

1 **PROFESSIONAL LICENSING AMENDMENTS**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: John L. Valentine**

5 House Sponsor: Keven J. Stratton

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies unlawful conduct provisions under Title 58, Occupations and
10 Professions.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ provides that it is unlawful conduct for a licensee who has had a license reinstated
14 following disciplinary action, to practice an occupation or profession using a
15 different name than the name used before the disciplinary action; and

16 ▶ makes technical changes.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **58-1-501**, as last amended by Laws of Utah 2013, Chapter 262

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

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

27 **58-1-501. Unlawful and unprofessional conduct.**

28 (1) "Unlawful conduct" means conduct, by any person, that is defined as unlawful
29 under this title and includes:

30 (a) practicing or engaging in, representing oneself to be practicing or engaging in, or
31 attempting to practice or engage in any occupation or profession requiring licensure under this
32 title if the person is:

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

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

36 (b) (i) impersonating another licensee or practicing an occupation or profession under a
37 false or assumed name, except as permitted by law; or

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

42 (c) knowingly employing any other person to practice or engage in or attempt to
43 practice or engage in any occupation or profession licensed under this title if the employee is
44 not licensed to do so under this title;

45 (d) knowingly permitting the person's authority to practice or engage in any occupation
46 or profession licensed under this title to be used by another, except as permitted by law;

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

50 (f) (i) issuing, or aiding and abetting in the issuance of, an order or prescription for a
51 drug or device to a person located in this state:

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

54 (B) with prescriptive authority conferred by an exception issued under this title or a
55 multistate practice privilege recognized under this title, if the prescription was issued without
56 first obtaining information, in the usual course of professional practice, that is sufficient to
57 establish a diagnosis, to identify underlying conditions, and to identify contraindications to the

58 proposed treatment; and

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

63 (2) "Unprofessional conduct" means conduct, by a licensee or applicant, that is defined
64 as unprofessional conduct under this title or under any rule adopted under this title and
65 includes:

66 (a) violating, or aiding or abetting any other person to violate, any statute, rule, or order
67 regulating an occupation or profession under this title;

68 (b) violating, or aiding or abetting any other person to violate, any generally accepted
69 professional or ethical standard applicable to an occupation or profession regulated under this
70 title;

71 (c) engaging in conduct that results in conviction, a plea of nolo contendere, or a plea
72 of guilty or nolo contendere which is held in abeyance pending the successful completion of
73 probation with respect to a crime of moral turpitude or any other crime that, when considered
74 with the functions and duties of the occupation or profession for which the license was issued
75 or is to be issued, bears a reasonable relationship to the licensee's or applicant's ability to safely
76 or competently practice the occupation or profession;

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

82 (e) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar
83 chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the
84 ability of the licensee or applicant to safely engage in the occupation or profession;

85 (f) practicing or attempting to practice an occupation or profession regulated under this

86 title despite being physically or mentally unfit to do so;

87 (g) practicing or attempting to practice an occupation or profession regulated under this
88 title through gross incompetence, gross negligence, or a pattern of incompetency or negligence;

89 (h) practicing or attempting to practice an occupation or profession requiring licensure
90 under this title by any form of action or communication which is false, misleading, deceptive,
91 or fraudulent;

92 (i) practicing or attempting to practice an occupation or profession regulated under this
93 title beyond the scope of the licensee's competency, abilities, or education;

94 (j) practicing or attempting to practice an occupation or profession regulated under this
95 title beyond the scope of the licensee's license;

96 (k) verbally, physically, mentally, or sexually abusing or exploiting any person through
97 conduct connected with the licensee's practice under this title or otherwise facilitated by the
98 licensee's license;

99 (l) acting as a supervisor without meeting the qualification requirements for that
100 position that are defined by statute or rule;

101 (m) issuing, or aiding and abetting in the issuance of, an order or prescription for a
102 drug or device:

103 (i) without first obtaining information in the usual course of professional practice, that
104 is sufficient to establish a diagnosis, to identify conditions, and to identify contraindications to
105 the proposed treatment; or

106 (ii) with prescriptive authority conferred by an exception issued under this title, or a
107 multi-state practice privilege recognized under this title, if the prescription was issued without
108 first obtaining information, in the usual course of professional practice, that is sufficient to
109 establish a diagnosis, to identify underlying conditions, and to identify contraindications to the
110 proposed treatment;

111 (n) violating a provision of Section [58-1-501.5](#); or

112 (o) violating the terms of an order governing a license.