1	PROFESSIONAL LICENSE CONDITIONS DISCLOSURE
2	1998 GENERAL SESSION
3	STATE OF UTAH
4	Sponsor: Gary F. Cox
5	AN ACT RELATING TO OCCUPATIONS AND PROFESSIONS; REQUIRING DISCLOSURE
6	OF RESTRICTIONS ON LICENSEE; PROVIDING RULEMAKING AUTHORITY; AND
7	MAKING TECHNICAL CORRECTIONS.
8	This act affects sections of Utah Code Annotated 1953 as follows:
9	AMENDS:
10	58-1-301, as last amended by Chapter 232, Laws of Utah 1997
11	58-1-501, as enacted by Chapter 297, Laws of Utah 1993
12	Be it enacted by the Legislature of the state of Utah:
13	Section 1. Section 58-1-301 is amended to read:
14	58-1-301. License application Licensing procedure.
15	(1) (a) Each license applicant shall apply to the division in writing upon forms available
16	from the division. Each completed application shall contain documentation of the particular
17	qualifications required of the applicant, shall include the applicant's social security number, shall
18	be verified by the applicant, and shall be accompanied by the appropriate fees.
19	(b) An applicant's social security number is a private record under Subsection
20	63-2-302(1)(g).
21	(2) (a) A license shall be issued to an applicant who submits a complete application if the
22	division determines that the applicant meets the qualifications of licensure.
23	(b) A written notice of additional proceedings shall be provided to an applicant who
24	submits a complete application, but who has been, is, or will be placed under investigation by the
25	division for conduct directly bearing upon [his] the applicant's qualifications for licensure, if the
26	outcome of additional proceedings is required to determine the division's response to the
27	application.

12-09-97 1:27 PM

H.B. 5

1	(c) A written notice of denial of licensure shall be provided to an applicant who submits
2	a complete application if the division determines that the applicant does not meet the qualifications
3	of licensure.
4	(d) A written notice of incomplete application and conditional denial of licensure shall be
5	provided to an applicant who submits an incomplete application. This notice shall advise the
6	applicant that:
7	(i) the application is incomplete; and [that]
8	(ii) the application is denied, unless the applicant:
9	(A) corrects the deficiencies within the time period specified in the notice; and
10	(B) otherwise meets all qualifications for licensure.
11	(3) Before any person is issued a license under this title, all requirements for that license
12	as established under this title and by rule shall be met.
13	(4) If all requirements are met for the specific license, the division shall issue the license.
14	(5) (a) For purposes of this Subsection (5), "restricted license" means a license subject to
15	disciplinary action qualifying or limiting the scope of the license:
16	(i) issued to an applicant for initial licensure, renewal or reinstatement of licensure, or
17	relicensure in accordance with Section 58-1-304; or
18	(ii) issued to a licensee in place of the licensee's current license or disciplinary status.
19	(b) A licensee that receives a restricted license shall disclose any restrictions under the
20	license imposed by the division on the licensee to an existing or potential client of the licensee
21	prior to providing any service to the existing or potential client for which a license is required.
22	(c) The disclosure required by Subsection (5)(b):
23	(i) shall state the restrictions imposed by the division on the licensee; and
24	(ii) may include:
25	(A) displaying a document stating the restrictions imposed by the division in a prominent
26	location that is accessible to the existing or potential clients of the licensee; or
27	(B) providing an existing or potential client a written statement of the restrictions imposed
28	by the division on the license.
29	(d) The division may make rules providing for the form and content of the disclosure
30	required under Subsection (5)(b).
31	Section 2. Section 58-1-501 is amended to read:

12-09-97 1:27 PM

1 58-1-501. Unlawful and unprofessional conduct. 2 (1) "Unlawful conduct" means conduct, by any person, that is defined as unlawful under 3 this title and includes: 4 (a) practicing or engaging in, representing oneself to be practicing or engaging in, or 5 attempting to practice or engage in any occupation or profession requiring licensure under this title if the person is: 6 7 (i) not licensed to do so or not exempted from licensure under this title; or 8 (ii) restricted from doing so by a suspended, revoked, restricted, temporary, probationary, 9 or inactive license; 10 (b) impersonating another licensee or practicing an occupation or profession under a false 11 or assumed name, except as permitted by law; 12 (c) knowingly employing any other person to practice or engage in or attempt to practice 13 or engage in any occupation or profession licensed under this title if the employee is not licensed 14 to do so under this title: 15 (d) knowingly permitting the person's authority to practice or engage in any occupation 16 or profession licensed under this title to be used by another, except as permitted by law; or 17 (e) obtaining a passing score on a licensure examination, applying for or obtaining a 18 license, or otherwise dealing with the division or a licensing board through the use of fraud, 19 forgery, or intentional deception, misrepresentation, misstatement, or omission. 20 (2) "Unprofessional conduct" means conduct, by a licensee or applicant, that is defined 21 as unprofessional conduct under this title or under any rule adopted under this title and includes: 22 (a) violating, or aiding or abetting any other person to violate, any statute, rule, or order 23 regulating an occupation or profession under this title; 24 (b) violating, or aiding or abetting any other person to violate, any generally accepted 25 professional or ethical standard applicable to an occupation or profession regulated under this title; 26 (c) engaging in conduct that results in conviction of, or a plea of nolo contendere to, a 27 crime of moral turpitude or any other crime that, when considered with the functions and duties 28 of the occupation or profession for which the license was issued or is to be issued, bears a 29 reasonable relationship to the licensee's or applicant's ability to safely or competently practice the occupation or profession; 30 31 (d) engaging in conduct that results in disciplinary action, including reprimand, censure,

- 3 -

12-09-97 1:27 PM

H.B. 5

1	diversion, probation, suspension, or revocation, by any other licensing or regulatory authority
2	having jurisdiction over the licensee or applicant in the same occupation or profession if the
3	conduct would, in this state, constitute grounds for denial of licensure or disciplinary proceedings
4	under Section 58-1-401;
5	(e) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar
6	chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the
7	ability of the licensee or applicant to safely engage in the occupation or profession;
8	(f) practicing or attempting to practice an occupation or profession regulated under this
9	title despite being physically or mentally unfit to do so;
10	(g) practicing or attempting to practice an occupation or profession regulated under this
11	title through gross incompetence, gross negligence, or a pattern of incompetency or negligence;
12	(h) practicing or attempting to practice an occupation or profession requiring licensure
13	under this title by any form of action or communication which is false, misleading, deceptive, or
14	fraudulent;
15	(i) practicing or attempting to practice an occupation or profession regulated under this
16	title beyond the scope of the licensee's competency, abilities, or education;
17	(j) practicing or attempting to practice an occupation or profession regulated under this
18	title beyond the scope of the licensee's license; [or]
19	(k) verbally, physically, mentally, or sexually abusing or exploiting any person through
20	conduct connected with the licensee's practice under this title or otherwise facilitated by the
21	licensee's license; or
22	(1) failing to disclose restrictions imposed by the division on a licensee by a restricted
23	license in accordance with Subsection 58-1-301(5).

Legislative Review Note as of 10-20-97 9:56 AM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

- 4 -