



- 28           **58-31b-201**, as last amended by Chapter 290, Laws of Utah 2002
- 29           **58-31b-301**, as last amended by Chapter 290, Laws of Utah 2002
- 30           **58-31b-302**, as last amended by Chapter 290, Laws of Utah 2002
- 31           **58-31b-303**, as last amended by Chapter 314, Laws of Utah 2000
- 32           **58-31b-304**, as enacted by Chapter 288, Laws of Utah 1998
- 33           **58-31b-307**, as enacted by Chapter 288, Laws of Utah 1998
- 34           **58-31b-308**, as last amended by Chapter 219, Laws of Utah 2003
- 35           **58-31b-401**, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session
- 36           **58-31b-501**, as last amended by Chapter 290, Laws of Utah 2002
- 37           **58-31b-502**, as enacted by Chapter 288, Laws of Utah 1998
- 38           **58-31b-601**, as enacted by Chapter 288, Laws of Utah 1998
- 39           **58-31b-701**, as last amended by Chapter 290, Laws of Utah 2002

40 ENACTS:

- 41           **58-31b-301.5**, Utah Code Annotated 1953
- 42           **63-55b-158**, Utah Code Annotated 1953

43 REPEALS:

- 44           **58-31b-308.5**, as enacted by Chapter 290, Laws of Utah 2002



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

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

48           **58-31b-102. Definitions.**

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

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

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

57           (3) "Approved education program" means a nursing education program that meets the  
 58 minimum standards for educational programs established under this chapter and by division

59 rule in collaboration with the board.

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

61 (5) "Consultation and referral plan" means a written plan jointly developed by an  
62 advanced practice registered nurse and a consulting physician that permits the advanced  
63 practice registered nurse to prescribe schedule II-III controlled substances in consultation with  
64 the consulting physician.

65 (6) "Consulting physician" means a physician and surgeon or osteopathic physician and  
66 surgeon licensed in accordance with this title who has agreed to consult with an advanced  
67 practice registered nurse with a controlled substance license, a DEA registration number, and  
68 who will be prescribing schedule II-III controlled substances.

69 (7) "Diagnosis" means the identification of and discrimination between physical and  
70 psychosocial signs and symptoms essential to the effective execution and management of  
71 health care.

72 (8) "Examinee" means a person who applies to take or does take any examination  
73 required under this chapter for licensure.

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

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

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

78 (9) "Geriatric care manager" means a licensed practical nurse who has had additional  
79 training in long-term care nursing and holds a current, valid certificate of completion from a  
80 training course approved by the division in collaboration with the board, and is certified by the  
81 division as a Licensed Practical Nurse - Geriatric Care Manager.

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

84 [~~(11) "Practice as a health care assistant" means providing direct personal assistance or  
85 care for compensation to an individual who is ill, injured, infirm, developmentally or physically  
86 disabled, mentally disabled, or mentally retarded, and who is in a private residence or regulated  
87 facility.]~~

88 (11) "Long-term care facility" means any of the following facilities licensed by the  
89 Department of Health pursuant to Title 26, Chapter 21, Health Care Facility Licensing and

90 Inspection Act:

91 (a) a nursing care facility;

92 (b) a small health care facility;

93 (c) an intermediate care facility for the mentally retarded; or

94 (d) an assisted living facility Type I or II.

95 (12) "Practice of geriatric care management":

96 (a) means a licensed practical nurse with specialized knowledge of geriatric and

97 chronically ill patients residing in a long-term care facility as provided in Subsection

98 58-31b-302(2); and

99 (b) includes an expanded scope of practice which may include:

100 (i) implementing a plan of care;

101 (ii) completing an assessment and evaluation of response to treatment; and

102 (iii) other tasks and skills as defined by division rule.

103 ~~[(12)]~~ (13) "Practice of nursing" means assisting individuals or groups to maintain or

104 attain optimal health, implementing a strategy of care to accomplish defined goals and

105 evaluating responses to care and treatment. The practice of nursing requires substantial

106 specialized or general knowledge, judgment, and skill based upon principles of the biological,

107 physical, behavioral, and social sciences, and includes:

108 (a) initiating and maintaining comfort measures;

109 (b) promoting and supporting human functions and responses;

110 (c) establishing an environment conducive to well-being;

111 (d) providing health counseling and teaching;

112 (e) collaborating with health care professionals on aspects of the health care regimen;

113 (f) performing delegated procedures only within the education, knowledge, judgment,

114 and skill of the licensee; and

115 (g) delegating nurse interventions that may be performed by others and are not in

116 conflict with this chapter.

117 ~~[(13)]~~ (14) (a) "Practice of nurse anesthesia" means the practice of nursing related to

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

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

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

121 registered nurse anesthetist and includes:

122 (i) preanesthesia preparation and evaluation including:

123 (A) performing a preanesthetic assessment of the patient;

124 (B) ordering and evaluating appropriate lab and other studies to determine the health of

125 the patient; and

126 (C) selecting, ordering, or administering appropriate medications;

127 (ii) anesthesia induction, maintenance, and emergence, including:

128 (A) selecting and initiating the planned anesthetic technique;

129 (B) selecting and administering anesthetics and adjunct drugs and fluids; and

130 (C) administering general, regional, and local anesthesia;

131 (iii) postanesthesia follow-up care, including:

132 (A) evaluating the patient's response to anesthesia and implementing corrective

133 actions; and

134 (B) selecting, ordering, or administering the above medications and studies; and

135 (iv) other related services within the scope of practice of a certified registered nurse

136 anesthetist, including:

137 (A) emergency airway management;

138 (B) advanced cardiac life support; and

139 (C) the establishment of peripheral, central, and arterial invasive lines.

140 (b) Nothing in this section shall be construed as to require a certified registered nurse

141 anesthetist to obtain an advance practice registered nurse license in order to select, administer,

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

143 ~~[(14)]~~ (15) "Practice of practical nursing" means the performance of nursing acts in the

144 generally recognized scope of practice of licensed practical nurses as defined by rule and as

145 provided in this Subsection ~~[(14)]~~ (15) by a person licensed under this chapter as a licensed

146 practical nurse and under the direction of a registered nurse, licensed physician, or other

147 specified health care professional as defined by rule. Practical nursing acts include:

148 (a) contributing to the assessment of the health status of individuals and groups;

149 (b) participating in the development and modification of the strategy of care;

150 (c) implementing appropriate aspects of the strategy of care;

151 (d) maintaining safe and effective nursing care rendered to a patient directly or

152 indirectly; and

153 (e) participating in the evaluation of responses to interventions.

154 [~~(15)~~] (16) "Practice of registered nursing" means performing acts of nursing as  
155 provided in this Subsection [~~(15)~~] (16) by a person licensed under this chapter as a registered  
156 nurse within the generally recognized scope of practice of registered nurses as defined by rule.

157 Registered nursing acts include:

- 158 (a) assessing the health status of individuals and groups;
- 159 (b) identifying health care needs;
- 160 (c) establishing goals to meet identified health care needs;
- 161 (d) planning a strategy of care;
- 162 (e) prescribing nursing interventions to implement the strategy of care;
- 163 (f) implementing the strategy of care;
- 164 (g) maintaining safe and effective nursing care that is rendered to a patient directly or  
165 indirectly;
- 166 (h) evaluating responses to interventions;
- 167 (i) teaching the theory and practice of nursing; and
- 168 (j) managing and supervising the practice of nursing.

169 [~~(16)~~] (17) "Practice of advanced practice registered nursing" means the practice of  
170 nursing within the generally recognized scope and standards of advanced practice registered  
171 nursing as defined by rule and consistent with professionally recognized preparation and  
172 education standards of an advanced practice registered nurse by a person licensed under this  
173 chapter as an advanced practice registered nurse. Advanced practice registered nursing  
174 includes:

- 175 (a) maintenance and promotion of health and prevention of disease;
- 176 (b) diagnosis, treatment, correction, consultation, and referral for common health  
177 problems; and
- 178 (c) prescription or administration of prescription drugs or devices including:
  - 179 (i) local anesthesia;
  - 180 (ii) schedule IV-V controlled substances; and
  - 181 (iii) schedule II-III controlled substances in accordance with a consultation and referral  
182 plan.

183 ~~[(17) "Regulated facility" means a health care facility subject to licensure under Title~~  
 184 ~~26, Chapter 21, Health Care Facility Licensing and Inspection Act and does not include:]~~

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

186 ~~[(b) a residential treatment or residential support facility:]~~

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

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

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

192 (18) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-31b-501.

193 (19) "Unlicensed assistive personnel" means any unlicensed person, regardless of title,  
 194 to whom tasks are delegated by a licensed nurse as permitted by rule and in accordance with  
 195 the standards of the profession.

196 (20) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-31b-502 and  
 197 as may be further defined by rule.

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

199 **58-31b-201. Board.**

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

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

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

204 ~~[(c)]~~ (b) two members of the public.

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

206 (3) The board shall carry out the duties and responsibilities in Sections 58-1-202 and  
 207 58-1-203 and shall:

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

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

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

213 (A) assist the division in reviewing complaints concerning the unlawful or

214 unprofessional conduct of a licensee; and

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

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

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

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

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

227 **58-31b-301. License or certification required - Classifications.**

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

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

232 (a) licensed practical nurse;

233 (b) licensed practical nurse - geriatric care manager;

234 [~~(b)~~] (c) registered nurse;

235 [~~(c)~~] (d) advanced practice registered nurse intern;

236 [~~(d)~~] (e) advanced practice registered nurse; and

237 [~~(e)~~] (f) certified registered nurse anesthetist.

238 (3) An individual holding an advanced practice registered nurse license as of July 1,  
239 1998, who cannot document the successful completion of advanced course work in patient  
240 assessment, diagnosis and treatment, and pharmacotherapeutics, may not prescribe and shall be  
241 issued an "APRN - without prescriptive practice" license.

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



245 ~~[(5) (a) An individual shall be registered under this chapter in order to engage in~~  
246 ~~practice as a health care assistant, except as provided in Sections 58-31b-308 and~~  
247 ~~58-31b-308.5.]~~

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

250 Section 4. Section **58-31b-301.5** is enacted to read:

251 **58-31b-301.5. Geriatric Care Manager Pilot Program.**

252 (1) (a) The division shall establish a licensed practical nurse - Geriatric Care Manager  
253 Pilot Program to determine the safety and efficiency of expanding the scope of practice for a  
254 licensed practical nurse who meets the requirements of Subsection 38-31b-302(2).

255 (b) The pilot program shall begin on July 1, 2004 and sunset in accordance with  
256 Section 63-55b-158.

257 (c) If the Legislature does not reauthorize the expanded scope of practice for geriatric  
258 care managers after the sunset date in Subsection 58-31b-302(2), an individual licensed and  
259 certified in good standing as a geriatric care manager may continue to practice as a licensed  
260 practical nurse.

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

265 Section 5. Section **58-31b-302** is amended to read:

266 **58-31b-302. Qualifications for licensure or certification -- Criminal background**  
267 **checks.**

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

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

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

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

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

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

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

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

280 (2) An applicant for certification as a licensed practical nurse - geriatric care manager  
281 shall:

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

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

284 (c) have a current license, in good standing, as a licensed practical nurse;

285 (d) be in a condition of physical and mental health that will permit the applicant to  
286 practice safely as a licensed practical nurse - geriatric care manager;

287 (e) have completed a division-approved geriatric care management education program  
288 or an equivalent as determined by the division in collaboration with the board;

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

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

293 [~~2~~] (3) An applicant for licensure as a registered nurse shall:

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

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

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

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

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

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

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

304 [~~3~~] (4) Applicants for licensure as an advanced practice registered nurse shall:

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

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

307 (c) be in a condition of physical and mental health which will allow the applicant to  
308 practice safely as an advanced practice registered nurse;

309 (d) hold a current registered nurse license in good standing issued by the state or be  
310 qualified at the time for licensure as a registered nurse;

311 (e) have earned a graduate degree in nursing or a related area of specialized knowledge  
312 as determined appropriate by the division in collaboration with the board;

313 (f) have completed course work in patient assessment, diagnosis and treatment, and  
314 pharmacotherapeutics from an education program approved by the division in collaboration  
315 with the board;

316 (g) have successfully completed clinical practice in psychiatric and mental health  
317 nursing, including psychotherapy as defined by division rule, after completion of the masters  
318 degree required for licensure, to practice within the psychiatric and mental health nursing  
319 specialty;

320 (h) have passed the examinations as required by division rule made in collaboration  
321 with the board;

322 (i) be currently certified by a program approved by the division in collaboration with  
323 the board and submit evidence satisfactory to the division of the certification; and

324 (j) meet with the board, if requested, to determine the applicant's qualifications for  
325 licensure.

326 [~~(4)~~] (5) An applicant for licensure as a certified registered nurse anesthetist shall:

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

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

329 (c) be in a condition of physical and mental health which will allow the applicant to  
330 practice safely as a certified registered nurse anesthetist;

331 (d) hold a current registered nurse license in good standing issued by the state or be  
332 qualified at the time for licensure as a registered nurse;

333 (e) complete a nurse anesthesia program which is approved by the Council on  
334 Accreditation of Nurse Anesthesia Educational Programs;

335 (f) be currently certified by a program approved by the division in collaboration with  
336 the board and submit evidence satisfactory to the division of the certification; and

337 (g) meet with the board, if requested, to determine the applicant's qualifications for

338 licensure.

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

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

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

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

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

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

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

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

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

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

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

367 (b) Any person whose conditional license ~~[or registration]~~ has been revoked under  
368 Subsection (8)(a) shall be entitled to a postrevocation hearing to challenge the revocation. The

369 hearing shall be conducted in accordance with Title 63, Chapter 46b, Administrative  
370 Procedures Act.

371 Section 6. Section **58-31b-303** is amended to read:

372 **58-31b-303. Qualifications for licensure -- Graduates of nonapproved nursing**  
373 **programs.**

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

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

378 (a) meet all requirements of Subsection 58-31b-302(1), except Subsection (1)(e); and

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

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

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

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

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

391 Section 7. Section **58-31b-304** is amended to read:

392 **58-31b-304. Qualifications for admission to the examinations.**

393 (1) To be admitted to the examinations required for certification as a licensed practical  
394 nurse - geriatric care manager, a person shall:

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

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

397 (c) meet all requirements of Subsection 58-31b-302(2) except the passing of the  
398 examination.

399 [~~(1)~~] (2) To be admitted to the examinations required for licensure as a practical nurse,

400 a person shall:

- 401 (a) submit an application form prescribed by the division;
- 402 (b) pay a fee as determined by the division under Section 63-38-3.2; and
- 403 (c) meet all requirements of Subsection 58-31b-302(1), except Subsection (1)(f).

404 [~~(2)~~] (3) To be admitted to the examinations required for licensure as a registered  
405 nurse, a person shall:

- 406 (a) submit an application form prescribed by the division;
- 407 (b) pay a fee as determined by the division under Section 63-38-3.2; and
- 408 (c) meet all the requirements of Subsection 58-31b-302[~~(2)~~](3), except Subsection  
409 [~~(2)~~](3)(f).

410 Section 8. Section **58-31b-307** is amended to read:

411 **58-31b-307. Licensure by endorsement.**

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

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

- 417 (2) demonstrate that the applicant has completed course work as required in Subsection  
418 58-31b-302[~~(3)~~] (4)(f).

419 Section 9. Section **58-31b-308** is amended to read:

420 **58-31b-308. Exemptions from licensure.**

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

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

- 426 (b) persons providing care in a medical emergency;

- 427 (c) persons engaged in the practice of religious tenets of a church or religious  
428 denomination; and

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

431 (2) Notwithstanding Subsection (1)(d), the division may, in accordance with Section  
432 58-31c-102, limit or revoke practice privileges in this state of a person licensed to practice  
433 nursing by a jurisdiction that has joined the Nurse Licensing Compact.

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

437 ~~[(a) an individual providing gratuitous care for another individual;]~~

438 ~~[(b) a volunteer, whether or not he receives token compensation other than salary or~~  
439 ~~wages];~~

440 ~~[(i) in programs sponsored or authorized by federal Public Law 93-113; or]~~

441 ~~[(ii) at any regulated facility; and]~~

442 ~~[(c) individuals providing:]~~

443 ~~[(i) services generally considered independent living activities such as preparing meals,~~  
444 ~~shopping for personal items or groceries, managing money, using the telephone, performing~~  
445 ~~housekeeping, and other similar activities not involving direct personal assistance and care as~~  
446 ~~the division may define by rule; and]~~

447 ~~[(ii) child day care or baby-sitting, whether or not the services are subject to licensure~~  
448 ~~under Title 26, Chapter 39, Utah Child Care Licensing Act;]~~

449 ~~[(d) an individual employed on an intermittent basis to provide a specified limited~~  
450 ~~period of care for an adult or child with disabilities needing regular daily care, in order to allow~~  
451 ~~the relative or other person who is the adult or child's regular and unpaid caretaker respite from~~  
452 ~~his or her caregiver duties regarding the adult or child; or]~~

453 ~~[(e) notwithstanding Subsection 58-31b-102(11) an individual employed by another~~  
454 ~~person who is self directing his personal care in his private residence:]~~

455 Section 10. Section **58-31b-401** is amended to read:

456 **58-31b-401. Grounds for denial of licensure or certification and disciplinary**  
457 **proceedings.**

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

462 (2) If a court of competent jurisdiction determines a nurse [~~or health care assistant~~] is  
463 an incapacitated person as defined in Section 75-1-201 or that he is mentally ill as defined in  
464 Section 62A-15-602, and unable to safely engage in the practice of nursing [~~or the practice of a~~  
465 ~~health care assistant~~], the director shall immediately suspend the license of the nurse or health  
466 care assistant upon the entry of the judgment of the court, without further proceedings under  
467 Title 63, Chapter 46b, Administrative Procedures Act, regardless of whether an appeal from the  
468 court's ruling is pending. The director shall promptly notify the nurse [~~or health care assistant~~],  
469 in writing, of the suspension.

470 (3) (a) If the division and the majority of the board find reasonable cause to believe a  
471 nurse [~~or health care assistant~~], who is not determined judicially to be an incapacitated person  
472 or to be mentally ill, is incapable of practicing nursing [~~or the practice of a health care~~  
473 ~~assistant~~] with reasonable skill regarding the safety of patients, because of illness, excessive  
474 use of drugs or alcohol, or as a result of any mental or physical condition, the board shall  
475 recommend that the director file a petition with the division, and cause the petition to be served  
476 upon the nurse [~~or health care assistant~~] with a notice of hearing on the sole issue of the  
477 capacity of the nurse [~~or health care assistant~~] to competently, safely engage in the practice of  
478 nursing [~~or the practice of a health care assistant~~].

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

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

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

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

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

492 (i) the nurse [~~or health care assistant~~] is mentally ill or incapacitated or otherwise



493 unable to practice nursing [~~or health care assistance~~] with reasonable skill and safety; and

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

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

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

504 (5) (a) A nurse [~~or health care assistant~~] whose license is suspended under Subsection  
505 (2), (3), or (4)(c) has the right to a hearing to appeal the suspension within ten days after the  
506 license is suspended.

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

511 (6) A nurse [~~or health care assistant~~] whose license is revoked, suspended, or in any  
512 way restricted under this section may request the division and the board to consider, at  
513 reasonable intervals, evidence presented by the nurse [~~or health care assistant~~], under  
514 procedures established by division rule, regarding any change in the nurse's [~~or health care  
515 assistant's~~] condition, to determine whether:

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

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

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

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

526 Section 11. Section **58-31b-501** is amended to read:

527 **58-31b-501. Unlawful conduct.**

528 (1) "Unlawful conduct" includes:

529 (a) using the following titles, names or initials, if the user is not properly licensed  
530 under this chapter:

531 (i) nurse;

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

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

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

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

536 (vi) registered psychiatric mental health nurse specialist;

537 (vii) advanced practice registered nurse;

538 (viii) nurse anesthetist, certified nurse anesthetist, certified registered nurse anesthetist,  
539 or C.R.N.A.; or

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

541 (b) using any other name, title, or initials that would cause a reasonable person to  
542 believe the user is licensed under this chapter if the user is not properly licensed under this  
543 chapter; and

544 (c) conducting a nursing education program in the state for the purpose of qualifying  
545 individuals to meet requirements for licensure under this chapter without the program having  
546 been approved under Section 58-31b-601.

547 [~~(2) (a) An individual registered as a health care assistant under this chapter may use  
548 any title in his practice as a health care assistant, and an employer may assign a title to health  
549 care assistants it employs, if the title does not cause a reasonable person to believe the  
550 registrant is a licensee in any other license classification under this chapter and Title 58,  
551 Occupations and Professions.]~~

552 [~~(b) If any issue is raised regarding a title under this section, the division shall  
553 determine if the title may be used for health care assistants.]~~

554 (2) An individual licensed as a practical nurse who is certified as a geriatric care

555 manager under this chapter, may use the title "licensed practical nurse - geriatric care manager"  
556 or the initials "LPN-GCM" to designate the additional training and certification.

557 Section 12. Section **58-31b-502** is amended to read:

558 **58-31b-502. Unprofessional conduct.**

559 "Unprofessional conduct" includes:

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

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

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

568 (a) period when a generally recognized professional relationship exists between the  
569 nurse and patient; or

570 (b) extended period when a patient has reasonable cause to believe a professional  
571 relationship exists between the nurse and patient;

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

575 (b) exploiting the patient by use of the licensee's knowledge of the patient obtained  
576 while acting as a nurse;

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

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

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

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

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

585 (10) failure to exercise appropriate supervision of persons providing patient care

586 services under supervision of the licensed nurse;

587 (11) employing or aiding and abetting the employment of an unqualified or unlicensed  
588 person to practice as a nurse;

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

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

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

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

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

598 (17) practicing as a licensed practical nurse - geriatric care manager in a setting other  
599 than a long-term care facility.

600 Section 13. Section **58-31b-601** is amended to read:

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

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

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

607 (3) The division shall define by rule the minimum standards a licensed practical nurse -  
608 geriatric care manager training program must meet to qualify a person for certification under  
609 this chapter as a licensed practical nurse - geriatric care manager.

610 Section 14. Section **58-31b-701** is amended to read:

611 **58-31b-701. Immunity from liability.**

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

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

615 (2) is considered a health care provider under Chapter 13, Health Care Providers  
616 Immunity from Liability Act, and is entitled to the immunity from civil liability provided under

617 that chapter.

618 Section 15. Section **63-55b-158** is enacted to read:

619 **63-55b-158. Repeal dates - Title 58.**

620 Section 58-31b-301.5, Geriatric Care Manager Pilot Program, is repealed July 1, 2007.

621 Section 16. **Repealer.**

622 This bill repeals:

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

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**Legislative Review Note**  
as of 1-5-04 7:23 AM

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

**Office of Legislative Research and General Counsel**

**State Impact**

This bill will need the services of one-half FTE at a first year cost of \$26,500 from the General Fund Restricted - Commerce Service Fund. The bill will generate an additional \$1,200 to the Commerce Service Fund. Spending from the Commerce Service Fund could affect revenue available to the General Fund.

	<u>FY 2005</u> <u>Approp.</u>	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2005</u> <u>Revenue</u>	<u>FY 2006</u> <u>Revenue</u>
Commerce Service Fund	\$26,500	\$19,200	\$1,200	\$2,500
<b>TOTAL</b>	<b>\$26,500</b>	<b>\$19,200</b>	<b>\$1,200</b>	<b>\$2,500</b>

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**Individual and Business Impact**

LPN\_GCM will pay an initial fee of \$40 and a renewal fee that will be increased by \$10 to \$70.

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**Office of the Legislative Fiscal Analyst**