analyst or specialist;

2970 (b) no less than two other behavioral health care providers licensed in Utah to practice as:

2971 (i) a certified social worker;

2972 (ii) a social service worker;

2973 (iii) an associate marriage and family therapist;

2974 (iv) an associate clinical mental health counselor;

2975 (v) an associate master addiction counselor;

2976 (vi) an advanced substance use disorder counselor;

2977 (vii) a substance use disorder counselor;

2978 (viii) a certified psychology resident; or

2979 (ix) an assistant behavior analyst or specialist;

2980 (c) no less than four public members:

2981 (i) who comprise no less than 1/3 of the total membership of the board;

2982 (ii) who are not licensed to practice under:

2983 (A) this chapter; or

2984 (B) Chapter 61, Psychologist Licensing Act;

2985 (iii) two of whom shall, at the time of appointment to the board, hold a leadership position with:

2987 (A) a behavioral health consumer advocacy organization;

2988 (B) a behavioral health employer;

2989 (C) a behavioral health payor;

2990 (D) an academic institution conducting research related to the behavioral health licenses under

Subsection (3)(b), including public health, epidemiology, economics, and the health care workforce;

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2993 (E) a training institution providing education credentials required for a license under Subsection (3)(b);
2995 (F) a licensed health care facility as defined in Section 26B-2-201; or
2996 (G) a licensed human services program as defined in Section 26B-2-101;
2997 (iv) one of whom the executive director of the Department of Health and Human Services appoints; and
2999 (v) one of whom is licensed in Utah to practice as a:
3000 (A) physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical
Practice Act;
3002 (B) physician assistant under Chapter 70a, Utah Physician Assistant Act; or
3003 (C) nurse under Chapter 31b, Nurse Practice Act, or Chapter 31e, Nurse Licensure Compact - Revised.
3005 (2) Board members shall be appointed, serve terms, and be compensated in accordance with Section
58-1-201.
3007 (3) The board shall:
3008 (a) operate in accordance with Section 58-1-202, unless otherwise provided in this section;
3010 (b) oversee licenses under:
3011 (i) this chapter; and
3012 (ii) Chapter 61, ~~Pysehologist~~ Psychologist Licensing Act;
3013 (c) recommend to the appropriate legislative committee statutory changes to:
3014 (i) ensure that regulation supports an adequate workforce to meet consumer demand for behavioral
health services; and
3016 (ii) prevent harm to the health, safety, and financial welfare of the public;
3017 (d) recommend to the appropriate legislative committee statutory changes to remove regulations that are
no longer necessary or effective in protecting the public and enhancing commerce; and
3020 (e) disqualify any member from acting as a presiding officer in any administrative procedure in which
that member has previously reviewed the complaint or advised the division.
3023 (4)
3024 (a) There are created the following advisory committees to the board:
3025 (i) the Qualifications and Professional Development Advisory Committee;
3026 (ii) the Background and Investigations Advisory Committee; and
3027 (iii) the Probation and Compliance Advisory Committee.
3028 (b) Each advisory committee shall consist of:
3029 (i) a committee chair who is a member of the Behavioral Health Board; and

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3029 [(ii) a member of each profession regulated under this chapter;]
3030 [(iii) Chapter 61, Psychologist Licensing Act; and]
3031 [(iv)] (ii) [as determined by the division in rule, additional members from the professions licensed under this chapter or Chapter 61, Psychologist Licensing Act.] additional members from the professions licensed under this chapter or Chapter 61, Psychologist Licensing Act, that the division appoint by rule the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
3036 (c) In addition to the requirements of Subsection (4)(b):
3037 (i) the Qualifications and Professional Development Advisory Committee shall also consist of an educator for each profession regulated under this chapter and Chapter 61, Psychologist Licensing Act; and
3040 (ii) the Background and Investigations Advisory Committee shall also consist of a criminal justice professional.
3042 (d) The Qualifications and Professional Development Advisory Committee shall:
3043 (i) advise the division regarding qualifications for licensure, including passing scores for applicant examinations and standards of supervision for students or persons in training to become licensed;
3046 (ii) recommend evidence-based ongoing professional development requirements for licensure that:
3048 (A) ensure an adequate workforce to meet consumer demand; and
3049 (B) prevent harm to the health, safety, and financial welfare of the public;
3050 (iii) advise the division on the licensing, renewal, reinstatement, and relicensure of:
3051 (A) internationally trained applicants;
3052 (B) applicants applying via licensure by endorsement; and
3053 (C) applicants applying using an alternate pathway to licensure including a non-exam or equivalent field degree path;
3055 (iv) draw on additional profession-specific advisors as needed;
3056 (v) make policy recommendations to the board regarding qualifications for licensure or renewal for a specific profession, including the committee chair assigning at least one committee member licensed under that profession to serve as a subject matter expert; and
3060 (vi) make recommendations to the board related to an individual applicant for a specific license, including the committee chair assigning at least one committee member licensed under the same profession as the applicant to serve as a subject matter expert.

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3064 (e) The Background and Investigations Advisory Committee shall:

3065 (i) advise the division on establishing criteria for licensure for those with a criminal conviction
according to Section 58-1-401;

3067 (ii) advise the division on establishing criteria for referral to the Utah Professionals Health Program
under Chapter 4a, Utah Professionals Health Program;

3069 (iii) screen applicants with a criminal history for licensing, renewal, reinstatement, and relicensure and
recommending licensing, renewal, reinstatement, and relicensure actions to the division;

3072 (iv) advise the division on investigative practices and procedures and administrative sanctions for
consistency and fairness across relevant occupations;

3074 (v) make recommendations to the board for sanctions against individual licensees ~~[and certificate
holders]~~ and referral to the Utah Professionals Health Program under Chapter 4a, Utah Professionals
Health Program;

3077 (vi) draw on additional profession-specific advisors as needed; and

3078 (vii) make recommendations to the board related to the disposition for any specific applicant or
licensee, including the committee chair assigning at least one committee member licensed under the
same profession as the applicant or licensee to serve as a subject matter expert.

3082 (f) The Probation and Compliance Advisory Committee shall:

3083 (i) review compliance with probationary orders;

3084 (ii) review early termination and make any recommendations ~~[as requested by the board]~~ the board may
request;

3086 (iii) advise the board regarding the screening of applicants previously sanctioned for licensing, renewal,
reinstatement, and relicensure, including recommending licensing, renewal, reinstatement, and
relicensure actions to the board;

3089 (iv) establish procedures for monitoring sanctioned licensees or certificate holders;

3090 (v) draw on additional profession-specific advisors as needed; and

3091 (vi) make recommendations to the board related to the disposition for any specific licensee or
certification holder, including the committee chair assigning a committee member licensed under
the same profession as the licensee or certification holder to serve as a subject-matter expert related
to that disposition.

3095 (5) The division, in consultation with the board, may establish one or more standing or ad hoc
subcommittees to consider and advise the board regarding any aspect of licensing, including:

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3098 (a) client or patient access to qualified licensees;

3099 (b) education, examination, and supervision of applicants for licensure;

3100 (c) verification of applicant for licensure qualifications;

3101 (d) continuing education requirements;

3102 (e) alternate pathways to licensure; and

3103 (f) probation and recovery assistance.

3104 (6) The division may consult with licensed psychologists on matters specific to the oversight of
doctoral-level licensed psychologists.

3106 (7) Members of the board and any subcommittees created under this section may not receive
compensation or benefits for the member's service, but may receive per diem and travel expenses in
accordance with:

3109 (a) Section 63A-3-106;

3110 (b) Section 63A-3-107; and

3111 (c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

3112 (8) The division shall consult with the Physicians Licensing Board created in Section 58-67-201 on any
matters relating to:

3114 (a) the licensing of individual certified prescribing psychologists and provisional prescribing
psychologists; and

3116 (b) rulemaking related to the occupation of prescribing psychology.

3156 Section 51. Section **58-60-108** is amended to read:

3157 **58-60-108. Grounds for denial of licensure or certification -- Disciplinary proceedings.**

3120 [(1) ~~Subject to Subsection (2), the division's grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee, for issuing a public or private reprimand to a licensee, and for issuing a cease and desist order are under Section 58-1-401.]~~

3125 [(2) ~~The division may not refuse, revoke, suspend, or in any way restrict an applicant or licensee's license under this chapter solely because the applicant or licensee seeks or participates in mental health or substance abuse treatment.]~~

3128 (1) As used in this section:

3129 (a) "License" includes a certification issued under this chapter.

3130 (b) "Licensed" includes a person certified under this chapter.

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3131 (c) "Licensee" includes a certificate holder under this chapter.

3132 (2) Subject to Subsection (7), the division may take an action described in Section 58-1-401 and in accordance with that section, including refusing to issue or renew a license, or revoking, suspending, restricting, or placing a license on probation, issuing a public or private reprimand, or issuing a cease and desist order.

3136 (3)

3136 (a)

3136 (i) Subject to Subsection (7), if a court with jurisdiction determines a licensee is incapacitated as defined in Section 75-1-20, or that the licensee has a mental illness as defined in Section 26B-5-301, and is unable to safely engage in practice under this chapter, the director shall immediately suspend the license of the licensee upon the entry of the judgment of the court, without further proceedings under Title 63G, Chapter 4, Administrative Procedures Act, regardless of whether an appeal from the court's ruling is pending.

3143 (ii) The director shall promptly notify the licensee in writing of a suspension under Subsection (3) (a)(i).

3145 (b)

3145 (i) If the division and a majority of the board find reasonable cause to believe that a licensee cannot practice under this chapter with reasonable skill and safety to protect a patient due to illness, excessive use of drugs or alcohol, or another mental or physical condition, and a court has not determined that the licensee is incapacitated or has a mental illness, the board shall:

3150 (A) recommend that the director file a petition with the division; and

3151 (B) ensure service of the petition on the licensee together with a notice of hearing limited to the licensee's capacity to competently and safely practice under this chapter.

3154 (ii) Except as provided in Subsection (4), the hearing described in Subsection (3)(b)(i) shall be conducted under Section 58-1-109 and Title 63G, Chapter 4, Administrative Procedures Act.

3157 (4)

3159 (a) Every licensee who accepts the privilege of being licensed under this chapter gives consent to:

3159 (i) submitting to an immediate mental or physical examination, at the licensee's expense and by a division-approved practitioner selected by the licensee when directed in writing by the division and a majority of the board to do so; and

3162

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

3165 (b) The examination may be ordered by the division, with the consent of a majority of the board, only upon a finding of reasonable cause to believe:

3167 (i) the licensee has a mental illness, is incapacitated, or otherwise unable to practice with reasonable skill and safety; and

3169 (ii) immediate action by the division and the board is necessary to prevent harm to the licensee's patients or the general public.

3171 (c)

(i) By written order of the director, the division may immediately suspend the license of a licensee who fails to submit to examination in accordance with this section.

3174 (ii) The division may enter the order of suspension without further compliance with Title 63G, Chapter 4, Administrative Procedures Act, unless the division finds the licensee's failure to submit to examination was due to circumstances beyond the control of the licensee and unrelated to the illness or incapacity of the licensee.

3178 (5)

(a) A licensee whose license is suspended under Subsection (3) or (4)(c) may appeal the suspension within 10 days after the day on which the division suspends the license.

3181 (b) The hearing held under this Subsection (5) shall be conducted in accordance with Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists for the continuance of the order of suspension in order to prevent harm to the licensee's patients or the general public.

3185 (6) A licensee whose license is revoked, suspended, or in any way restricted under this section may request the division and the board to consider, at reasonable intervals, evidence presented by the licensee, under procedures the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding change in the licensee's condition, to determine whether:

3190 (a) the licensee is able to safely and competently engage in the practice under the licensee's license; and

3192 (b) the licensee is qualified to have the licensee's license to practice under this chapter partially or completely restored.

3194 (7) The division may not refuse, revoke, suspend, or restrict an applicant or licensee's license under this chapter solely because the applicant or licensee seeks or participates in mental health or substance abuse treatment.

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3197 (8) Section 63G-2-206 may not be construed as limiting the authority of the division to report current significant investigative information to the coordinated licensure information system for transmission to party states as required of the division by the Counseling Compact in Section 58-60a-103 or the Social Work Licensure Compact in Section 58-60b-103.

3241 Section 52. Section **58-60-117** is amended to read:

3242 **58-60-117. Externship licenses.**

3204 (1) The division shall issue a temporary license under [Part 2, Social Worker Licensing Act,]Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Clinical Mental Health Counselor Licensing Act, of this chapter to a [person who] person that:

3207 (a) submits an application for licensure under [Part 2, Social Worker Licensing Act,]Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Clinical Mental Health Counselor Licensing Act;

3210 (b) pays a fee [determined by the department under] the division determines in accordance with Section 63J-1-504;

3212 (c) holds an earned doctoral degree or master's degree in a discipline that is a prerequisite for practice as a mental health therapist;

3214 (d) has a deficiency, as [defined by division rule] the division defines by rule the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in course work;

3217 (e) provides mental health therapy as an employee of a public or private organization, which provides mental health therapy, while under the supervision of a person licensed under this chapter; and

3220 (f) has no disciplinary action pending or in effect against the applicant in connection with the practice of mental health therapy, in any jurisdiction.

3222 (2) A temporary license issued under this section shall expire upon the earlier of:

3223 (a) issuance of the license applied for; or

3224 (b) unless the deadline is extended for good cause as [determined by the division] the division determines, three years from the date the temporary license was issued.

3226 (3) The temporary license issued under this section is an externship license.

3266 Section 53. Section **58-60-207** is amended to read:

3267 **58-60-207. Scope of practice -- Limitations.**

3229 (1) A clinical social worker may engage in all acts and practices defined as the practice of clinical social work without supervision, in private and independent practice, or as an employee of another person, limited only by the licensee's education, training, and competence.

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3233 (2) To the extent an individual is professionally prepared by the education and training track completed
3234 while earning a master's or doctor of social work degree, a licensed certified social worker may
3235 engage in all acts and practices defined as the practice of certified social work consistent with the
3236 licensee's education, clinical training, experience, and competence:

3238 (a) under supervision of an individual described in Subsection 58-60-205(2)(d)(ii) and as an employee
3239 of another person when engaged in the practice of mental health therapy;

3240 (b) without supervision and in private and independent practice or as an employee of another person, if
3241 not engaged in the practice of mental health therapy;

3242 (c) including engaging in the private, independent, unsupervised practice of social work as a self-
3243 employed individual, in partnership with other mental health therapists, as a professional
3244 corporation, or in any other capacity or business entity, so long as [he] the individual does not
3245 practice unsupervised psychotherapy; and

3246 (d) supervising social service workers as [provided by division rule] the division provides by rule the
3247 division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

3248 Section 54. Section **58-60-405** is amended to read:

3249 **58-60-405. Qualifications for licensure.**

3251 (1) An applicant for licensure as a clinical mental health counselor shall:

3252 (a) submit an application on a form the division approves;

3253 (b) pay a fee determined by the department under Section 63J-1-504;

3254 (c) produce certified transcripts evidencing completion of:

3255 (i) a master's or doctorate degree conferred to the applicant in:

3256 (A) clinical mental health counseling, clinical rehabilitation counseling, counselor education and
3257 supervision from a program accredited by the Council for Accreditation of Counseling and Related
3258 Educational Programs; or

3259 (B) clinical mental health counseling or an equivalent field from a program affiliated with an institution
3260 that has accreditation that is recognized by the Council for Higher Education Accreditation; and

3262 (ii) at least 60 semester credit hours or 90 quarter credit hours of coursework related to an educational
3263 program described in Subsection (1)(c)(i);

3264 (d) if required under federal law for any licensee as a clinical mental health counselor to qualify as an
3265 eligible professional under CMS rules for Medicare payment, document completion of:

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(i) not less than 3,000 hours of clinical supervision, which includes hours accrued under Subsection (1)(e); or

3269 (ii) not less than two years of clinical supervision;

3270 (e) document successful completion of not less than 1,200 direct client care hours:

3271 (i) obtained after completion of the education requirements under Subsection (1)(c);

3272 (ii) subject to Subsection (1)(e)(iii), not less than 100 of which are direct clinical supervision hours under the supervision of a clinical supervisor;

3274 (iii) not less than 25 of which are direct observation hours; and

3275 (iv) not more than 25 of which are group supervision hours concurrently with more than one other applicant for licensure;

3277 (f) document successful completion of not less than two hours of training in suicide prevention obtained after completion of the education requirements under Subsection (1)(c) via a course that the division designates as approved;

3280 (g)

(i) pass the examination requirement the division establishes by rule under Section 58-1-203; or

3282 (ii) satisfy the following requirements:

3283 (A) document at least one examination attempt that did not result in a passing score;

3285 (B) document successful completion of not less than 500 additional direct client care hours, not less than 25 of which are direct clinical supervision hours, and not less than five of which are direct observation hours by a clinical supervisor;

3288 (C) submit to the division a recommendation letter from the applicant's direct clinical supervisor; and

3290 (D) submit to the division a recommendation letter from another licensed mental health therapist who has directly observed the applicant's direct client care hours and who is not the applicant's direct clinical supervisor; and

3293 (h)

(i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

3295 (ii) meet any other standard related to the criminal background check described in Subsection (1)(h)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

3298 (iii) disclose any criminal history the division requests on a form the division approves.

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(2) An applicant for licensure as an associate clinical mental health counselor shall comply with the provisions of Subsections (1)(a) through [e] (1)(c) and [h] (1)(h).

(3) Notwithstanding Subsection (1)(c), an applicant satisfies the education requirement described in Subsection (1)(c) if the applicant submits documentation verifying:

(a) satisfactory completion of a doctoral or master's degree from an educational program in rehabilitation counseling accredited by the Council for Accreditation of Counseling and Related Educational Programs;

(b) satisfactory completion of at least 60 semester credit hours or 90 quarter credit hours of coursework related to an educational program described in Subsection (1)(c)(i); and

(c) that the applicant received a passing score ~~[that is valid and in good standing on:]~~ on the National [Clinical Mental Health Counseling](#) Counselor Examination.

[~~(i) the National Counselor Examination; and~~
~~(ii) the National Clinical Mental Health Counseling Examination.~~]

Section 55. Section **58-60-502** is amended to read:

58-60-502. Definitions.

~~[In addition to the definitions in Sections 58-1-102 and 58-60-102, as]~~ As used in this part:

(1)

(a) "Counseling" means a collaborative process that facilitates the client's progress toward mutually determined treatment goals and objectives.

(b) "Counseling" includes:

(i) methods that are sensitive to an individual client's characteristics, to the influence of significant others, and to the client's cultural and social context; and

(ii) an understanding, appreciation, and ability to appropriately use the contributions of various addiction counseling models as the counseling models apply to modalities of care for individuals, groups, families, couples, and significant others.

(2) "Direct supervision" means:

(a) a minimum of one hour of supervision by a supervisor of the substance use disorder counselor for every 40 hours of client care provided by the substance use disorder counselor, which supervision may include group supervision;

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(b) the supervision is conducted in a face-to-face manner, unless [otherwise approved on a case-by-case basis by the division in collaboration with the board] the division otherwise approves in collaboration with the board; and

3333 (c) a supervisor is available for consultation with the counselor at all times.

3334 (3) "General supervision" shall be defined by division rule the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

3336 (4) "Group supervision" means more than one counselor licensed under this part meets with the supervisor at the same time.

3338 (5) "Individual supervision" means only one counselor licensed under this part meets with the supervisor at a given time.

3340 (6) "Practice as an advanced substance use disorder counselor" means:

3341 (a) providing the services described in Subsections (9)(a) and (b);

3342 (b) screening and assessing of individuals, including identifying substance use disorder symptoms and behaviors and co-occurring mental health issues;

3344 (c) treatment planning for substance use disorders, including initial planning, reviewing and updating treatment plans for substance use disorders, ongoing intervention, continuity of care, discharge planning, planning for relapse prevention, and long term recovery support;

3348 (d) supervising a substance use disorder counselor in accordance with Subsection 58-60-508(2); and

3350 (e) conducting supportive counseling and psychosocial education for substance use disorders and co-occurring mental health disorders, including:

3352 (i) providing individual and group support;

3353 (ii) providing individual and group psychosocial education; and

3354 (iii) providing manualized therapeutic interventions if:

3355 (A) conducted under the supervision of a mental health therapist;

3356 (B) for the treatment of mild to moderate behavioral health symptoms or disorders, as [diagnosed by] a mental health therapist diagnoses; and

3358 (C) consistent with the client's treatment plan [approved by a] that a mental health therapist approves.

3360 (7) "Practice as a master addiction counselor" means the practice of mental health therapy by means of observation, description, evaluation, interpretation, intervention, and treatment to effect modification of human behavior[~~by~~]:

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(a) by the application of generally recognized substance use disorder counseling and addiction counseling principles, methods, and procedures for the purpose of preventing, treating, or eliminating mental or emotional illness or dysfunction, symptoms of any of these, or maladaptive behavior; and

3367 (b) under the supervision of an advanced substance use disorder counselor or a substance use disorder counselor.

3369 (8) "Practice as an associate master addiction counselor" means the same as the practice as a master addiction counselor, except while under the supervision of a clinical supervisor.

3371 (9)

(a) "Practice as a substance use disorder counselor" means providing services as an employee of a substance use disorder agency under the general supervision of a licensed mental health therapist to individuals or groups of persons, whether in person or remotely, for conditions of substance use disorders consistent with the education and training of a substance use disorder counselor required under this part, and the standards and ethics of the profession as ~~[approved by the division]~~ the division approves in collaboration with the board.

3378 (b) "Practice as a substance use disorder counselor" includes:

3379 (i) administering the screening process by which a client is determined to need substance use disorder services, which may include screening, brief intervention, and treatment referral;

3382 (ii) conducting the administrative intake procedures for admission to a program;

3383 (iii) conducting orientation of a client, including:

3384 (A) describing the general nature and goals of the program;

3385 (B) explaining rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program;

3387 (C) explaining hours during which services are available in a nonresidential program;

3389 (D) treatment costs to be borne by the client, if any; and

3390 (E) describing the client's rights as a program participant;

3391 (iv) conducting assessment procedures by which a substance use disorder counselor gathers information related to an individual's strengths, weaknesses, needs, and substance use disorder symptoms for the development of the treatment plan;

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(v) participating in the process of treatment planning, including recommending specific interventions to support existing treatment goals and objectives developed by the substance use disorder counselor, the mental health therapist, and the client to:

3398 (A) identify and rank problems needing resolution;

3399 (B) establish agreed upon immediate and long term goals; and

3400 (C) decide on a treatment process and the resources to be utilized;

3401 (vi) monitoring compliance with treatment plan progress;

3402 (vii) providing substance use disorder counseling services to alcohol and drug use disorder clients and significant people in the client's life as part of a comprehensive treatment plan, including:

3405 (A) leading specific task-oriented groups, didactic groups, and group discussions;

3406 (B) cofacilitating group therapy with a licensed mental health therapist; and

3407 (C) engaging in one-on-one interventions and interactions coordinated by a mental health therapist;

3409 (viii) performing case management activities that bring services, agencies, resources, or people together within a planned framework of action toward the achievement of established goals, including, when appropriate, liaison activities and collateral contacts;

3413 (ix) providing substance use disorder crisis intervention services;

3414 (x) providing client education to individuals and groups concerning alcohol and other substance use disorders, including identification and description of available treatment services and resources;

3417 (xi) identifying the needs of the client that cannot be met by the substance use disorder counselor or substance use disorder agency and referring the client to appropriate services and community resources;

3420 (xii) developing and providing effective reporting and recordkeeping procedures and services, which include charting the results of the assessment and treatment plan, writing reports, progress notes, discharge summaries, and other client-related data; and

3424 (xiii) consulting with other professionals in regard to client treatment and services to assure comprehensive quality care for the client.

3426 (c) "Practice as a substance use disorder counselor" does not include:

3427 (i) the diagnosing of mental illness, including substance use disorders, as defined in Section 58-60-102;

3429 (ii) engaging in the practice of mental health therapy as defined in Section 58-60-102; or

3431 (iii) the performance of a substance use disorder diagnosis, other mental illness diagnosis, or psychological testing.

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3433 (10) "Program" means a substance use disorder agency that provides substance use disorder services, including recovery support services.

3435 (11) "Recovery support services" means services provided to an individual who is identified as having need of substance use disorder preventive or treatment services, either before, during, or after an episode of care that meets the level of care standards [established by division rule] the division makes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

3440 (12) "Substance use disorder agency" means a public or private agency, health care facility, or health care practice that:

3442 (a) provides substance use disorder services, recovery support services, primary health care services, or substance use disorder preventive services; and

3444 (b) employs qualified mental health therapists in sufficient number to:

3445 (i) evaluate the condition of clients being treated by each counselor licensed under this part and employed by the substance use disorder agency; and

3447 (ii) ensure that appropriate substance use disorder services are being given.

3448 (13) "Substance use disorder education program" means a formal program of substance use disorder education offered by an accredited institution of higher education that meets standards [established by division rule] the division makes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

3491 Section 56. Section **58-60-506** is amended to read:

3492 **58-60-506. Qualifications for licensure.**

3454 (1) Subject to Subsection (2), an applicant for licensure as master addiction counselor based on education, training, and experience shall:

3456 (a) submit an application on a form the division approves;

3457 (b) pay a fee [determined by the department under] the division determines in accordance with Section 63J-1-504;

3459 (c) document successful completion of not less than two hours of training in suicide prevention obtained after completion of the education requirements under Subsection (1)(d) via a course that the division designates as approved;

3462 (d) produce a certified transcript from an accredited institution of higher education that meets standards [established by division rule under] the division makes in accordance with Title 63G, Chapter 3,

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Utah Administrative Rulemaking Act, and in accordance with Section 58-1-203, verifying the satisfactory completion of:

- 3466 (i) a doctoral or master's degree in:
 - 3467 (A) substance use disorders or addiction counseling and treatment; or
 - 3468 (B) a counseling subject ~~[approved by the division]~~ the division approves in collaboration with the board, which may include social work, mental health counseling, marriage and family therapy, psychology, or medicine;
- 3471 (ii) an associate's degree or higher, or 18 credit hours, in substance use disorder or addiction counseling and treatment from a regionally accredited institution of higher education;
- 3474 (e) if required under federal law for any licensee as a master addiction counselor to qualify as an eligible professional under CMS rules for Medicare payment, document completion of:
 - 3477 (i) not less than 3,000 hours of clinical supervision, which includes hours accrued under Subsection (1)(g); or
 - 3479 (ii) not less than two years of clinical supervision;
 - 3480 (f) document successful completion of not less than 1,200 direct client care hours:
 - 3481 (i) obtained after completion of the education requirements under Subsection (1)(d)(ii);
 - 3482 (ii) subject to Subsection (1)(f)(iii), not less than 100 of which are direct clinical supervision hours under the supervision of a clinical supervisor;
 - 3484 (iii) not less than 25 of which are direct observation hours; and
 - 3485 (iv) not more than 25 of which are group supervision hours concurrently with more than one other applicant for licensure;
 - 3487 (g) if the applicant for licensure produces a transcript described in Subsection (1)(d)(ii), evidence completion of an additional 200 hours of direct client care hours in substance use disorder or addiction treatment;
 - 3490 (h)
 - 3492 (i) pass the examination requirement the division ~~[establishes]~~ makes by rule ~~[under]~~ in accordance with Section 58-1-203; or
 - 3493 (ii) satisfy the following requirements:
 - 3495 (A) document at least one examination attempt that did not result in a passing score;

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(B) document successful completion of not less than 500 additional direct client care hours, not less than 25 of which are direct clinical supervision hours, and not less than five of which are direct observation hours by a clinical supervisor;

(C) submit to the division a recommendation letter from the applicant's direct clinical supervisor; and

(D) submit to the division a recommendation letter from another licensed mental health therapist who has directly observed the applicant's direct client care hours and who is not the applicant's direct clinical supervisor; and

(i)

(i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (1)(i) (i), that the division [establishes] makes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves.

(2) In lieu of the requirements under Subsections (1)(d) through (i), an applicant for licensure as master addiction counselor may document current certification in good standing as:

(a) a master addiction counselor by the National Certification Commission for Addiction Professionals;

(b) a master addiction counselor by the National Board for Certified Counselors; or

(c) an equivalent certification as under Subsections (2)(a) and (b), [as determined in rule made by the division in collaboration with the board] the division determines by rule the division makes in collaboration with the board, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) An applicant for licensure as an associate master addiction counselor shall satisfy the requirements under Subsections (1)(a) through [(e)] (1)(c) and [(f)] (1)(i).

(4) Subject to Subsection (5), an applicant for licensure as an advanced substance use disorder counselor shall:

(a) submit an application on a form the division approves;

(b) pay a fee [determined by the department under] the division determines in accordance with Section 63J-1-504;[-{F}] and

(c) document successful completion of at least two hours of training in suicide prevention obtained after completion of the education requirements under Subsection (4)(d) via a course that the division designates as approved; and

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3530 [({e})] (d)

(i) produce certified transcripts verifying satisfactory completion of:

3531 (A) a bachelor's degree or higher, from a regionally accredited institution of higher learning, in substance use disorders, addiction, or related counseling subjects, including social work, mental health counseling, marriage and family counseling, or psychology; or

3535 (B) two academic years of study in a master's of addiction counseling curriculum and practicum approved by the National Addictions Studies Accreditation Commission;

3538 (ii) document completion of at least 500 hours of supervised experience while licensed as a substance use disorder counselor under this section, which the applicant may complete while completing the education requirements under Subsection [({1})(e)(i)] (1)(d)(i); and

3542 (iii) satisfy examination requirements ~~[established by the division in rule] the division makes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~

3545 (5) An applicant for licensure as an advanced substance use disorder counselor may satisfy the requirements of Subsection [({4})(e)] (4)(d) by providing official verification of current certification in good standing:

3548 (a)

(i) as a National Certified Addiction Counselor Level II (NCAC II) from the National Certification Commission for Addiction Professionals (NCC AP); or

3550 (ii) as an Advanced Alcohol & Drug Counselor (AADC), from the International Certification and Reciprocity Consortium; or

3552 (b) of substantive equivalence to the certifications under Subsection (5)(a), as ~~[determined by division rule made in consultation with the board] the division {determines-} requires by rule {the division makes in collaboration with the board, and}~~ in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

3556 (6) In accordance with division rules, an applicant for licensure as a substance use disorder counselor shall produce:

3558 (a) certified transcripts from an accredited institution that:

3559 (i) meet division standards; and

3560 (ii) verify the completion of prerequisite courses ~~[established by division rules] the division requires by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;~~ and

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(b) documentation of the applicant's completion of a substance use disorder education program that includes:

{f(i) completion of at least 200 hours of substance use disorder related education;}

{f(ii){}} {f(i)} {f} included in the 200 hours described in Subsection (6)(b)(i), } a minimum of two hours of training in suicide prevention via a course that the division designates as approved; and {f(iii){}} {f(ii)} completion of a supervised practicum[~~of at least 200 hours~~].

Section 57. Section **58-60-508** is amended to read:

58-60-508. Substance use disorder counselor supervisor's qualifications -- Functions.

(1) A mental health therapist supervisor of a substance use disorder counselor shall:

(a) be qualified by education or experience to treat substance use disorders;

(b) be currently working in the substance use disorder treatment field;

(c) review substance use disorder counselor assessment procedures and recommendations;

(d) provide substance use disorder diagnosis and other mental health diagnoses in accordance with Subsection 58-60-102(7);

(e) supervise the development of a treatment plan;

(f) approve the treatment plan; and

(g) provide direct supervision for not more than six persons, unless granted an exception in writing from the board and the division.

(2) A licensed advanced substance use disorder counselor may act as the supervisor of a

~~[certified] licensed~~ substance use disorder counselor~~, certified substance use disorder counselor intern, certified advanced substance use disorder counselor, or certified advanced substance use disorder counselor intern~~ if the licensed advanced substance use disorder counselor:

(a) has at least two years of experience as a licensed advanced substance use disorder counselor;

(b) is currently working in the substance use disorder field; and

(c) provides direct supervision for no more than six individuals, unless granted an exception in writing from the board and the division.

Section 58. Section **58-60-601** is amended to read:

58-60-601. Definitions.

As used in this part:

(1) "Health care facility" means the same as that term is defined in Section 26B-2-201.

(2) "Human services program" means the same as that term is defined in Section 26B-2-101.

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3599 (3) "Practice of mental health therapy" means the same as that term is defined in Section 58-60-102.

3601 (4) "Practice as a behavioral health coach" means, subject to Subsection (5), providing services as an employee of a substance use disorder or mental health agency, and working under the general supervision of a mental health therapist and includes:

3604 (a) providing services under the definition of practice as a behavioral health technician in Subsection (6);

3606 (b) conducting administrative and care coordination activities, including:

3607 (i) providing targeted case management;

3608 (ii) providing care navigation services, including:

3609 (A) connecting individuals to behavioral health resources and social services; and

3610 (B) facilitating communication with other behavioral health providers;

3611 (iii) providing referrals and crisis referrals, including:

3612 (A) engaging in warm handoffs with other behavioral health providers; and

3613 (B) adhering to a standardized protocol in responding to a crisis or risk of crisis within a behavioral health facility, program, or other entity;

3615 (iv) providing additional support to other behavioral health providers, facilities, programs, and entities, including:

3617 (A) conducting administrative activities; and

3618 (B) extending non-clinical behavioral health support; and

3619 (v) providing discharge, post-treatment referral, and non-clinical after-care services;

3620 (c) conducting patient assessment, monitoring, and planning activities, including:

3621 (i) conducting non-clinical psychosocial assessments and screenings;

3622 (ii) conducting collaborative planning, care planning, and goal setting;

3623 (iii) gathering information to inform a mental health therapist's:

3624 (A) diagnostic evaluations;

3625 (B) initial treatment plans; and

3626 (C) treatment plan reviews and updates;

3627 (iv) monitoring client progress and tracking outcomes to inform a mental health therapist's:

3629 (A) diagnostic evaluations; and

3630 (B) treatment plan reviews and updates;

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- (v) assisting in drafting initial treatment plans by gathering information on a client's history and demographics, only:
 - (A) in the treatment of clients with mild to moderate behavioral health symptoms or disorders, as assessed or diagnosed by a mental health therapist, and as ~~defined by the division in rule~~ the division defines by rule the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (B) with completion of the treatment plan by a mental health therapist after assessing the client before treatment begins; and
 - (C) at the discretion of and with prior documented authorization from a licensed health care facility, or from a licensed human services program; and
- (vi) assisting in the information gathering process of reviewing and updating treatment goals, only:
 - (A) in the treatment of clients with mild to moderate behavioral health symptoms or disorders, as assessed or diagnosed by a mental health therapist;
 - (B) with completion of the treatment plan from a mental health therapist after assessing the client before subsequent treatment begins; and
 - (C) at the discretion of and with prior documented authorization from a licensed health facility or a licensed human service program; and
- (d) conducting intervention and treatment activities, including:
 - (i) providing psychosocial education groups related to behavioral health literacy, wellness education and promotion, goal setting, life skills, and coping skills;
 - (ii) providing other interventions to enhance client social skills, emotional well-being, and overall functioning, including:
 - (A) supportive consultations;
 - (B) habilitation services; and
 - (C) activity-based programs;
 - (iii) providing evidence-based, manualized interventions, only:
 - (A) under the supervision of a mental health therapist;
 - (B) in the treatment of mild to moderate behavioral health symptoms or disorders, as assessed or diagnosed by a mental health therapist, and as the division defines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; [and]

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(C) according to a treatment plan reviewed and signed by a mental health therapist after assessing the client before treatment begins; {and{}} and

(D) at the discretion of and with prior documented authorization from a licensed health care facility, or from a licensed human services program; and

(iv) co-facilitating group therapy with a mental health therapist.

(5) "Practice as a behavioral health coach" does not include engaging in the practice of mental health therapy.

(6)

(a) "Practice as a behavioral health technician" means working under the general supervision of a mental health therapist and includes:

(i) supporting administrative and care coordination activities, including:

(A) maintaining accurate and confidential client records, progress notes, and incident reports, in compliance with applicable legal and ethical standards; and

(B) assisting in discharge, referral, and after-care documentation, coordination, and administration;

(ii) supporting patient non-clinical assessment, monitoring, and care planning activities, including:

(A) collecting intake and non-clinical psychosocial assessment information;

(B) gathering information to support diagnostic and treatment planning activities conducted by a mental health therapist; and

(C) observing, documenting, and reporting on client behaviors, treatment interventions, progress, and outcomes to a mental health therapist;

(iii) supporting intervention and treatment activities, including:

(A) supporting licensed professionals in implementing interventions designed to address behavioral health issues;

(B) facilitating psychoeducational groups or activities, development skills or activities, or social support groups or activities to enhance client social skills, emotional well-being, and overall functioning;

(C) providing education and support to clients and their families on behavioral health issues, treatment options, and community resources;

(D) implementing behavioral management strategies including de-escalation techniques and crisis intervention as needed; and

(E) implementing crisis intervention strategies in accordance with established protocols, and ensuring the safety and well-being of clients during emergencies.

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3696 (b) "Practice as a behavioral health technician" does not include:

3697 (i) engaging in the practice of mental health therapy; or

3698 (ii) serving as a designated examiner.

3699 (7) Notwithstanding any other provision of this part, no behavioral health coach is authorized to
practice outside of or beyond [his or her] the behavioral health coach's area of training, experience,
or competence.

3702 (8) Notwithstanding any other provision of this part, no behavioral health technician is authorized
to practice outside of or beyond [his or her] the behavioral health technician's area of training,
experience, or competence.

3744 Section 59. Section **58-61-102** is amended to read:

3745 **58-61-102. Definitions.**

3708 [In addition to the definitions in Section 58-1-102, as] As used in this chapter:

3709 (1) "Board" means the Behavioral Health Board created in Section 58-60-102.5.

3712 (2) "Client" or "patient" means an individual who [consults or is examined or interviewed by] a
psychologist, acting in [his] a professional capacity, consults, examines, or interviews.

3714 (3) "Confidential communication" means information, including information obtained by the
psychologist's examination of the client or patient, which is:

3716 (a) (i) transmitted between the client or patient and a psychologist in the course of that relationship; or
(ii) transmitted among the client or patient, the psychologist, and individuals who are participating in
the diagnosis or treatment under the direction of the psychologist, including members of the client's
or patient's family; and

3719 (b) made in confidence, for the diagnosis or treatment of the client or patient by the psychologist, and
by a means not intended to be disclosed to third persons other than those individuals:

3722 (i) present to further the interest of the client or patient in the consultation, examination, or interview;

3724 (ii) reasonably necessary for the transmission of the communications; or

3725 (iii) participating in the diagnosis and treatment of the client or patient under the direction of the
psychologist.

3727 (4) "Hypnosis" means, regarding individuals exempted from licensure under this chapter, a process by
which one individual induces or assists another individual into a hypnotic state without the use of

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drugs or other substances and for the purpose of increasing motivation or to assist the individual to alter lifestyles or habits.

3731 (5) "Individual" means a natural person.

3732 (6) "Mental health therapist" means an individual licensed under this title as a:

3733 (a) physician and surgeon, or osteopathic physician engaged in the practice of mental health therapy;

3735 (b) an advanced practice registered nurse, specializing in psychiatric mental health nursing;

3737 (c) an advanced practice registered nurse intern, specializing in psychiatric mental health nursing;

3739 (d) psychologist qualified to engage in the practice of mental health therapy;

3740 (e) a certified psychology resident qualifying to engage in the practice of mental health therapy;

3742 (f) clinical social worker;

3743 (g) certified social worker;

3744 (h) marriage and family therapist;

3745 (i) an associate marriage and family therapist;

3746 (j) a clinical mental health counselor; or

3747 (k) an associate clinical mental health counselor.

3748 (7) "Mental illness" means a mental or emotional condition defined in an approved diagnostic and statistical manual for mental disorders generally recognized in the professions of mental health therapy listed under Subsection (6).

3751 (8) "Practice of mental health therapy" means the treatment or prevention of mental illness, whether in person or remotely, including:

3753 (a) conducting a professional evaluation of an individual's condition of mental health, mental illness, or emotional disorder;

3755 (b) establishing a diagnosis in accordance with established written standards generally recognized in the professions of mental health therapy listed under Subsection (6);

3757 (c) prescribing a plan for the prevention or treatment of a condition of mental illness or emotional disorder; and

3759 (d) engaging in the conduct of professional intervention, including psychotherapy by the application of established methods and procedures generally recognized in the professions of mental health therapy listed under Subsection (6).

3762 (9)

3763 (a) "Practice of psychology" includes:

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3763 (i) the practice of mental health therapy by means of observation, description, evaluation, interpretation, intervention, and treatment to effect modification of human behavior by the application of generally recognized professional psychological principles, methods, and procedures for the purpose of preventing, treating, or eliminating mental or emotional illness or dysfunction, the symptoms of any of these, or maladaptive behavior;

3769 (ii) the observation, description, evaluation, interpretation, or modification of human behavior by the application of generally recognized professional principles, methods, or procedures requiring the education, training, and clinical experience of a psychologist, for the purpose of assessing, diagnosing, preventing, or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health;

3776 (iii) psychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning;

3779 (iv) counseling, marriage and family therapy, psychoanalysis, psychotherapy, hypnosis, and behavior analysis and therapy;

3781 (v) diagnosis and treatment of mental and emotional disorders of disability, alcoholism and substance abuse, disorders of habit or conduct, and the psychological aspects of physical illness, accident, injury, or disability; and

3784 (vi) psychoeducational evaluation, therapy, remediation, and consultation.

3785 (b) An individual practicing psychology may provide services to individuals, couples, families, groups of individuals, members of the public, and individuals or groups within organizations or institutions.

3788 (10) "Remotely" means communicating via [Internet] internet, telephone, or other electronic means that facilitate real-time audio or visual interaction between individuals when they are not physically present in the same room at the same time.

3791 (11) "Unlawful conduct" [is-as] means the same as that term is defined in Sections 58-1-501 and 58-61-501.

3793 (12) "Unprofessional conduct" [is-as] means the same as that term is defined in Sections 58-1-501 and 58-61-502, and [may be further defined by division rule] as the division defines by rule the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

3836 Section 60. Section **58-61-301** is amended to read:

3837 **58-61-301. Licensure required -- Certifications.**

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3799 (1)

(a) A license is required to engage in the practice of psychology, except as specifically provided in Section 58-1-307.

3801 (b) Notwithstanding the provisions of Subsection 58-1-307(1)(c) an individual shall be certified under this chapter as a psychology resident in order to engage in a residency program of supervised clinical training necessary to meet licensing requirements as a psychologist under this chapter.

3805 (2) The division shall issue to an individual who qualifies under this chapter:

3806 (a) a license in the classification of:

3807 (i) psychologist;

3808 (ii) certified psychology resident; ~~and~~ or

3809 (iii) licensed school psychological practitioner; ~~and~~ or

3810 (b) a certification in the classification of:

3811 (i) certified prescribing psychologist; ~~and~~ or

3812 (ii) provisional prescribing psychologist.

3852 Section 61. Section **58-61-307** is amended to read:

3853 **58-61-307. Exemptions from licensure.**

3815 (1) Except as modified in Section 58-61-301, the exemptions from licensure in Section 58-1-307 apply to this chapter.

3817 (2) In addition to the exemptions from licensure in Section 58-1-307, the following when practicing within the scope of the license held, may engage in acts included within the definition of practice as a psychologist, subject to the stated circumstances and limitations, without being licensed under this chapter:

3821 (a) a physician and surgeon or osteopathic physician licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

3823 (b) a registered psychiatric mental health nurse specialist licensed under Chapter 31b, Nurse Practice Act;

3825 (c) a recognized member of the clergy while functioning in ~~his~~ a ministerial capacity as long as ~~he~~ the individual does not represent ~~himself as~~ that the individual is a psychologist or use the title of psychologist;

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- (d) an individual who is offering expert testimony in any proceeding before a court, administrative hearing, deposition upon the order of any court or other body having power to order the deposition, or proceedings before any master, referee, or alternative dispute resolution provider;
- 3832 (e) an individual engaged in performing hypnosis who is not licensed under this title in a profession which includes hypnosis in its scope of practice, and who:
 - 3834 (i)
 - (A) induces a hypnotic state in a client for the purpose of increasing motivation or altering lifestyles or habits, such as eating or smoking, through hypnosis;
 - 3836 (B) consults with a client to determine current motivation and behavior patterns;
 - 3837 (C) prepares the client to enter hypnotic states by explaining how hypnosis works and what the client will experience;
 - 3839 (D) tests clients to determine degrees of suggestibility;
 - 3840 (E) applies hypnotic techniques based on interpretation of consultation results and analysis of client's motivation and behavior patterns; and
 - 3842 (F) trains clients in self-hypnosis conditioning;
 - 3843 (ii) may not:
 - 3844 (A) engage in the practice of mental health therapy;
 - 3845 (B) represent himself using the title of a license classification in Subsection 58-60-102(5); or
 - 3847 (C) use hypnosis with or treat a medical, psychological, or dental condition defined in generally recognized diagnostic and statistical manuals of medical, psychological, or dental disorders;
 - 3850 (f) an individual's exemption from licensure under Subsection 58-1-307(1)(b) terminates when the student's training is no longer supervised by qualified faculty or staff and the activities are no longer a defined part of the degree program;
 - 3853 (g) an individual holding an earned doctoral degree in psychology who is employed by an accredited institution of higher education and who conducts research and teaches in that individual's professional field, but only if the individual does not engage in providing delivery or supervision of professional services regulated under this chapter to individuals or groups regardless of whether there is compensation for the services;
 - 3859 (h) any individual who was employed as a psychologist by a state, county, or municipal agency or other political subdivision of the state prior to July 1, 1981, and who subsequently has maintained employment as a psychologist in the same state, county, or municipal agency or other political

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subdivision while engaged in the performance of [his] the individual's official duties for that agency or political subdivision;

3864 (i) an individual licensed as a school psychologist under Section 53E-6-201;

3865 (i) may [represent himself as and] use the terms "school psychologist" or "licensed school psychologist"; and

3867 (ii) [is restricted in his practice to employment] may only practice within settings authorized by the State Board of Education;

3869 (j) an individual providing advice or counsel to another individual in a setting of [their association as friends] friendship, or relatives and in a nonprofessional and noncommercial relationship, if there is no compensation paid for the advice or counsel; and

3873 (k) an individual who is licensed, in good standing, to practice mental health therapy in a state or territory of the United States outside of Utah may provide short term transitional mental health therapy remotely to a client in Utah only if:

3876 (i) the individual is present in the state or territory where the individual is licensed to practice mental health therapy;

3878 (ii) the client relocates to Utah;

3879 (iii) the client is a client of the individual immediately before the client relocates to Utah;

3881 (iv) the individual provides the short term transitional mental health therapy to the client only during the 45 day period beginning on the day on which the client relocates to Utah;

3884 (v) within 10 days after the day on which the client relocates to Utah, the individual provides written notice to the division of the individual's intent to provide short term transitional mental health therapy remotely to the client; and

3887 (vi) the individual does not engage in unlawful conduct or unprofessional conduct.

3927 Section 62. Section **58-61-401** is amended to read:

58-61-401. Grounds for denial of licensure or certification -- Disciplinary proceedings.

3891 [(1) Subject to Subsection (2), the division's grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee, for issuing a public or private reprimand to a licensee, and for issuing a cease and desist order are under Section 58-1-401.]

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[~~(2) The division may not refuse, revoke, suspend, or in any way restrict an applicant or licensee's license under this chapter solely because the applicant or licensee seeks or participates in mental health or substance abuse treatment.]~~

3899 (1) As used in this section:

3900 (a) "License" includes a certification issued under this chapter.

3901 (b) "Licensed" includes a person certified under this chapter.

3902 (c) "Licensee" includes a certificate holder under this chapter.

3903 (2) Subject to Subsection (7), the division may take an action described in Section 58-1-401 and in accordance with that section, including refusing to issue or renew a license, or revoking, suspending, restricting, or placing a license on probation, issuing a public or private reprimand, or issuing a cease and desist order.

3907 (3)

(a)

(i) Subject to Subsection (7), if a court with jurisdiction determines a licensee is incapacitated as defined in Section 75-1-20, or that the licensee has a mental illness as defined in Section 26B-5-301, and is unable to safely engage in practice under this chapter, the director shall immediately suspend the license of the licensee upon the entry of the judgment of the court, without further proceedings under Title 63G, Chapter 4, Administrative Procedures Act, regardless of whether an appeal from the court's ruling is pending.

3914 (ii) The director shall promptly notify the licensee in writing of a suspension under Subsection (3) (a)(i).

3916 (b)

(i) If the division and a majority of the board find reasonable cause to believe that a licensee cannot practice under this chapter with reasonable skill and safety to protect a patient due to illness, excessive use of drugs or alcohol, or another mental or physical condition, and a court has not determined that the licensee is incapacitated or has a mental illness, the board shall:

3921 (A) recommend that the director file a petition with the division; and

3922 (B) ensure service of the petition on the licensee together with a notice of hearing limited to the licensee's capacity to competently and safely practice under this chapter.

3925 (ii) Except as provided in Subsection (4), the hearing described in Subsection (3)(b)(i) shall be conducted under Section 58-1-109 and Title 63G, Chapter 4, Administrative Procedures Act.

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3928 (4)

(a) Every licensee who accepts the privilege of being licensed under this chapter gives consent to:

3930 (i) submitting to an immediate mental or physical examination, at the licensee's expense and by a division-approved practitioner selected by the licensee when directed in writing by the division and a majority of the board to do so; and

3933 (ii) the admissibility of the reports of the examining practitioner's testimony or examination, and waives all objections on the ground the reports constitute a privileged communication.

3936 (b) The examination may be ordered by the division, with the consent of a majority of the board, only upon a finding of reasonable cause to believe:

3938 (i) the licensee has a mental illness, is incapacitated, or otherwise unable to practice with reasonable skill and safety; and

3940 (ii) immediate action by the division and the board is necessary to prevent harm to the licensee's patients or the general public.

3942 (c)

(i) By written order of the director, the division may immediately suspend the license of a licensee who fails to submit to examination in accordance with this section.

3945 (ii) The division may enter the order of suspension without further compliance with Title 63G, Chapter 4, Administrative Procedures Act, unless the division finds the licensee's failure to submit to examination was due to circumstances beyond the control of the licensee and unrelated to the illness or incapacity of the licensee.

3949 (5)

(a) A licensee whose license is suspended under Subsection (3) or (4)(c) may appeal the suspension within 10 days after the day on which the division suspends the license.

3952 (b) The hearing held under this Subsection (5) shall be conducted in accordance with Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists for the continuance of the order of suspension in order to prevent harm to the licensee's patients or the general public.

3956 (6) A licensee whose license is revoked, suspended, or in any way restricted under this section may request the division and the board to consider, at reasonable intervals, evidence presented by the licensee, under procedures the division makes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding change in the licensee's condition, to determine whether:

3961 (a) the licensee is able to safely and competently engage in the practice under the licensee's license; and

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3963 (b) the licensee is qualified to have the licensee's license to practice under this chapter partially or completely restored.

3965 (7) The division may not refuse, revoke, suspend, or restrict an applicant or licensee's license under this chapter solely because the applicant or licensee seeks or participates in mental health or substance abuse treatment.

3968 (8) Section 63G-2-206 may not be construed as limiting the authority of the division to report current significant investigative information to the coordinated licensure information system for transmission to party states as required of the division by Article IX of the Psychology Interjurisdictional Compact in Section 58-61b-102.

4011 Section 63. Section **58-61-501** is amended to read:

4012 **58-61-501. Unlawful conduct.**

As used in this chapter, "unlawful conduct" includes:

3975 (1) practice of psychology unless licensed as a psychologist or certified psychology resident under this chapter or exempted from licensure under this title;

3977 (2) practice of mental health therapy by a licensed psychologist who has not acceptably documented to the division [his] the licensed psychologist's completion of the supervised training in psychotherapy required under Subsection 58-61-304(1)(e); or

3980 (3) representing oneself as or using the title of psychologist, or certified psychology resident unless currently licensed under this chapter.

4021 Section 64. Section **58-63-302** is amended to read:

4022 **58-63-302. Qualifications for licensure.**

3984 (1) Each applicant for licensure as an armored car company or a contract security company shall:

3986 (a) submit an application in a form the division approves;

3987 (b) pay a fee [determined by the department under] the division determines in accordance with Section 63J-1-504;

3989 (c) have a qualifying agent who:

3990 (i) meets with the division and the board and demonstrates that the applicant and the qualifying agent meet the requirements of this section;

3992 (ii) is a resident of the state;

3993 (iii) is responsible management personnel or a company owner of the applicant;

3994

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- (iv) exercises material day-to-day authority in the conduct of the applicant's business by making substantive technical and administrative decisions and whose primary employment is with the applicant;
- 3997 (v) is not concurrently acting as a qualifying agent or employee of another armored car company or contract security company and is not engaged in any other employment on a regular basis;
- 4000 (vi) is not involved in any activity that would conflict with the qualifying agent's duties and responsibilities under this chapter to ensure that the qualifying agent's and the applicant's performance under this chapter does not jeopardize the health or safety of the general public;
- 4004 (vii) is not an employee of a government agency;
- 4005 (viii) passes an examination component ~~[established by rule by the division in collaboration with the board]~~ the division requires by rule the division makes in collaboration with the board, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
- 4009 (ix)
 - (A) demonstrates 6,000 hours of compensated experience as a manager, supervisor, or administrator of an armored car company or a contract security company; or
 - (B) demonstrates 6,000 hours of supervisory experience acceptable to the division in collaboration with the board with a federal, United States military, state, county, or municipal law enforcement agency;
- 4012 (d) require that each company officer, company owner, company proprietor, company trustee, and responsible management personnel with direct responsibility for managing operations of the applicant within the state:
 - 4018 (i) provide name, address, date of birth, social security number, and fingerprints; and
 - 4019 (ii)
 - (A) consent to, and complete, a criminal background check, described in Section 58-1-301.5;
 - (B) meet any other standard related to the criminal background check described in Subsection (1)(d) (ii)(A), that the division ~~[establishes]~~ makes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - (C) disclose any criminal history the division requests on a form the division approves;
 - 4021 (e) have company officers, company owners, company proprietors, company trustees, and responsible management personnel who have not been convicted of:
 - 4025 (i) a felony; or
- 4027
- 4029
- 4030

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- (ii) a crime that when considered with the duties and responsibilities of a contract security company or an armored car company by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;
- (f) document that none of the individuals described in Subsection (1)(e):
 - (i) have been declared by a court [of competent] with jurisdiction incompetent by reason of mental defect or disease and not been restored; or
 - (ii) [currently suffer from habitual drunkenness or from drug addiction or dependence] are currently unable to perform the duties required under this title due to a mental or physical illness or condition, or engagement in any of the behaviors listed in Subsection 58-1-501(2)(a)(v);
- (g) file and maintain with the division evidence of:
 - (i) comprehensive general liability insurance in a form [and in amounts established by rule by the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act] in accordance with Subsection 58-63-102(13)(b);
 - (ii) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law;
 - (iii) registration with the Division of Corporations and Commercial Code; and
 - (iv) registration as required by applicable law with the:
 - (A) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;
 - (B) State Tax Commission; and
 - (C) Internal Revenue Service; and
- (h) meet with the division [and board if requested by the division or board] or board as the division or board may request.

(2) Each applicant for licensure as an armed private security officer:

- (a) shall submit an application in a form the division approves;
- (b) shall pay a fee [determined by the department under] the division determines in accordance with Section 63J-1-504;
- (c) may not have been convicted of:
 - (i) a felony; or

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- (ii) a crime that when considered with the duties and responsibilities of an armed private security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;
- 4065 (d) may not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec. 922(g);
- 4067 (e) may not have been declared incompetent by a court [of competent] with jurisdiction by reason of mental defect or disease and not been restored;
- 4069 (f) [may not be currently suffering from habitual drunkenness or from drug addiction or dependence] may not be currently unable to perform the duties required under this title due to a mental or physical illness or condition, or engagement in any of the behaviors listed in Subsection 58-1-501(2)(a)(v);
- 4073 (g) shall successfully complete basic education and training requirements established by rule by the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of eight hours of classroom or online curriculum;
- 4077 (h) shall successfully complete firearms training requirements [established by rule by] the division makes in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of 12 hours of training;
- 4081 (i) shall pass the examination requirement [established by rule by] the division makes in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 4084 (j) shall:
 - 4085 (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;
 - 4087 (ii) meet any other standard related to the criminal background check described in Subsection (1)(j)
 - (i), that the division [establishes] makes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - 4090 (iii) disclose any criminal history the division requests on a form the division approves; and
- 4092 (k) shall meet with the division [and board if requested by the division or the board] or board as the division or board may request.
- 4094 (3) Each applicant for licensure as an unarmed private security officer:
 - 4095 (a) shall submit an application in a form the division approves;
 - 4096 (b) shall pay a fee [determined by the department under] the division determines in accordance with Section 63J-1-504;

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4098 (c) may not have been convicted of:

4099 (i) a felony; or

4100 (ii) a crime that when considered with the duties and responsibilities of an unarmed private security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

4103 (d) may not have been declared incompetent by a court [of competent] with jurisdiction by reason of mental defect or disease and not been restored;

4105 (e) [may not be currently suffering from habitual drunkenness or from drug addiction or dependence] may not be currently unable to perform the duties required under this title due to a mental or physical illness or condition, or engagement in any of the behaviors listed in Subsection 58-1-501(2)(a)(v);

4109 (f) shall successfully complete basic education and training requirements [established by rule by] the division makes by rule in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of eight hours of classroom or online curriculum;

4113 (g) shall pass the examination requirement [established by rule by] the division makes by rule in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

4116 (h) shall:

4117 (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

4119 (ii) meet any other standard related to the criminal background check described in Subsection (1)(h) (i), that the division [establishes] makes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

4122 (iii) disclose any criminal history the division requests on a form the division approves; and

4124 (i) shall meet with the division [and board if requested by the division or board] or board as the division or board may request.

4126 (4) Each applicant for licensure as an armored car security officer:

4127 (a) shall submit an application in a form the division approves;

4128 (b) shall pay a fee [determined by the department under] the division determines in accordance with Section 63J-1-504;

4130 (c) may not have been convicted of:

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4131 (i) a felony; or

4132 (ii) a crime that when considered with the duties and responsibilities of an armored car security officer
by the division and the board indicates that the best interests of the public are not served by granting
the applicant a license;

4135 (d) may not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec. 922(g);

4137 (e) may not have been declared incompetent by a court [of competent] with jurisdiction by reason of
mental defect or disease and not been restored;

4139 (f) [may not be currently suffering from habitual drunkenness or from drug addiction or
dependence] may not be currently unable to perform the duties required under this title due to a
mental or physical illness or condition, or engagement in any of the behaviors listed in Subsection
58-1-501(2)(a)(v);

4143 (g) shall successfully complete basic education and training requirements [established by rule by] the
division makes by rule in collaboration with the board and in accordance with Title 63G, Chapter 3,
Utah Administrative Rulemaking Act;

4146 (h) shall successfully complete firearms training requirements [established by rule by] the division
makes by rule in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah
Administrative Rulemaking Act;

4149 (i) shall pass the examination requirements [established by rule by] the division make by rule in
collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
Rulemaking Act;

4152 (j) shall:

4153 (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

4155 (ii) meet any other standard related to the criminal background check described in Subsection (4)(j)
(i), that the division [establishes] makes by rule in accordance with Title 63G, Chapter 3, Utah
Administrative Rulemaking Act; and

4158 (iii) disclose any criminal history the division requests on a form the division approves; and

4160 (k) shall meet with the division and board if requested by the division or the board.

4161 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may
make a rule establishing when the division shall request a Federal Bureau of Investigation records'
review for an applicant who is applying for licensure or licensure renewal under this chapter.

4204 Section 65. Section **58-64-302** is amended to read:

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58-64-302. Qualifications for licensure.

- (1) An applicant for licensure as a deception detection examiner:
 - (a) shall submit an application in a form the division approves;
 - (b) shall pay a fee [determined by the department under] the division determines in accordance with Section 63J-1-504;
 - (c) may not have been convicted of a felony or any other crime that when considered with the duties and responsibilities of a deception detection examiner is considered by the division to indicate that the best interests of the public will not be served by granting the applicant a license;
 - (d) may not have been declared by any court [of competent] with jurisdiction incompetent by reason of mental defect or disease and not been restored;
 - (e) [may not be currently suffering from habitual drunkenness or from drug addiction or dependence] may not be currently unable to perform the duties required under this title due to a mental or physical illness or condition, or engagement in any of the behaviors listed in Subsection 58-1-501(2)(a)(v);
 - (f) shall have completed one of the following:
 - (i) have earned a bachelor's degree from a four-year university or college meeting standards the division [establishes] makes by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (ii) have completed not less than 8,000 hours of investigation experience [approved by the division] that the division approves; or
 - (iii) have completed a combination of university or college education and investigation experience, as [defined by rule made by the] the division defines by rule the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as being equivalent to the requirements under Subsection (1)(f)(i) or (1)(f)(ii);
 - (g) shall have successfully completed a training program in detection deception meeting criteria the division [establishes] makes by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (h) shall:
 - (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

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- (ii) meet any other standard related to the criminal background check described in Subsection (1)(h)
 - (i), that the division ~~[establishes]~~ makes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
- (iii) disclose any criminal history the division requests on a form the division approves; and
 - (i) shall have performed satisfactorily as a licensed deception detection intern for a period of not less than one year and shall have satisfactorily conducted not less than 100 deception detection examinations under the supervision of a licensed deception detection examiner.

(2) An applicant for licensure as a deception detection intern:

- (a) shall submit an application in a form the division approves;
- (b) shall pay a fee ~~[determined by the department under]~~ the division determines in accordance with Section 63J-1-504;
- (c) may not have been convicted of a felony or any other crime that when considered with the duties and responsibilities of a deception detection intern is considered by the division to indicate that the best interests of the public will not be served by granting the applicant a license;
- (d) may not have been declared by any court ~~[of competent]~~ with jurisdiction incompetent by reason of mental defect or disease and not been restored;
- (e) ~~[may not be currently suffering from habitual drunkenness or from drug addiction or dependence]~~ may not be currently unable to perform the duties required under this title due to a mental or physical illness or condition, or engagement in any of the behaviors listed in Subsection 58-1-501(2)(a)(v);
- (f) shall have completed one of the following:
 - (i) have earned a bachelor's degree from a four-year university or college meeting standards the division ~~[establishes-]~~ makes by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (ii) have completed not less than 8,000 hours of investigation experience ~~[approved by the division]~~ that the division approves; or
 - (iii) have completed a combination of university or college education and investigation experience, as ~~[defined by rule]~~ the division defines by rule the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as being equivalent to the requirements under Subsection (2)(f)(i) or (2)(f)(ii);

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(g) shall have successfully completed a training program in detection deception meeting criteria [established by rule] the division makes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

4235 (h) shall:

4236 (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

4238 (ii) meet any other standard related to the criminal background check described in Subsection (2)(h)

4241 (i), that the division [establishes] makes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

4243 (iii) disclose any criminal history the division requests on a form the division approves; and

4245 (i) shall provide the division with an intern supervision agreement in a form the division approves under which:

4246 (i) a licensed deception detection examiner agrees to supervise the intern; and

4248 (ii) the applicant agrees to be supervised by that licensed deception detection examiner.

4249 (3) An applicant for licensure as a deception detection examination administrator:

4250 (a) shall submit an application in a form the division approves;

4252 (b) shall pay a fee [determined by the department under] the division determines in accordance with Section 63J-1-504;

4256 (c) may not have been convicted of a felony or any other crime that when considered with the duties and responsibilities of a deception detection examination administrator is considered by the division to indicate that the best interests of the public will not be served by granting the applicant a license;

4258 (d) may not have been declared by a court [of competent] with jurisdiction incompetent by reason of mental defect or disease and not been restored;

4262 (e) [may not be currently suffering from habitual drunkenness or from drug addiction or dependenee] may not be currently unable to perform the duties required under this title due to a mental or physical illness or condition, or engagement in any of the behaviors listed in Subsection 58-1-501(2)(a)(v);

4264 (f) shall have earned an associate degree from a state-accredited university or college or have an equivalent number of years' work experience;

4266 (g) shall:

4268 (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

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(ii) meet any other standard related to the criminal background check described in Subsection (3)(g)(i), that the division ~~[establishes]~~ makes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

4270 (iii) disclose any criminal history the division requests on a form the division approves; and

4272 (h) shall have successfully completed a training program and have obtained certification in deception detection examination administration provided by the manufacturer of a scientific or technology-based software application solution that the director approves.

4314 Section 66. Section **58-67-502** is amended to read:

58-67-502. Unprofessional conduct.

4277 (1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

4278 (a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

4281 (b) making a material misrepresentation regarding the qualifications for licensure under Section 58-67-302.7 or 58-67-302.8;

4283 (c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, or Chapter 88, Part 2, Dispensing Practice, if applicable;

4286 (d) violating the requirements of Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis;

4288 (e) performing or inducing an abortion in violation of the requirements of Section 76-7-302 or Section 76-7a-201, regardless of whether the individual licensed under this chapter is found guilty of a crime in connection with the violation;

4291 (f) falsely making an entry in, or altering, a medical record with the intent to conceal:

4292 (i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

4295 (ii) conduct described in Subsections (1)(a) through (e) or Subsection 58-1-501(1);

4296 (g) performing, or causing to be performed, upon an individual who is less than 18 years old:

4298 (i) a primary sex characteristic surgical procedure; or

4299 (ii) a secondary sex characteristic surgical procedure; or

4300 (h) designating a child as do not resuscitate without parental consent.

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4301 (2) "Unprofessional conduct" does not include:

4302 (a) in compliance with Section 58-85-103:

4303 (i) obtaining an investigational drug or investigational device;

4304 (ii) administering the investigational drug to an eligible patient; or

4305 (iii) treating an eligible patient with the investigational drug or investigational device; or

4307 (b) in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis:

4309 (i) when acting as a recommending medical provider, as that term is defined in Section 26B-4-201, recommending the use of medical cannabis; or

4311 (ii) when registered as a pharmacy medical provider, as that term is defined in Section 26B-4-201, providing pharmacy medical provider services in a medical cannabis pharmacy.

4314 (3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician described in Subsection (2)(b).

4356 Section 67. Section **58-68-802** is amended to read:

4357 **58-68-802. Form of practice.**

4319 (1) An osteopathic physician and surgeon licensed under this chapter may engage in practice as an osteopathic physician and surgeon or in the practice of osteopathic medicine only as an individual licensee, but as an individual licensee, [he] an osteopathic physician and surgeon licensed under this chapter may be:

4323 (a) an individual operating as a business proprietor;

4324 (b) an employee of another person;

4325 (c) a partner in a lawfully organized partnership;

4326 (d) a lawfully formed professional corporation;

4327 (e) a lawfully organized limited liability company;

4328 (f) a lawfully organized business corporation; or

4329 (g) any other form of organization [recognized by the state and not prohibited by division rule made in collaboration with the board] the state recognizes and that the division does not prohibit by rule made in collaboration with the board.

4332 (2) Regardless of the form in which a licensee engages in the practice of osteopathic medicine, the licensee may only permit the practice of medicine in that form of business practice to be conducted by an individual:

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4335 (a) licensed in Utah as an osteopathic physician and surgeon under Section 58-68-301 or as a physician
and surgeon under Section 58-67-301; and

4337 (b) who is able to lawfully and competently engage in the practice of medicine to direct or interfere in
the licensee's practice of medicine.

4378 Section 68. Section **58-69-502** is amended to read:

4379 **58-69-502. Unprofessional conduct.**

4341 (1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

4342 (a) sharing professional fees with an unlicensed person or paying any person for sending or referring a
patient;

4344 (b) making an unsubstantiated claim of superiority in training or skill as a dentist or dental hygienist or
in the performance of professional services;

4346 (c) refusing authorized agents of the division or state or local health authorities access to the facilities
related to the practice of dentistry or dental hygiene during normal business hours for the purpose of
inspection;

4349 (d) failing to maintain facilities, instruments, equipment, supplies, appliances, or other property or
conditions related to the practice of dentistry in a sanitary condition consistent with the standards
and ethics of the professions of dentistry or dental hygiene; [~~or~~]

4353 (e) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and
Dispensing Medical Practitioner Clinic Pharmacy, or Chapter 88, Part 2, Dispensing Practice, if
applicable; or

4356 [~~(e)~~] (f) falsely making an entry in, or altering, a medical record with the intent to conceal:

4358 (i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual
under the direction or control of an individual licensed under this chapter; or

4361 (ii) conduct described in Subsections (1)(a) through (d) or Subsection 58-1-501(1).

4362 (2) For purposes of Subsection (1)(b), an unsubstantiated claim of superiority:

4363 (a) includes for the practice of dentistry:

4364 (i) advertising or otherwise holding oneself out to the public as practicing a dental specialty in which
the dentist has not successfully completed the education specified for the dental specialty as [~~defined~~
~~by~~] the American Dental Association defines; and

4368 (ii) using the following words in advertising "Endodontist," "Orthodontist," "Oral and Maxillofacial
Surgeon," "Specialist," "Board Certified," "Diplomat," "Practice Limited to," "Pediatric Dentist,"

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"Periodontist," or "Limited to Specialty of" when the dentist has not successfully completed the education specified for the dental specialty as [defined by] the American Dental Association defines; and

4373 (b) does not include a dentist who advertises as being qualified in a recognized specialty area of dental practice so long as each such advertisement, regardless of form, contains a prominent disclaimer that the dentist is licensed as a general dentist or that the specialty services will be provided by a general dentist.

4416 Section 69. Section **58-70a-503** is amended to read:

58-70a-503. Unprofessional conduct.

4379 (1) "Unprofessional conduct" includes:

4380 (a) violation of a patient confidence to any [person who] person that does not have a legal right and a professional need to know the information concerning the patient;

4382 (b) knowingly prescribing, selling, giving away, or directly or indirectly administering, or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts prescribed or provided;

4386 (c) prescribing prescription drugs for oneself or administering prescription drugs to oneself, except those that have been legally prescribed for the physician assistant by a licensed practitioner and that are used in accordance with the prescription order for the condition diagnosed;

4390 (d) in a practice that has physician assistant ownership interests, failure to allow a physician the independent final decision making authority on treatment decisions for the physician's patient;

4393 (e) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, or Chapter 88, Part 2, Dispensing Practice, if applicable;

4396 (f) falsely making an entry in, or altering, a medical record with the intent to conceal:

4397 (i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

4400 (ii) conduct described in Subsections (1)(a) through (e) or Subsection 58-1-501(1);

4401 (g) violating the requirements of Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

4403 (h) designating a child as do not resuscitate without parental consent.

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4404 (2)

4404 (a) "Unprofessional conduct" does not include, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, when acting as a recommending medical provider, as that term is defined in Section 26B-4-201, recommending the use of medical cannabis.

4408 (b) Notwithstanding Subsection (2)(a), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician assistant described in Subsection (2)(a).

4450 Section 70. Section **58-72-302** is amended to read:

4451 **58-72-302. Qualifications for licensure.**

4451 An applicant for licensure as a licensed acupuncturist shall:

4414 (1) submit an application in a form [prescribed by the division] the division approves;

4415 (2) pay a fee [determined by the department under] the division determines in accordance with Section 63J-1-504;

4417 (3) meet the requirements for current active certification in acupuncture under guidelines established by the [National Commission for the Certification of Acupuncture and Oriental Medicine (NCCAOM)] National Certification Board for Acupuncture and Herbal Medicine (NCBAHM) as demonstrated through a current certificate or other appropriate documentation;

4422 (4) pass the examination [required by the division by rule] the division requires by rule the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

4425 (5) establish procedures, as [defined by rule] the division defines by rule the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which shall enable patients to give informed consent to treatment; and

4428 (6) meet with the board, if requested, for the purpose of evaluating the applicant's qualifications for licensure.

4469 Section 71. Section **58-73-102** is amended to read:

4470 **58-73-102. Definitions.**

4432 (1) "Adjustment of the articulation of the spinal column" means performance by a chiropractic physician by the use of passive movements directed toward the goal of restoring joints to their proper physiological relationship of motion and related function, releasing adhesions, or stimulating joint receptors using one or more of the following techniques:

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- (a) impulse adjusting or the use of sudden, high velocity, short amplitude thrust of a nature that the patient cannot prevent the motion, commencing where the motion encounters the elastic barrier of resistance and ends at the limit of anatomical integrity;
- 4441 (b) instrument adjusting, utilizing instruments specifically designed to deliver sudden, high velocity, short amplitude thrust;
- 4443 (c) light force adjusting utilizing sustained joint traction or applied directional pressure, or both, which may be combined with passive motion to restore joint mobility; and
- 4445 (d) long distance lever adjusting utilizing forces delivered at some distance from the dysfunctional site and aimed at transmission through connected structures to accomplish joint mobility.
- 4448 (2) "Board" means the Chiropractic Physician Licensing Board created in Section 58-73-201.
- 4449 (3) "Chiropractic assistant" means an individual who performs activities related to the practice of chiropractic under the supervision of a licensed chiropractic physician in accordance with division rule established in collaboration with the board.
- 4452 (4) "Chiropractic physician" means an individual who has been licensed under this chapter to practice chiropractic.
- 4454 (5) "Diagnosis of the articulation of the spinal column" means to examine the articulations of the spinal column of another human to determine the source, nature, kind, or extent of a disease, vertebral subluxation, or other physical condition, and to make a determination of the source, nature, kind, or extent of a disease or other physical condition.
- 4459 (6) "Elastic barrier" means the point at which the patient cannot move a joint by [his] the patient's own means and through which movement is obtained or caused by a practitioner's skillful treatment using the practitioner's hands in a manipulation of a joint by thrust of sudden, high velocity, short amplitude so the patient cannot prevent the motion.
- 4464 (7) "Incisive surgery" means any procedure having the power or quality of cutting of a patient for the purpose of treating disease, injury, or deformity, and includes the use of laser.
- 4467 (8) "Manipulate the articulation of the spinal column" means use by a practitioner of a skillful treatment using the practitioner's hands in a manipulation of a joint as follows:
 - 4469 (a) by thrust of sudden, high velocity, short amplitude so the patient cannot prevent the motion;
 - 4471 (b) the movement of the joint is by force beyond its active limit of motion;
 - 4472 (c) the manipulation commences where mobilization ends and specifically begins when the elastic barrier of resistance is encountered and ends at the limit of anatomical integrity; and

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4475 (d) the manipulation is directed to the goal of restoring joints to their proper physiological relationship
of motion and related function, releasing adhesions, or stimulating joint receptors.

4478 (9) "Practice of chiropractic" means a practice of a branch of the healing arts:

4479 (a) the purpose of which is to restore or maintain human health, in which patient care or first aid,
hygienic, nutritional, or rehabilitative procedures are administered;

4481 (b) which places emphasis upon specific vertebral adjustment, manipulation, and treatment of the
articulation and adjacent tissues of the spinal column, musculoskeletal structure of the body, and
nervous system;

4484 (c) that involves examining, diagnosing, treating, correcting, or prescribing treatment for any human
disease, ailment, injury, infirmity, deformity, pain, or other condition, or the attempt to do so, in
accordance with Section 58-73-601;

4487 (d) that involves diagnosing, prescribing treatment, or making a determination of treatment necessity for
another person's condition by means of:

4489 (i) a physical examination of the person; or

4490 (ii) a determination based upon or derived from information supplied directly or indirectly by a third
person; and

4492 (e) that includes the practice described in this Subsection (9) on an animal subject to:

4493 (i) Subsection 58-28-307(12);

4494 (ii) the provisions of this chapter; and

4495 (iii) division rule.

4496 (10) "Therapeutically position the articulation of the spinal column" means to adjust or manipulate the
articulation of the spinal column.

4537 Section 72. Section **58-73-302** is amended to read:

4538 **58-73-302. Qualifications for licensure.**

4500 (1) Each applicant for licensure as a chiropractic physician, other than an applicant applying for a
license based on licensure as a chiropractor or chiropractic physician in another jurisdiction, shall:

4503 (a) submit an application in a form the division approves;

4504 (b) pay a fee ~~[determined by the department under]~~ the division determines in accordance with Section
63J-1-504;

4506 (c) demonstrate satisfactory completion of at least two years of general study in a college or university;

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- (d) demonstrate having earned a degree of doctor of chiropractic from a chiropractic college or university that at the time the degree was conferred was accredited by the Council on Chiropractic Education, Inc., or an equivalent chiropractic accrediting body recognized by the United States Department of Education and by the division rule made in collaboration with the board;
- 4513 (e) demonstrate successful completion of:
 - 4514 (i) the National Chiropractic Boards:
 - 4515 (A) Parts I and II;
 - 4516 (B) Written Clinical Competency Examination; and
 - 4517 (C) Physiotherapy;
 - 4518 (ii) the Utah Chiropractic Law and Rules Examination; and
 - 4519 (iii) a practical examination ~~[approved by the division]~~ the division approves in collaboration with the board;
- 4521 (f) meet with the board, if requested, for the purpose of reviewing the applicant's qualifications for licensure; and
- 4523 (g)
 - (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;
 - 4525 (ii) meet any other standard related to the criminal background check described in Subsection (1)(g)
 - (i), that the division ~~[establishes]~~ makes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - 4528 (iii) disclose any criminal history the division requests on a form the division approves.
- 4530 (2) Each applicant for licensure as a chiropractic physician based on licensure as a chiropractor or chiropractic physician in another jurisdiction shall:
 - 4532 (a) submit an application in the form the division approves;
 - 4533 (b) pay a fee ~~[determined by the department under]~~ the division determines in accordance with Section 63J-1-504;
 - 4535 (c) demonstrate having obtained licensure as a chiropractor or chiropractic physician in another state under education requirements which were equivalent to the education requirements in this state to obtain a chiropractor or chiropractic physician license at the time the applicant obtained the license in the other state;
 - 4539 (d) demonstrate successful completion of[:] the Utah Chiropractic Law and Rules Examination;
 - 4541 [(i) the Utah Chiropractic Law and Rules Examination; and]

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4542 [(ii) the Special Purposes Examination for Chiropractic (SPEC) of the National Board of Chiropractic
4543 Examiners;]

4544 (e) have been actively engaged in the practice of chiropractic for not less than two years immediately
4545 preceding application for licensure in Utah;

4546 (f) meet with the board, if requested, for the purpose of reviewing the applicant's qualifications for
4547 licensure; and

4548 (g)

4549 (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

4550 (ii) meet any other standard related to the criminal background check described in Subsection (2)(g)
4551 (i), that the division [establishes] makes by rule in accordance with Title 63G, Chapter 3, Utah
4552 Administrative Rulemaking Act; and

4553 (iii) disclose any criminal history the division requests on a form the division provides.

4554 Section 73. Section **58-73-401** is amended to read:

4555 **58-73-401. Grounds for denial of license -- Disciplinary proceedings -- Limitation on division
4556 actions.**

4557 (1) Grounds for the following are in accordance with Section 58-1-401:

4558 (a) refusing to issue a license to an applicant;

4559 (b) refusing to renew the license of a licensee;

4560 (c) revoking, suspending, restricting, or placing on probation the license of a licensee;

4561 (d) issuing a public or private reprimand to a licensee; and

4562 (e) issuing a cease and desist order.

4563 (2) If a court [of competent] with jurisdiction determines a chiropractic physician is incompetent,
4564 mentally incompetent, incapable, or has a mental illness, the director shall suspend the license of
4565 that chiropractic physician, even if an appeal is pending.

4566 (3)

4567 (a) If [it appears to the board] the board believes there is reasonable cause to believe a chiropractic
4568 physician who has not been judicially determined to be incompetent, mentally incompetent,
4569 incapable, or to have a mental illness, is unable to practice chiropractic with reasonable skill and
4570 safety [to patients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals,
4571 or any other substance] due to a mental or physical illness or condition, or engagement in any of the
4572 behaviors listed in Subsection 58-1-501(2)(a)(v), or as a result of any mental or physical condition,

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a petition shall be served upon that chiropractic physician for a hearing on the sole issue of the capacity of the chiropractic physician to conduct properly the practice of the chiropractic physician.

4577 (b) Every chiropractic physician licensed by this state is considered to have:

4578 (i) agreed to submit to a mental or physical examination upon receipt of a written direction given by the division with the approval of the board; and

4580 (ii) waived all objections to the admissibility of the examining chiropractic physician's or other practitioner's testimony or examination reports on the ground they constitute a privileged communication.

4583 (c) Failure of a chiropractic physician to submit to an examination under Subsection (3)(b) when directed by the division, unless the failure was due to circumstances beyond ~~[his]~~ the chiropractic physician's control, constitutes grounds for immediate suspension of the chiropractic physician's license and an order of suspension of the license may be entered by the division without the taking of testimony or the presentation of evidence.

4589 (d) A chiropractic physician whose license is suspended under this section shall, at reasonable intervals, be afforded the opportunity to demonstrate the chiropractic physician can resume the competent practice of chiropractic with reasonable skill and safety to patients.

4593 (e) Neither the proceedings of the board nor the action taken by ~~[it under]~~ the board in accordance with this section may be used against a chiropractic physician in any other proceedings.

4596 (4) The terms of revocation, suspension, or probation under this chapter may include:

4597 (a) revoking the license to practice either permanently or with a stated date before which the individual may not apply for licensure;

4599 (b) suspending, limiting, or restricting the license to practice chiropractic for up to five years, including limiting the practice of the person to, or excluding from the person's practice, one or more specific branches of medicine, including any limitation on practice within the specified branches;

4603 (c) requiring the license holder to submit to care, counseling, or treatment by physicians approved by or designated by the board, as a condition for licensure;

4605 (d) requiring the license holder to participate in a program of education prescribed by the board;

4607 (e) requiring the license holder to practice under the direction of a physician designated by the board for a specified period of time; or

4609 (f) other appropriate terms and conditions ~~[determined by the division]~~ the division determines in collaboration with the board to be necessary to protect the public health, safety, or welfare.

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4651 Section 74. Section **58-73-501** is amended to read:

4652 **58-73-501. Unprofessional conduct.**

[Unprofessional conduct is as defined in Section 58-1-501, as defined by division rule, and also includes] A person engages in unprofessional conduct if the person:

4616 (1) [engaging] engages in practice as a chiropractic physician after electing to place [his] the person's license on inactive status, without having established with the board that [he] the person has initiated or completed continuing education necessary to reinstate active status of [his] the person's license;

4620 (2) [failing] fails to complete required continuing professional education;

4621 (3) [violating] violates any of the scope of practice standards set forth in Section 58-73-601;

4622 (4) [failing] fails to maintain patient records in sufficient detail to clearly substantiate a diagnosis, all treatment rendered to the patient in accordance with the recognized standard of chiropractic care, and fees charged for professional services;

4625 (5) [refusing] refuses to divulge to the division on demand the means, methods, device, or instrumentality used in the treatment of a disease, injury, ailment, or infirmity, unless that information is protected by the physician-patient privilege of Utah and the patient has not waived that privilege;

4629 (6) [refusing] refuses the division or the division's employees access to [his] the person's office, instruments, laboratory equipment, appliances, or supplies at reasonable times for purposes of inspection;

4632 (7) fraudulently [representing] represents that curable disease, sickness, or injury can be cured in a stated time, or knowingly making any false statement in connection with the practice of chiropractic;

4635 (8) [offering, undertaking, or agreeing] offers, undertakes, or agrees to cure or treat a disease, injury, ailment, or infirmity by a secret means, method, device, or instrumentality;

4638 (9) willfully and intentionally [making] makes any false statement or entry in any chiropractic office records or other chiropractic records or reports;

4640 (10) knowingly [engaging] engages in billing practices which are abusive and represent charges which are fraudulent or grossly excessive for services rendered;

4642 (11) [performing, procuring, or agreeing] performs, procures, or agrees to procure or perform, or [advising, aiding in or abetting, or offering or attempting to procure or aid or abet] advises, aids and abets, offers, or attempts to aid and abet in the procuring of a criminal abortion;

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4646 (12) willfully ~~[betraying or disclosing]~~ betrays or discloses a professional confidence or violation of a
privileged communication, except:

4648 (a) as required by law; or

4649 (b) to assist the division by fully and freely exchanging information concerning applicants or licensees
with the licensing or disciplinary boards of other states or foreign countries, the Utah chiropractic
associations, their component societies, or chiropractic societies of other states, countries, districts,
territories, or foreign countries;

4654 (13) directly or indirectly ~~[giving or receiving]~~ gives or receives any fee, commission, rebate, or other
compensation for professional services not actually rendered or supervised, but this subsection
does not preclude the legal relationships within lawful professional partnerships, corporations, or
associations;

4658 (14) knowingly ~~[failing]~~ fails to transfer a copy of pertinent and necessary medical records or a
summary of them to another physician when requested to do so by the subject patient or ~~[his]~~ the
patient's designated representative;

4661 (15) ~~[making]~~ makes a false entry in, or altering, a medical record with the intent to conceal:

4662 (a) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual
under the direction or control of an individual licensed under this chapter; or

4665 (b) conduct described in Subsections (1) through (14) or Subsection 58-1-501(1);

4666 (16) ~~[sharing]~~ shares professional fees with a ~~[person who]~~ person that is not licensed under this
chapter; and

4668 (17) ~~[paying]~~ pays a person for a patient referral.

4708 Section 75. Section **58-73-601** is amended to read:

4709 **58-73-601. Scope of practice for a chiropractic physician.**

4671 (1) A chiropractic physician licensed under this chapter may engage in the practice of chiropractic as
defined in Section 58-73-102 in accordance with the following standards.

4673 (2) A chiropractic physician may:

4674 (a) examine, diagnose, and treat only within the scope of chiropractic as described in this Subsection
(2);

4676 (b)

4677 (i) use x-ray for diagnostic purposes only; and

4677 (ii) order, for diagnostic purposes only:

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4678 (A) ultrasound;

4679 (B) magnetic resonance imaging; and

4680 (C) computerized tomography;

4681 (c) administer:

4682 (i) physical agents, including light, heat, cold, water, air, sound, compression, electricity, and electromagnetic radiation except gamma radiation; and

4684 (ii) physical activities and devices, including:

4685 (A) exercise with and without devices;

4686 (B) joint mobilization;

4687 (C) mechanical stimulation;

4688 (D) postural drainage;

4689 (E) traction;

4690 (F) positioning;

4691 (G) wound debridement, cleansing, and dressing changes;

4692 (H) splinting;

4693 (I) training in locomotion and other functional activities with and without assistance devices; and

4695 (J) correction of posture, body mechanics, and gait;

4696 (d) administer the following topically applied medicinal agents, including steroids, anesthetics, coolants, and analgesics for wound care and for musculoskeletal treatment, including their use by iontophoresis or phonophoresis;

4699 (e) treat pain incident to major or minor surgery, cancer, obstetrics, or x-ray therapy;

4700 (f) utilize immobilizing appliances, casts, and supports for support purposes, but may not set displaced bone fractures;

4702 (g) inform the patient of possible side effects of medication and recommend referral to the prescribing practitioner;

4704 (h) provide instruction in the use of physical measures, activities, and devices for preventive and therapeutic purposes;

4706 (i) provide consulting, educational, and other advisory services for the purposes of reducing the incidence and severity of physical disability, movement dysfunctions, bodily malfunction, and pain;

4709

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- (j) treat a human being to assess, prevent, correct, alleviate, and limit physical disability, movement dysfunction, bodily malfunction, and pain resulting from disorders, congenital and aging conditions, injury, and disease; and
- 4712 (k) administer, interpret, and evaluate tests.
- 4713 (3) A chiropractic physician may not:
 - 4714 (a) perform incisive surgery;
 - 4715 (b) administer drugs or medicines for which an authorized prescription is required by law except as provided in Subsection (2)(d);
 - 4717 (c) treat cancer;
 - 4718 (d) practice obstetrics;
 - 4719 (e) prescribe or administer x-ray therapy; or
 - 4720 (f) set displaced fractures.
- 4721 (4) A chiropractic physician shall assume responsibility for [his-] the chiropractic physician's examinations, diagnoses, and treatment.
- 4723 (5) Nothing in this section authorizes a chiropractic physician to prescribe, possess for dispensing, dispense, purchase without a prescription written by a licensed and authorized practitioner, or administer, except under Subsection (2)(d), a drug requiring a prescription to dispense, under Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 17b, Pharmacy Practice Act.
- 4728 (6) Only primary health care providers licensed under this title as osteopathic physicians, physicians and surgeons, naturopaths, and chiropractic physicians, may diagnose, adjust, manipulate, or therapeutically position the articulation of the spinal column to the extent permitted by their scopes of practice.

4771 Section 76. Section **58-74-302** is amended to read:

4772 **58-74-302. Qualifications for state certification.**

- 4734 (1) Each applicant for state certification as a state certified court reporter under this chapter shall:
 - 4736 [({a}) ~~be at least 18 years of age;~~]
 - 4737 [({b}) ~~be a citizen of the United States;~~]
 - 4738 [({e}) (a) submit an application in a form [prescribed by the division] the division approves;
 - 4739 [({d}) (b) pay a fee [determined by the department under] the division determines in accordance with Section 63J-1-504;
 - 4741 [({e}) (c) possess a high degree of skill and ability in the art of court reporting; and

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4742 [ff] (d) submit evidence that the applicant has completed and passed the Registered Professional Reporter Examination of the National Court Reporters Association or the Certified Verbatim Reporter Examination of the National Verbatim Reporters Association.

4746 (2) A person granted a certificate to practice as a state certified court reporter may use the abbreviation "C.C.R." or "C.V.R." as long as the person's certificate is current and valid.

4787 Section 77. Section **58-76-603** is amended to read:

4788 **58-76-603. Seal -- Authorized use.**

A professional geologist may only affix the licensee's seal to a geologic map, cross-section, sketch, drawing, plan, or report if the geologic map, cross-section, sketch, drawing, plan, or report:

4753 (1) was personally prepared by the licensee;

4754 (2) was prepared by an employee, subordinate, associate, or drafter under the supervision of a licensee, provided the licensee or a principal affixing [his-] the seal assumes responsibility;

4757 (3) was prepared by a licensed professional geologist in this state or any other state provided:

4759 (a) the licensee in this state affixing the seal performs a thorough review of all work for compliance with all applicable laws and rules and the standards of the profession; and

4761 (b) makes any necessary corrections before submitting the final plan, specification, or report:

4763 (i) to a public authority; or

4764 (ii) to a client who has contracted with a professional geologist for the geologic map, cross-section, or report to be complete and final;

4766 (4) was prepared in part by a licensed professional geologist in this state or any other state provided:

4768 (a) the licensee in this state clearly identifies that portion of the geologic map, cross-section, or report for which the licensee is responsible;

4770 (b) the licensee in this state affixing the seal performs a thorough review of that portion of the geologic map, cross-section, or report for which the licensee is responsible for compliance with the standards of the profession; and

4773 (c) makes any necessary corrections before submitting the final geologic map, cross-section, or report for which the licensee is responsible:

4775 (i) to a public authority; or

4776 (ii) to a client who has contracted with a professional geologist for the geologic map, cross-section, or report to be complete and final;

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4778 (5) was prepared by a person exempt from licensure as a professional geologist provided that:

4780 (a) the licensee in this state affixing the seal performs a thorough review for compliance with all
applicable laws and rules and the standards of the profession; and

4782 (b) makes any necessary corrections before submitting the final geologic map, cross-section, or report:

4784 (i) to a public authority; or

4785 (ii) to a client who has contracted with a professional geologist for the geologic map, cross-section, or
report to be complete and final; or

4787 (6) meets any additional requirements ~~[established by rule by]~~ the division makes by rule in accordance
with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the
board.

4829 Section 78. Section **58-81-103** is amended to read:

4830 **58-81-103. Eligibility for volunteer health care practitioner license -- Delegation of service
agreement.**

4793 (1) A health care practitioner is eligible to apply to the division and board for a volunteer health care
practitioner license if the health care practitioner:

4795 (a) certifies to the division and board that the applicant will be engaged exclusively in volunteer health
care services; and

4797 (b) completes an application for a volunteer health care practitioner license, which includes
documentation:

4799 (i) of professional education, exams passed, and graduation;

4800 (ii) of practice history;

4801 (iii) of a qualified location for which the health care practitioner will be practicing;

4802 (iv) identifying the supervising health care practitioner and the supervising health care practitioner's
delegation of service agreement with the volunteer practitioner; and

4805 (v) that the applicant has:

4806 (A) previously been issued an unrestricted license to practice in Utah, another state of the United States,
or a district or territory of the United States;

4808 (B) never been the subject of any significant disciplinary action in any jurisdiction; and

4810 (C) is in good health and does not have a condition which would impair the health care practitioner's
ability to practice with reasonable skill and safety to patients.

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(2) A health care provider who has agreed to be a supervising professional for a volunteer at a qualified location shall:

(a) enter into a delegation of service agreement with the volunteer health care practitioner;

(b) agree to provide the level of supervision required in Subsection 58-81-102(6);

(c) determine with the volunteer whether the volunteer's scope of practice or ability to prescribe controlled substances will be limited by the delegation of service agreement;

(d) include in the delegation of service agreement that the volunteer may not prescribe a controlled substance to [himself] the volunteer, the volunteer's family, or a staff member of the qualified location; and

(e) forward the delegation of service agreement to the division.

Section 79. Section **58-87-202** is amended to read:

58-87-202. Registration as an athlete agent -- Form -- Requirements.

(1) An applicant for registration shall submit an application for registration as an athlete agent to the division in a form ~~[prescribed by the division]~~ the division approves. An application filed under this section is a public record under Title 63G, Chapter 2, Government Records Access and Management Act. The applicant ~~[must]~~ shall be an individual, and the application ~~[must]~~ shall be signed by the applicant under penalty of perjury. Except as otherwise provided in Subsections (2) and (3), the application ~~[must]~~ shall contain at least the following:

(a) the name and date and place of birth of the applicant and the following contact information for the applicant:

(i) the address of the applicant's principal place of business;

(ii) work and mobile telephone numbers; and

(iii) any means of communicating electronically, including a facsimile number, email address, and personal and business or employer websites;

(b) the name of the applicant's business or employer, if applicable, including for each business or employer, its mailing address, telephone number, organization form, and the nature of the business;

(c) each social-media account with which the applicant or the applicant's business or employer is affiliated;

(d) each business or occupation in which the applicant engaged within five years before the date of the application, including self-employment and employment by others, and any professional or occupational license, registration, or certification held by the applicant during that time;

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4848 (e) a description of the applicant's:

4849 (i) formal training as an athlete agent;

4850 (ii) practical experience as an athlete agent; and

4851 (iii) educational background relating to the applicant's activities as an athlete agent;

4852 (f) the name of each student athlete for whom the applicant acted as an athlete agent within five years before the date of the application or, if the student athlete is a minor, the name of the parent or guardian of the minor, together with the athlete's sport and last-known team;

4856 (g) the name and address of each person that:

4857 (i) is a partner, member, officer, manager, associate, or profit sharer or directly or indirectly holds an equity interest of 5% or greater of the athlete agent's business ~~[if it]~~ that is not a corporation; and

4860 (ii) is an officer or director of a corporation employing the athlete agent or a shareholder having an interest of 5% or greater in the corporation;

4862 (h) a description of the status of any application by the applicant, or any person named under Subsection (1)(g), for a state or federal business, professional, or occupational license, other than as an athlete agent, from a state or federal agency, including any denial, refusal to renew, suspension, withdrawal, or termination of the license and any reprimand or censure related to the license;

4867 (i) whether the applicant, or any person named under Subsection (1)(g), has pleaded guilty or no contest to, has been convicted of, or has charges pending for, ~~[a]~~ ~~[erime that would involve moral turpitude or be a felony if committed in this state]~~ any crime that would be considered a felony in this state or any other crime that, when considered with the functions and duties of the profession, bears a substantial relationship to the applicant's ability to safely or competently perform as an athlete agent and, if so, identification of:

4874 (i) the crime;

4875 (ii) the law-enforcement agency involved; and

4876 (iii) if applicable, the date of the conviction and the fine or penalty imposed;

4877 (j) whether, within 15 years before the date of application, the applicant, or any person named under Subsection (1)(g), has been a defendant or respondent in a civil proceeding, including a proceeding seeking an adjudication of incompetence and, if so, the date and a full explanation of each proceeding;

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- (k) whether the applicant, or any person named under Subsection (1)(g), has an unsatisfied judgment or a judgment of continuing effect, including alimony or a domestic order in the nature of child support, which is not current at the date of the application;
- 4885 (l) whether, within 10 years before the date of application, the applicant, or any person named under Subsection (1)(g), was adjudicated bankrupt or was an owner of a business that was adjudicated bankrupt;
- 4888 (m) whether there has been any administrative or judicial determination that the applicant, or any person named under Subsection (1)(g), made a false, misleading, deceptive, or fraudulent representation;
- 4891 (n) each instance in which conduct of the applicant, or any person named under Subsection (1)(g), resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic event on a student athlete or a sanction on an educational institution;
- 4895 (o) each sanction, suspension, or disciplinary action taken against the applicant, or any person named under Subsection (1)(g), arising out of occupational or professional conduct;
- 4898 (p) whether there has been a denial of an application for, suspension or revocation of, refusal to renew, or abandonment of, the registration of the applicant, or any person named under Subsection (1)(g), as an athlete agent in any state;
- 4901 (q) each state in which the applicant currently is registered as an athlete agent or has applied to be registered as an athlete agent;
- 4903 (r) if the applicant is certified or registered by a professional league or players association:
 - (i) the name of the league or association;
 - 4905 (ii) the date of certification or registration, and the date of expiration of the certification or registration, if any; and
 - 4906 (iii) if applicable, the date of any denial of an application for, suspension or revocation of, refusal to renew, withdrawal of, or termination of, the certification or registration or any reprimand or censure related to the certification or registration; and
- 4912 (s) any additional information [required by] the division requires.
- 4913 (2) Instead of proceeding under Subsection (1), an individual registered as an athlete agent in another state may apply for registration as an athlete agent in this state by submitting to the division:
 - 4916 (a) a copy of the application for registration in the other state;

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4917 (b) a statement that identifies any material change in the information on the application or verifies there
4918 is no material change in the information, signed under penalty of perjury; and
4920 (c) a copy of the certificate of registration from the other state.
4921 (3) The division shall issue a certificate of registration to an individual who applies for registration
4922 under Subsection (2) if the division determines:
4923 (a) the application and registration requirements of the other state are substantially similar to or more
4924 restrictive than this chapter; and
4925 (b) the registration has not been revoked or suspended and no action involving the individual's conduct
4926 as an athlete agent is pending against the individual or the individual's registration in any state.
4928 (4) For purposes of implementing Subsection (3), the division shall:
4929 (a) cooperate with national organizations concerned with athlete agent issues and agencies in other
4930 states that register athlete agents to develop a common registration form and determine which states
4931 have laws that are substantially similar to or more restrictive than this chapter; and
4933 (b) exchange information, including information related to actions taken against registered athlete
4934 agents or their registrations, with those organizations and agencies.

4974 Section 80. Section **58-87-203** is amended to read:

4975 **58-87-203. Certificate of registration -- Issuance or denial -- Renewal.**

4938 (1) Except as otherwise provided in Subsection (2), the division shall issue a certificate of registration to
4939 an applicant for registration who complies with Subsection 58-87-202(1).

4940 (2) The division may refuse to issue a certificate of registration to an applicant for registration under
4941 Subsection 58-87-202(1) if the division determines that the applicant has engaged in conduct that
4942 significantly adversely reflects on the applicant's fitness to act as an athlete agent. In making the
4943 determination, the division may consider whether the applicant has:
4945 (a) pleaded guilty or no contest to, has been convicted of, or has charges pending for, ~~a crime that~~
4946 ~~would involve moral turpitude or be a felony if committed in this state~~ any crime that would
4947 be considered a felony in this state or any other crime that, when considered with the functions
4948 and duties of the profession, bears a substantial relationship to the applicant's ability to safely or
4949 competently perform as an athlete agent;
4951 (b) made a materially false, misleading, deceptive, or fraudulent representation in the application or as
4952 an athlete agent;
4953 (c) engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;

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4955 (d) engaged in conduct [prohibited by]Section 58-87-401 prohibits;

4956 (e) had a registration as an athlete agent suspended, revoked, or denied in any state;

4957 (f) been refused renewal of registration as an athlete agent in any state;

4958 (g) engaged in conduct resulting in imposition of a sanction, suspension, or declaration of ineligibility
to participate in an interscholastic, intercollegiate, or professional athletic event on a student athlete
or a sanction on an educational institution; or

4961 (h) engaged in conduct that adversely reflects on the applicant's credibility, honesty, or integrity.

4963 (3) In making a determination under Subsection (2), the division shall consider:

4964 (a) how recently the conduct occurred;

4965 (b) the nature of the conduct and the context in which [it] the conduct occurred; and

4966 (c) other relevant conduct of the applicant.

4967 (4) An athlete agent registered under Subsection (1) may apply to renew the registration by submitting
an application for renewal in a form [prescribed by the division] the division approves. The
applicant shall sign the application for renewal under penalty of perjury and include current
information on all matters required in an original application for registration.

4972 (5) An athlete agent registered under Subsection 58-87-202(2) may renew the registration by
proceeding under Subsection (4) or, if the registration in the other state has been renewed, by
submitting to the division copies of the application for renewal in the other state and the renewed
registration from the other state. The division shall renew the registration if the division determines:

4977 (a) the registration requirements of the other state are substantially similar to or more restrictive than
this chapter; and

4979 (b) the renewed registration has not been suspended or revoked and no action involving the individual's
conduct as an athlete agent is pending against the individual or the individual's registration in any
state.

4982 (6) A certificate of registration or a renewal of a registration is valid for two years.

5022 Section 81. Section **58-88-201** is amended to read:

5023 **58-88-201. Definitions.**

As used in this part:

4986 (1)

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(a) "Dispense" means the delivery by a prescriber of a prescription drug or device to a patient, including the packaging, labeling, and security necessary to prepare and safeguard the drug or device for supplying to a patient.

4989 (b) "Dispense" does not include:

4990 (i) prescribing or administering a drug or device; or

4991 (ii) delivering to a patient a sample packaged for individual use by a licensed manufacturer or re-packager of a drug or device.

4993 (2) "Dispensing practitioner" means an individual who:

4994 (a) is currently licensed as:

4995 (i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;

4996 (ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical Practice Act;

4998 (iii) an advanced practice registered nurse under Subsection 58-31b-301(2)(d);

4999 (iv) a physician assistant under Chapter 70a, Utah Physician Assistant Act; ~~or~~

5000 (v) a dentist under Chapter 69, Dentist and Dental Hygienist Practice Act; or

5001 (vi) an optometrist under Chapter 16a, Utah Optometry Practice Act;

5002 (b) is authorized by state law to prescribe and administer drugs in the course of professional practice; and

5004 (c) practices at a licensed dispensing practice.

5005 (3) "Drug" means the same as that term is defined in Section 58-17b-102.

5006 (4) "Health care practice" means:

5007 (a) a health care facility as defined in Section 26B-2-201; or

5008 (b) the offices of one or more private prescribers, whether for individual or group practice.

5010 (5) "Licensed dispensing practice" means a health care practice that is licensed as a dispensing practice under Section 58-88-202.

5051 Section 82. Section **58-88-204** is amended to read:

58-88-204. Administrative inspections of a dispensing practice -- Penalties.

5015 (1) The division shall conduct audits and inspections of licensed dispensing practices in accordance with standards ~~[established by the division by rule]~~ the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

5018 (2) Penalties for a violation of this part, including fines and citations, shall be issued by the division under:

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5020 (a) Section 58-1-502; and
5021 (b) the dispensing practitioner's respective licensing chapter.

5061 **Section 83. Repealer.**

This Bill Repeals:

5062 This bill repeals:
5063 Section **58-49-5, Certification of persons currently qualified.**
5064 Section **58-49-6, Certification of persons qualified in other jurisdictions.**
5065 Section **58-60-511, Experience requirement -- Transition of licensing and experience.**
5066 Section 84. **Effective date.**
 Effective Date.

This bill takes effect on July 1, 2026.

1-21-26 12:05 PM