

VETERANS PREFERENCE AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tim M. Cosgrove

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LONG TITLE

General Description:

This bill provides exceptions to professional state licensure for veterans and active duty spouses.

Highlighted Provisions:

This bill:

► provides an exception to state licensure for active duty spouses for some professions provided the spouse holds a license in another recognized jurisdiction and the license is valid and in good standing;

► allows the Department of Health to take military education, training, and experience into consideration when certifying or licensing persons under the Emergency Medical Services System; and

28 ▶ adds military education and training programs to programs the Division of
29 Occupational and Professional Licensing considers for licensing.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **26-8a-106**, as enacted by Laws of Utah 1999, Chapter 141

37 **58-1-203**, as last amended by Laws of Utah 2002, Chapter 241

38 **58-1-307**, as last amended by Laws of Utah 2008, Chapter 242



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

41 Section 1. Section **26-8a-106** is amended to read:

42 **26-8a-106. Waiver of rules.**

43 (1) Upon application, the committee or department may waive the requirements of a
44 rule it has adopted if:

45 (a) the person applying for the waiver satisfactorily demonstrates that:

46 (i) the waiver is necessary for a pilot project to be undertaken by the applicant;

47 (ii) in the particular situation, the requirement serves no beneficial public purpose; or

48 (iii) circumstances warrant that waiver of the requirement outweighs the public benefit

49 to be gained by adherence to the rule; and

50 (b) for a waiver granted under Subsection (1)(a)(ii) or (iii), the committee or

51 department:

52 (i) extends the waiver to similarly situated persons upon application; or

53 (ii) amends the rule to be consistent with the waiver.

54 (2) A waiver of education, licensing, or certification requirements may be granted to a

55 veteran, as defined in Section 71-8-1, if the veteran:

56 (a) provides to the committee or department documentation showing military education
57 and training in the field in which certification or licensure is sought; and

58 (b) successfully passes any examination required.

59 [~~2~~] (3) No waiver may be granted under this section that is inconsistent with the
60 provisions of this chapter.

61 Section 2. Section **58-1-203** is amended to read:

62 **58-1-203. Duties, functions, and responsibilities of division in collaboration with**
63 **board -- Construction Services Commission.**

64 (1) The following duties, functions, and responsibilities of the division shall be
65 performed by the division with the collaboration and assistance of the appropriate board:

66 (a) defining which schools, colleges, universities, departments of universities, military
67 educational and training programs, or other institutions of learning are reputable and in good
68 standing with the division;

69 (b) prescribing license qualifications;

70 (c) prescribing rules governing applications for licenses;

71 (d) providing for a fair and impartial method of examination of applicants;

72 (e) defining unprofessional conduct, by rule, to supplement the definitions under this
73 chapter or other licensing chapters;

74 (f) establishing advisory peer committees to the board and prescribing their scope of
75 authority; and

76 (g) establishing conditions for reinstatement and renewal of licenses.

77 (2) Notwithstanding Subsection (1), the duties, functions, and responsibilities of the
78 division outlined in Subsection (1) shall, instead, be performed by the Construction Services
79 Commission for all purposes of Title 58, Chapter 55, Utah Construction Trades Licensing.

80 Section 3. Section **58-1-307** is amended to read:

81 **58-1-307. Exemptions from licensure.**

82 (1) Except as otherwise provided by statute or rule, the following individuals may
83 engage in the practice of their occupation or profession, subject to the stated circumstances and

84 limitations, without being licensed under this title:

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

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

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

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

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

104 (f) an individual licensed under the laws of this state, other than under this title, to
105 practice or engage in an occupation or profession, while engaged in the lawful, professional,
106 and competent practice of that occupation or profession;

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

111 (h) an individual licensed in another state or country who is in this state temporarily to

112 attend to the needs of an athletic team or group, except that the practitioner may only attend to
113 the needs of the athletic team or group, including all individuals who travel with the team or
114 group in any capacity except as a spectator;

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

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

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

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

122 (j) a law enforcement officer, as defined under Section 53-13-103, who:

123 (i) is operating a voice stress analyzer in the course of the officer's full-time
124 employment with a federal, state, or local law enforcement agency;

125 (ii) has completed the manufacturer's training course and is certified by the
126 manufacturer to operate that voice stress analyzer; and

127 (iii) is operating the voice stress analyzer in accordance with Section 58-64-601,
128 regarding deception detection instruments[-]; and

129 (k) the spouse of an individual serving in the armed forces of the United States while
130 the individual is stationed within this state, provided:

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

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

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

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

139 (3) An individual who is licensed under a specific chapter of this title to practice or

140 engage in an occupation or profession may engage in the lawful, professional, and competent
141 practice of that occupation or profession without additional licensure under other chapters of
142 this title, except as otherwise provided by this title.

143 (4) Upon the declaration of a national, state, or local emergency, a public health
144 emergency as defined in Section 26-23b-102, or a declaration by the President of the United
145 States or other federal official requesting public health-related activities, the division in
146 collaboration with the board may:

147 (a) suspend the requirements for permanent or temporary licensure of individuals who
148 are licensed in another state [~~Individuals exempt under this Subsection (4)(a) are exempt from~~
149 ~~licensure~~] for the duration of the emergency while engaged in the scope of practice for which
150 they are licensed in the other state;

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

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

156 (ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter 31c, Nurse Licensure
157 Compact;

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

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

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

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

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

165 (c) suspend the requirements for licensure under this title and modify the scope of
166 practice in the circumstances described in this Subsection (4) and Subsection (5) for medical
167 services personnel or paramedics required to be certified under Section 26-8a-302;

168 (d) suspend requirements in Subsections 58-17b-620(3) through (6) which require
169 certain prescriptive procedures;

170 (e) exempt or modify the requirement for licensure of an individual who is activated as
171 a member of a medical reserve corps during a time of emergency as provided in Section
172 26A-1-126; and

173 (f) exempt or modify the requirement for licensure of an individual who is registered as
174 a volunteer health practitioner as provided in Title 26, Chapter 49, Uniform Emergency
175 Volunteer Health Practitioners Act.

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

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

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

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

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

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