

PHLEBOTOMY CERTIFICATION ACT

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: F. Jay Seegmiller

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts the Phlebotomy Certification Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a phlebotomist to be certified;
- ▶ establishes certification requirements and continuing education requirements for a certified phlebotomist;
- ▶ grants rulemaking authority to the Division of Occupational and Professional Licensing (DOPL);
- ▶ requires DOPL to charge a fee to recover the costs of issuing a certification described in this bill; and
- ▶ describes, and provides penalties for, unlawful or unprofessional conduct.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

58-83-101, Utah Code Annotated 1953



- 28 **58-83-102**, Utah Code Annotated 1953
- 29 **58-83-201**, Utah Code Annotated 1953
- 30 **58-83-301**, Utah Code Annotated 1953
- 31 **58-83-302**, Utah Code Annotated 1953
- 32 **58-83-303**, Utah Code Annotated 1953
- 33 **58-83-304**, Utah Code Annotated 1953
- 34 **58-83-305**, Utah Code Annotated 1953
- 35 **58-83-401**, Utah Code Annotated 1953
- 36 **58-83-501**, Utah Code Annotated 1953
- 37 **58-83-502**, Utah Code Annotated 1953
- 38 **58-83-503**, Utah Code Annotated 1953

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

Section 1. Section **58-83-101** is enacted to read:

CHAPTER 83. PHLEBOTOMY CERTIFICATION ACT

Part 1. General Provisions

58-83-101. Title.

This chapter is known as the "Phlebotomy Certification Act."

Section 2. Section **58-83-102** is enacted to read:

58-83-102. Definitions.

As used in this chapter:

(1) "Certified phlebotomist" means an individual who is certified by the division under this chapter to practice phlebotomy.

(2) "Phlebotomist" means an individual who practices phlebotomy.

(3) "Phlebotomy" means the practice of withdrawing blood from the human body through an invasive procedure for a medical purpose, including:

(a) collecting samples for the practice of:

(i) clinical laboratory testing and analysis; or

(ii) typing and cross-matching of blood; or

(b) transfusion.

Section 3. Section **58-83-201** is enacted to read:

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Part 2. Board

58-83-201. Phlebotomy Certification Advisory Board.

The division shall notify the Health and Human Services Interim Committee if it determines that there is a need to create, by statute, a Phlebotomy Certification Advisory Board.

Section 4. Section **58-83-301** is enacted to read:

Part 3. Certification

58-83-301. Certification.

The division shall issue to a person who qualifies under this chapter a certificate as a certified phlebotomist.

Section 5. Section **58-83-302** is enacted to read:

58-83-302. Qualifications for certification.

A person qualifies as a certified phlebotomist if the person:

(1) is a high school graduate or has a general equivalency diploma;

(2) has successfully completed at least 80 hours of training in phlebotomy, in a program approved by the division;

(3) passes an examination approved by the division that establishes the person's competency to practice phlebotomy; and

(4) pays the fee described in Section 58-83-304.

Section 6. Section **58-83-303** is enacted to read:

58-83-303. Term of certification -- Expiration -- Renewal.

(1) The division shall issue each certification under this chapter in accordance with a two-year renewal cycle established by rule.

(2) The division may, by rule, extend or shorten a renewal cycle by as much as one year to stagger the renewal cycles described in Subsection (1).

(3) Each certification automatically expires on the expiration date shown on the certification, unless the certified phlebotomist renews the certification in accordance with Subsection 58-1-308.

Section 7. Section **58-83-304** is enacted to read:

58-83-304. Fee -- Rulemaking authority.

(1) The division may charge a fee, established under Section 63J-1-504, to recover the

90 costs of issuing the certificate described in Section 58-83-301.

91 (2) The division may make rules, pursuant to Title 63G, Chapter 3, Utah
92 Administrative Rulemaking Act, to accomplish the requirements of this chapter.

93 Section 8. Section **58-83-305** is enacted to read:

94 **58-83-305. Continuing education.**

95 As a condition for renewal of a certification under this part, a certified phlebotomist
96 shall, during each two-year certification, complete qualified continuing professional education,
97 as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
98 Rulemaking Act.

99 Section 9. Section **58-83-401** is enacted to read:

100 **Part 4. Certification Denial and Discipline**

101 **58-83-401. Grounds for denial of certification -- Disciplinary proceedings.**

102 Grounds for refusing to issue a certification to an applicant, for refusing to renew the
103 certification of a certified phlebotomist, for revoking, suspending, restricting, or placing on
104 probation the certification of a phlebotomist, for issuing a public or private reprimand to a
105 certified phlebotomist, and for issuing a cease and desist order shall be in accordance with
106 Section 58-1-401.

107 Section 10. Section **58-83-501** is enacted to read:

108 **Part 5. Unlawful and Unprofessional Conduct**

109 **58-83-501. Unlawful conduct.**

110 In addition to the definition in Subsection 58-1-501(1), "unlawful conduct" includes:

111 (1) representing or holding oneself out as a certified phlebotomist when not certified
112 under this chapter;

113 (2) engaging in the practice of phlebotomy, unless the person:

114 (a) is a certified phlebotomist;

115 (b) is certified or licensed under this title to practice in a profession that includes, in the
116 scope of practice of the profession, the practice of phlebotomy;

117 (c) practices phlebotomy, under federal law, in:

118 (i) the United States armed services;

119 (ii) the United States Public Health Service; or

120 (iii) the Veteran's Administration; or

- 121 (d) (i) is certified or licensed as a phlebotomist in:
- 122 (A) a state, district, or territory of the United States, other than Utah; or
- 123 (B) a country other than the United States; and
- 124 (ii) (A) is teaching, demonstrating, or practicing phlebotomy in connection with an
- 125 educational seminar, if the person engages in this conduct in Utah no more than 60 days per
- 126 calendar year; or
- 127 (B) is practicing phlebotomy directly related to the person's employment with, or
- 128 contract with, an established athletic team, athletic organization, or performing arts company
- 129 that plays, practices, competes, or performs in Utah no more than 60 days per calendar year; or
- 130 (3) representing oneself as, or using the title of, a phlebotomist, unless the person is:
- 131 (a) a certified phlebotomist; or
- 132 (b) (i) certified or licensed as a phlebotomist in a jurisdiction other than Utah; and
- 133 (ii) does not represent oneself as being a phlebotomist who is certified in Utah.

134 Section 11. Section **58-83-502** is enacted to read:

135 **58-83-502. Penalty for unlawful conduct.**

136 A person who violates the unlawful conduct provisions described in Section 58-83-501

137 is guilty of a class A misdemeanor.

138 Section 12. Section **58-83-503** is enacted to read:

139 **58-83-503. Unprofessional conduct.**

140 "Unprofessional conduct" includes:

- 141 (1) conduct that is detrimental to the interests of the public;
- 142 (2) willful or negligent disclosure of confidential information about which the certified
- 143 phlebotomist becomes knowledgeable as a result of, or incidental to, the certified
- 144 phlebotomist's practice as a certified phlebotomist;
- 145 (3) false or deceptive representation of a certified phlebotomist's skills, competence,
- 146 capability, or resources as a certified phlebotomist;
- 147 (4) offering, undertaking, or agreeing to undertake an assignment as a certified
- 148 phlebotomist for which the certified phlebotomist is not qualified or which the certified
- 149 phlebotomist cannot complete as agreed in a professional manner;
- 150 (5) the use of any chemical, drug, or alcohol in any unlawful manner or in any manner
- 151 which negatively affects the ability of the certified phlebotomist to competently practice as a

- 152 certified phlebotomist;
153 (6) willfully and intentionally making any false or fraudulent interpretation, statement,
154 or representation in the performance of the certified phlebotomist's duties;
155 (7) any conduct contrary to the recognized standards and ethics of the profession of a
156 certified phlebotomist;
157 (8) gross incompetence in practice as a certified phlebotomist;
158 (9) violation of any provision of this chapter or rules made to regulate the practice of
159 phlebotomy; or
160 (10) conviction of a felony or any other crime that is considered by the division to
161 represent activity detrimental to the public interest as that interest is reflected in the person
162 continuing to practice as a certified phlebotomist.
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Legislative Review Note
as of 2-11-10 11:33 AM

Office of Legislative Research and General Counsel

H.B. 437 - Phlebotomy Certification Act

Fiscal Note

2010 General Session
State of Utah

State Impact

New license revenue is estimated at \$192,000 in FY 2011. After that, in even-numbered years, revenue is estimated at \$169,600. An annual appropriation of \$48,800 would be required with a FY 2011 one-time appropriation of \$27,800. Commerce Service Fund revenue and expenditures affect the annual transfer to the General Fund.

	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2011</u> <u>Approp.</u>	<u>FY 2012</u> <u>Approp.</u>	<u>FY 2010</u> <u>Revenue</u>	<u>FY 2011</u> <u>Revenue</u>	<u>FY 2012</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	\$0	\$115,400	\$120,800
Commerce Service Fund	\$0	\$48,800	\$48,800	\$0	\$0	\$0
Commerce Service, One-time	\$0	\$27,800	\$0	\$0	\$0	\$0
Total	\$0	\$76,600	\$48,800	\$0	\$115,400	\$120,800

Individual, Business and/or Local Impact

Individuals, businesses, and/or charities would be required to obtain licensure, incurring the cost of the license, the certification test, and the continuing education requirements. Schools providing the training for the certification and/or continuing education would likely see an increase in their enrollments. Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.