

Representative Brad R. Wilson proposes the following substitute bill:

**DIVISION OF OCCUPATIONAL AND PROFESSIONAL
LICENSING AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill modifies provisions related to occupational and professional licensing.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ describes requirements for assigning certain claims by a qualified beneficiary;
- ▶ provides that the Division of Occupational and Professional Licensing (DOPL) shall comply with the Open and Public Meetings Act;
- ▶ modifies provisions related to DOPL's adjudicative proceedings and rulemaking authority;
- ▶ permits an esthetics school to provide a certain percent of its curriculum online;
- ▶ modifies provisions related to licensure requirements, licensure exemptions, the reinstatement of licenses, grounds for denying licenses, and penalties for the conduct of licensees under DOPL;
- ▶ modifies provisions related to access to information in the controlled substance database;
- ▶ modifies provisions related to the confidentiality of certain records provided to



26 DOPL; and

27 ▶ makes technical and conforming changes.

28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 This bill provides a coordination clause.

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **38-11-203**, as last amended by Laws of Utah 2004, Chapter 42

35 **38-11-204**, as last amended by Laws of Utah 2012, Chapter 278

36 **58-1-106**, as last amended by Laws of Utah 2008, Chapter 382

37 **58-1-109**, as last amended by Laws of Utah 2008, Chapter 382

38 **58-1-302**, as last amended by Laws of Utah 2013, Chapter 262

39 **58-1-307**, as last amended by Laws of Utah 2012, Chapter 150

40 **58-1-308**, as last amended by Laws of Utah 2009, Chapter 183

41 **58-1-401**, as last amended by Laws of Utah 2013, Chapter 262

42 **58-1-502**, as last amended by Laws of Utah 2013, Chapter 262

43 **58-11a-501**, as last amended by Laws of Utah 2009, Chapter 130

44 **58-13-3**, as last amended by Laws of Utah 2014, Chapter 400

45 **58-15-2**, as last amended by Laws of Utah 2011, Chapter 366

46 **58-16a-302**, as last amended by Laws of Utah 2014, Chapter 305

47 **58-17b-610.5**, as enacted by Laws of Utah 2015, Chapter 336

48 **58-24b-301**, as enacted by Laws of Utah 2009, Chapter 220

49 **58-24b-302**, as enacted by Laws of Utah 2009, Chapter 220

50 **58-24b-303**, as last amended by Laws of Utah 2013, Chapter 31

51 **58-26a-501**, as last amended by Laws of Utah 2008, Chapter 265

52 **58-37f-301**, as last amended by Laws of Utah 2015, Chapters 89, 326, and 336

53 **58-37f-601**, as last amended by Laws of Utah 2015, Chapter 326

54 **58-44a-302**, as last amended by Laws of Utah 2009, Chapter 183

55 **58-55-302**, as last amended by Laws of Utah 2015, Chapter 258

56 **58-55-307**, as last amended by Laws of Utah 2008, Chapter 382

- 57 [58-60-508](#), as last amended by Laws of Utah 2013, Chapter 262
- 58 [58-63-302](#), as last amended by Laws of Utah 2013, Chapter 436
- 59 [58-64-304](#), as enacted by Laws of Utah 1995, Chapter 215
- 60 [58-70a-305](#), as last amended by Laws of Utah 2010, Chapter 37
- 61 [58-74-102](#), as last amended by Laws of Utah 2004, Chapter 77
- 62 [58-77-601](#), as last amended by Laws of Utah 2014, Chapter 189
- 63 [58-81-102](#), as enacted by Laws of Utah 2009, Chapter 263

64 ENACTS:

65 [58-11a-302.5](#), Utah Code Annotated 1953

66 **Utah Code Sections Affected by Coordination Clause:**

67 [58-64-304](#), as enacted by Laws of Utah 1995, Chapter 215



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

70 Section 1. Section [38-11-203](#) is amended to read:

71 **38-11-203. Disbursements from the fund -- Limitations.**

72 (1) A payment of any claim upon the fund by a qualified beneficiary shall be made only
73 upon an order issued by the director finding that:

- 74 (a) the claimant was a qualified beneficiary during the construction on a residence;
- 75 (b) the claimant complied with the requirements of Section [38-11-204](#); ~~and~~
- 76 (c) there is adequate money in the fund to pay the amount ordered[-]; and
- 77 (d) the claimant provided the qualified services that are the basis of the claim.

78 (2) A payment of a claim upon the fund by a laborer shall be made only upon an order
79 issued by the director finding that:

- 80 (a) the laborer complied with the requirements of Subsection [38-11-204\(7\)](#); and
- 81 (b) there is adequate money in the fund to pay the amount ordered.

82 (3) (a) An order under this section may be issued only after the division has complied
83 with the procedures established by rule under Section [38-11-105](#).

84 (b) The director shall order payment of the qualified services as established by
85 evidence, or if the claimant has obtained a judgment, then in the amount awarded for qualified
86 services in the judgment to the extent the qualified services are attributable to the
87 owner-occupied residence at issue in the claim.

88 (c) The director shall order payment of interest on amounts claimed for qualified
89 services based on the current prime interest rate at the time payment was due to the date the
90 claim is approved for payment except for delays attributable to the claimant but not more than
91 10% per annum.

92 (d) The rate shall be the prime lending rate as published in the Wall Street Journal on
93 the first business day of each calendar year adjusted annually.

94 (e) The director shall order payment of costs in the amount stated in the judgment. If
95 the judgment does not state a sum certain for costs, or if no judgment has been obtained, the
96 director shall order payment of reasonable costs as supported by evidence. The claim
97 application fee as established by the division pursuant to Subsection 38-11-204(1)(b) is not a
98 reimbursable cost.

99 (f) If a judgment has been obtained with attorneys' fees, notwithstanding the amount
100 stated in a judgment, or if no judgment has been obtained but the contract provides for
101 attorneys' fees, the director shall order payment of attorneys' fees not to exceed 15% of
102 qualified services. If the judgment does not state a sum for attorneys' fees, no attorneys' fees
103 will be paid by the director.

104 (4) (a) Payments made from the fund may not exceed \$75,000 per construction project
105 to qualified beneficiaries and laborers who have claim against the fund for that construction
106 project.

107 (b) If claims against the fund for a construction project exceed \$75,000, the \$75,000
108 shall be awarded proportionately so that each qualified beneficiary and laborer awarded
109 compensation from the fund for qualified services shall receive an identical percentage of the
110 qualified beneficiary's or laborer's award.

111 (5) Subject to the limitations of Subsection (4), if on the day the order is issued there
112 are inadequate funds to pay the entire claim and the director determines that the claimant has
113 otherwise met the requirements of Subsection (1) or (2), the director shall order additional
114 payments once the fund meets the balance limitations of Section 38-11-206.

115 (6) (a) A payment of any claim upon the fund may not be made to an assignee or
116 transferee unless an order issued by the director finds that:

117 (i) the claim is assigned or transferred to a person who is a qualified beneficiary; and

118 (ii) the person assigning or transferring the claim:

119 (A) was a qualified beneficiary during the construction on a residence; and
120 (B) provided the qualified services that are the basis of the claim.
121 (b) A claimant who is an assignee or transferee of a claim upon the fund under this
122 Subsection (6) does not have to meet the requirements of Subsections [38-11-203\(1\)\(a\)](#) and (d).

123 Section 2. Section **38-11-204** is amended to read:

124 **38-11-204. Claims against the fund -- Requirement to make a claim --**
125 **Qualifications to receive compensation -- Qualifications to receive a certificate of**
126 **compliance.**

127 (1) To claim recovery from the fund a person shall:

- 128 (a) meet the requirements of Subsection (4) or (6);
- 129 (b) pay an application fee determined by the division under Section [63J-1-504](#); and
- 130 (c) file with the division a completed application on a form provided by the division

131 accompanied by supporting documents establishing:

- 132 (i) that the person meets the requirements of Subsection (4) or (6);
- 133 (ii) that the person was a qualified beneficiary or laborer during the construction on the
- 134 owner-occupied residence; and
- 135 (iii) the basis for the claim.

136 (2) To recover from the fund, the application required by Subsection (1) shall be filed
137 no later than one year:

- 138 (a) from the date the judgment required by Subsection (4)(d) is entered;
- 139 (b) from the date the nonpaying party filed bankruptcy, if the claimant is precluded
- 140 from obtaining a judgment or from satisfying the requirements of Subsection (4)(d) because the
- 141 nonpaying party filed bankruptcy within one year after the entry of judgment; or

142 (c) from the date the laborer, trying to recover from the fund, completed the laborer's
143 qualified services.

144 (3) The issuance of a certificate of compliance is governed by Section [38-11-110](#).

145 (4) To recover from the fund, regardless of whether the residence is occupied by the
146 owner, a subsequent owner, or the owner or subsequent owner's tenant or lessee, a qualified
147 beneficiary shall establish that:

- 148 (a) (i) the owner of the owner-occupied residence or the owner's agent entered into a
- 149 written contract with an original contractor licensed or exempt from licensure under Title 58,

150 Chapter 55, Utah Construction Trades Licensing Act:

151 (A) for the performance of qualified services;

152 (B) to obtain the performance of qualified services by others; or

153 (C) for the supervision of the performance by others of qualified services in

154 construction on that residence;

155 (ii) the owner of the owner-occupied residence or the owner's agent entered into a
156 written contract with a real estate developer for the purchase of an owner-occupied residence;

157 or

158 (iii) the owner of the owner-occupied residence or the owner's agent entered into a
159 written contract with a factory built housing retailer for the purchase of an owner-occupied
160 residence;

161 (b) the owner has paid in full the original contractor, licensed or exempt from licensure
162 under Title 58, Chapter 55, Utah Construction Trades Licensing Act, real estate developer, or
163 factory built housing retailer under Subsection (4)(a) with whom the owner has a written
164 contract in accordance with the written contract and any amendments to the contract;

165 (c) (i) the original contractor, licensed or exempt from licensure under Title 58,
166 Chapter 55, Utah Construction Trades Licensing Act, the real estate developer, or the factory
167 built housing retailer subsequently failed to pay a qualified beneficiary who is entitled to
168 payment under an agreement with that original contractor or real estate developer licensed or
169 exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for
170 services performed or materials supplied by the qualified beneficiary;

171 (ii) a subcontractor who contracts with the original contractor, licensed or exempt from
172 licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, the real estate
173 developer, or the factory built housing retailer failed to pay a qualified beneficiary who is
174 entitled to payment under an agreement with that subcontractor or supplier; or

175 (iii) a subcontractor who contracts with a subcontractor or supplier failed to pay a
176 qualified beneficiary who is entitled to payment under an agreement with that subcontractor or
177 supplier;

178 (d) (i) unless precluded from doing so by the nonpaying party's bankruptcy filing
179 within the applicable time, the qualified beneficiary filed an action against the nonpaying party
180 to recover money owed to the qualified beneficiary within the earlier of:

181 (A) 180 days from the date the qualified beneficiary filed a notice of claim under
182 Section 38-1a-502; or

183 (B) 270 days from the completion of the original contract pursuant to Subsection
184 38-1a-502(1);

185 (ii) the qualified beneficiary has obtained a judgment against the nonpaying party who
186 failed to pay the qualified beneficiary under an agreement to provide qualified services for
187 construction of that owner-occupied residence;

188 (iii) ~~(A)~~ the qualified beneficiary has:

189 ~~(F)~~ (A) obtained from a court of competent jurisdiction the issuance of an order
190 requiring the judgment debtor, or if a corporation any officer of the corporation, to appear
191 before the court at a specified time and place to answer concerning the debtor's or corporation's
192 property;

193 ~~(H)~~ (B) received return of service of the order from a person qualified to serve
194 documents under the Utah Rules of Civil Procedure, Rule 4(b); ~~and~~

195 ~~(H)~~ (C) made reasonable efforts to obtain asset information from the supplemental
196 proceedings; and

197 ~~(B)~~ (D) if assets subject to execution are discovered as a result of the order required
198 under this Subsection (4)(d)(iii)~~(A)~~ or for any other reason, ~~to obtain~~ obtained the issuance
199 of a writ of execution from a court of competent jurisdiction; ~~or~~ and

200 (iv) if the nonpaying party has filed bankruptcy, the qualified beneficiary timely filed a
201 proof of claim where permitted in the bankruptcy action~~, if the nonpaying party has filed~~
202 ~~bankruptcy~~];

203 (e) the qualified beneficiary is not entitled to reimbursement from any other person;
204 and

205 (f) the qualified beneficiary provided qualified services to a contractor, licensed or
206 exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act.

207 (5) The requirements of Subsections (4)(d)(ii) and (iii) need not be met if the qualified
208 beneficiary is prevented from compliance because the nonpaying party files bankruptcy.

209 (6) To recover from the fund a laborer shall:

210 (a) establish that the laborer has not been paid wages due for the work performed at the
211 site of a construction on an owner-occupied residence; and

212 (b) provide any supporting documents or information required by rule by the division.

213 (7) A fee determined by the division under Section 63J-1-504 shall be deducted from
214 any recovery from the fund received by a laborer.

215 (8) The requirements of Subsections (4)(a) and (b) may be satisfied if an owner or
216 agent of the owner establishes to the satisfaction of the director that the owner of the
217 owner-occupied residence or the owner's agent entered into a written contract with an original
218 contractor who:

219 (a) was a business entity that was not licensed under Title 58, Chapter 55, Utah
220 Construction Trades Licensing Act, but was solely or partly owned by an individual who was
221 licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act; or

222 (b) was a natural person who was not licensed under Title 58, Chapter 55, Utah
223 Construction Trades Licensing Act, but who was the sole or partial owner and qualifier of a
224 business entity that was licensed under Title 58, Chapter 55, Utah Construction Trades
225 Licensing Act.

226 (9) The director shall have equitable power to determine if the requirements of
227 Subsections (4)(a) and (b) have been met, but any decision by the director under this chapter
228 shall not alter or have any effect on any other decision by the division under Title 58,
229 Occupations and Professions.

230 Section 3. Section 58-1-106 is amended to read:

231 **58-1-106. Division -- Duties, functions, and responsibilities.**

232 (1) The duties, functions, and responsibilities of the division include the following:

233 (a) prescribing, adopting, and enforcing rules to administer this title;

234 (b) investigating the activities of any person whose occupation or profession is
235 regulated or governed by the laws and rules administered and enforced by the division;

236 (c) subpoenaing witnesses, taking evidence, and requiring by subpoena duces tecum
237 the production of any books, papers, documents, records, contracts, recordings, tapes,
238 correspondence, or information relevant to an investigation upon a finding of sufficient need by
239 the director or by the director's designee;

240 (d) taking administrative and judicial action against persons in violation of the laws
241 and rules administered and enforced by the division, including the issuance of cease and desist
242 orders;

243 (e) seeking injunctions and temporary restraining orders to restrain unauthorized
244 activity;

245 (f) ~~[giving public notice of board meetings]~~ complying with Title 52, Chapter 4, Open
246 and Public Meetings Act;

247 ~~[(g) keeping records of board meetings, proceedings, and actions and making those~~
248 ~~records available for public inspection upon request;]~~

249 ~~[(h)]~~ (g) issuing, refusing to issue, revoking, suspending, renewing, refusing to renew,
250 or otherwise acting upon any license;

251 ~~[(i)]~~ (h) preparing and submitting to the governor and the Legislature an annual report
252 of the division's operations, activities, and goals;

253 ~~[(j)]~~ (i) preparing and submitting to the executive director a budget of the expenses for
254 the division;

255 ~~[(k)]~~ (j) establishing the time and place for the administration of examinations; and

256 ~~[(l)]~~ (k) preparing lists of licensees and making these lists available to the public at cost
257 upon request unless otherwise prohibited by state or federal law.

258 (2) The division may not include home telephone numbers or home addresses of
259 licensees on the lists prepared under Subsection (1)~~[(l)]~~(k), except as otherwise provided by
260 rules of the division made in accordance with Title 63G, Chapter 3, Utah Administrative
261 Rulemaking Act.

262 (3) (a) The division may provide the home address or home telephone number of a
263 licensee on a list prepared under Subsection (1) upon the request of an individual who provides
264 proper identification and the reason for the request, in writing, to the division.

265 (b) A request under Subsection (3)(a) is limited to providing information on only one
266 licensee per request.

267 (c) The division shall provide, by rule, what constitutes proper identification under
268 Subsection (3)(a).

269 Section 4. Section **58-1-109** is amended to read:

270 **58-1-109. Presiding officers -- Content of orders -- Recommended orders -- Final**
271 **orders -- Appeal of orders.**

272 (1) Unless otherwise specified by statute or rule, the presiding officer for adjudicative
273 proceedings before the division shall be the director. However, pursuant to Title 63G, Chapter

274 4, Administrative Procedures Act, the director may designate in writing an individual or body
275 of individuals to act as presiding officer to conduct or to assist the director in conducting any
276 part or all of an adjudicative proceeding.

277 (2) Unless otherwise specified by the director, an administrative law judge shall be
278 designated as the presiding officer to conduct formal adjudicative proceedings in accordance
279 with Subsection 63G-4-102(4), Sections 63G-4-204 through 63G-4-207, and 63G-4-209.

280 (3) Unless otherwise specified by the director, the licensing board of the occupation or
281 profession that is the subject of the proceedings shall be designated as the presiding officer to
282 serve as fact finder at the evidentiary hearing in a formal adjudicative proceeding.

283 (4) At the close of an evidentiary hearing in an adjudicative proceeding, unless
284 otherwise specified by the director, the presiding officer who served as the fact finder at the
285 hearing shall issue a recommended order based upon the record developed at the hearing
286 determining all issues pending before the division.

287 (5) (a) The director shall issue a final order affirming the recommended order or
288 modifying or rejecting all or any part of the recommended order and entering new findings of
289 fact, conclusions of law, statement of reasons, and order based upon the director's personal
290 attendance at the hearing or a review of the record developed at the hearing. Before modifying
291 or rejecting a recommended order, the director shall consult with the presiding officer who
292 issued the recommended order.

293 (b) If the director issues a final order modifying or rejecting a recommended order, the
294 licensing board of the occupation or profession that is the subject of the proceeding may, by a
295 two-thirds majority vote of all board members, petition the executive director or designee
296 within the department to review the director's final order. The executive director's decision
297 shall become the final order of the division. This subsection does not limit the right of the
298 parties to appeal the director's final order by filing a request for agency review under
299 Subsection (8).

300 (6) If the director is unable for any reason to rule upon a recommended order of a
301 presiding officer, the director may designate another person within the division to issue a final
302 order.

303 (7) If the director or the director's designee does not initiate additional fact finding or
304 issue a final order within 20 calendar days after the date of the recommended order of the

305 presiding officer, the recommended order becomes the final order of the director or the
306 director's designee.

307 (8) The final order of the director may be appealed by filing a request for agency
308 review with the executive director or the executive director's designee within the department.

309 (9) The content of all orders shall comply with the requirements of Subsection
310 [63G-4-203\(1\)\(i\)](#) and Sections [63G-4-208](#) and [63G-4-209](#).

311 Section 5. Section **58-1-302** is amended to read:

312 **58-1-302. License by endorsement.**

313 (1) (a) The division may issue a license without examination to a person who has been
314 licensed in a state, district, or territory of the United States, or in a foreign country, where the
315 education, experience, and examination requirements are, or were at the time the license was
316 issued, substantially equal to the requirements of this state.

317 (b) The division, in consultation with the applicable licensing board, may make rules in
318 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the
319 requirements of this Subsection (1).

320 (2) Before a person may be issued a license under this section, the person shall produce
321 satisfactory evidence of the person's identity, qualifications, and good standing in the
322 occupation or profession for which licensure is sought.

323 Section 6. Section **58-1-307** is amended to read:

324 **58-1-307. Exemptions from licensure.**

325 (1) Except as otherwise provided by statute or rule, the following individuals may
326 engage in the practice of their occupation or profession, subject to the stated circumstances and
327 limitations, without being licensed under this title:

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

333 (b) a student engaged in activities constituting the practice of a regulated occupation or
334 profession while in training in a recognized school approved by the division to the extent the
335 activities are supervised by qualified faculty, staff, or designee and the activities are a defined

336 part of the training program;

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

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

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

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

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

354 (h) an individual licensed in another state or country who is in this state temporarily to
355 attend to the needs of an athletic team or group, except that the practitioner may only attend to
356 the needs of the athletic team or group, including all individuals who travel with the team or
357 group in any capacity except as a spectator;

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

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

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

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

365 ~~[(j) a law enforcement officer, as defined under Section 53-13-103, who:]~~

366 ~~[(i) is operating a voice stress analyzer in the course of the officer's full-time~~

367 employment with a federal, state, or local law enforcement agency;]

368 [~~(ii) has completed the manufacturer's training course and is certified by the~~
369 manufacturer to operate that voice stress analyzer; and]

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

372 [~~(k)~~] (j) the spouse of an individual serving in the armed forces of the United States
373 while the individual is stationed within this state, provided:

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

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

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

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

382 (3) An individual who is licensed under a specific chapter of this title to practice or
383 engage in an occupation or profession may engage in the lawful, professional, and competent
384 practice of that occupation or profession without additional licensure under other chapters of
385 this title, except as otherwise provided by this title.

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

390 (a) suspend the requirements for permanent or temporary licensure of individuals who
391 are licensed in another state for the duration of the emergency while engaged in the scope of
392 practice for which they are licensed in the other state;

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

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

398 (ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter 31c, Nurse Licensure
399 Compact;
400 (iii) a certified nurse midwife under Chapter 44a, Nurse Midwife Practice Act;
401 (iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17b,
402 Pharmacy Practice Act;
403 (v) a respiratory therapist under Chapter 57, Respiratory Care Practices Act;
404 (vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist
405 Practice Act; and
406 (vii) a physician assistant under Chapter 70a, Physician Assistant Act;
407 (c) suspend the requirements for licensure under this title and modify the scope of
408 practice in the circumstances described in this Subsection (4) and Subsection (5) for medical
409 services personnel or paramedics required to be certified under Section 26-8a-302;
410 (d) suspend requirements in Subsections 58-17b-620(3) through (6) which require
411 certain prescriptive procedures;
412 (e) exempt or modify the requirement for licensure of an individual who is activated as
413 a member of a medical reserve corps during a time of emergency as provided in Section
414 26A-1-126; and
415 (f) exempt or modify the requirement for licensure of an individual who is registered as
416 a volunteer health practitioner as provided in Title 26, Chapter 49, Uniform Emergency
417 Volunteer Health Practitioners Act.
418 (5) Individuals exempt under Subsection (4)(c) and individuals operating under
419 modified scope of practice provisions under Subsection (4)(b):
420 (a) are exempt from licensure or subject to modified scope of practice for the duration
421 of the emergency;
422 (b) must be engaged in the distribution of medicines or medical devices in response to
423 the emergency or declaration; and
424 (c) must be employed by or volunteering for:
425 (i) a local or state department of health; or
426 (ii) a host entity as defined in Section 26-49-102.
427 (6) In accordance with the protocols established under Subsection (8), upon the
428 declaration of a national, state, or local emergency, the Department of Health or a local health

429 department shall coordinate with public safety authorities as defined in Subsection
430 26-23b-110(1) and may:

431 (a) use a vaccine, antiviral, antibiotic, or other prescription medication that is not a
432 controlled substance to prevent or treat a disease or condition that gave rise to, or was a
433 consequence of, the emergency; or

434 (b) distribute a vaccine, antiviral, antibiotic, or other prescription medication that is not
435 a controlled substance:

436 (i) if necessary, to replenish a commercial pharmacy in the event that the commercial
437 pharmacy's normal source of the vaccine, antiviral, antibiotic, or other prescription medication
438 is exhausted; or

439 (ii) for dispensing or direct administration to treat the disease or condition that gave
440 rise to, or was a consequence of, the emergency by:

441 (A) a pharmacy;

442 (B) a prescribing practitioner;

443 (C) a licensed health care facility;

444 (D) a federally qualified community health clinic; or

445 (E) a governmental entity for use by a community more than 50 miles from a person
446 described in Subsections (6)(b)(ii)(A) through (D).

447 (7) In accordance with protocols established under Subsection (8), upon the declaration
448 of a national, state, or local emergency, the Department of Health shall coordinate the
449 distribution of medications:

450 (a) received from the strategic national stockpile to local health departments; and

451 (b) from local health departments to emergency personnel within the local health
452 departments' geographic region.

453 (8) The Department of Health shall establish by rule, made in accordance with Title
454 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for administering, dispensing,
455 and distributing a vaccine, an antiviral, an antibiotic, or other prescription medication that is
456 not a controlled substance in the event of a declaration of a national, state, or local emergency.

457 The protocol shall establish procedures for the Department of Health or a local health
458 department to:

459 (a) coordinate the distribution of:

460 (i) a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a
461 controlled substance received by the Department of Health from the strategic national stockpile
462 to local health departments; and

463 (ii) a vaccine, an antiviral, an antibiotic, or other non-controlled prescription
464 medication received by a local health department to emergency personnel within the local
465 health department's geographic region;

466 (b) authorize the dispensing, administration, or distribution of a vaccine, an antiviral,
467 an antibiotic, or other prescription medication that is not a controlled substance to the contact
468 of a patient[~~as defined in Section 26-6-2;~~] without a patient-practitioner relationship, if the
469 contact's condition is the same as that of the physician's patient; and

470 (c) authorize the administration, distribution, or dispensing of a vaccine, an antiviral,
471 an antibiotic, or other non-controlled prescription medication to an individual who:

472 (i) is working in a triage situation;

473 (ii) is receiving preventative or medical treatment in a triage situation;

474 (iii) does not have coverage for the prescription in the individual's health insurance
475 plan;

476 (iv) is involved in the delivery of medical or other emergency services in response to
477 the declared national, state, or local emergency; or

478 (v) otherwise has a direct impact on public health.

479 (9) The Department of Health shall give notice to the division upon implementation of
480 the protocol established under Subsection (8).

481 Section 7. Section **58-1-308** is amended to read:

482 **58-1-308. Term of license -- Expiration of license -- Renewal of license --**
483 **Reinstatement of license -- Application procedures.**

484 (1) (a) Each license issued under this title shall be issued in accordance with a two-year
485 renewal cycle established by rule.

486 (b) A renewal period may be extended or shortened by as much as one year to maintain
487 established renewal cycles or to change an established renewal cycle.

488 (2) (a) The expiration date of a license shall be shown on the license.

489 (b) A license that is not renewed prior to the expiration date shown on the license
490 automatically expires.

491 (c) A license automatically expires prior to the expiration date shown on the license
492 upon the death of a licensee who is a natural person, or upon the dissolution of a licensee that is
493 a partnership, corporation, or other business entity.

494 (d) If the existence of a dissolved partnership, corporation, or other business entity is
495 reinstated prior to the expiration date shown upon the entity's expired license issued by the
496 division, the division shall, upon written application, reinstate the applicant's license, unless it
497 finds that the applicant no longer meets the qualifications for licensure.

498 (e) Expiration of licensure is not an adjudicative proceeding under Title 63G, Chapter
499 4, Administrative Procedures Act.

500 (3) (a) The division shall notify each licensee in accordance with procedures
501 established by rule that the licensee's license is due for renewal and that unless an application
502 for renewal is received by the division by the expiration date shown on the license, together
503 with the appropriate renewal fee and documentation showing completion of or compliance with
504 renewal qualifications, the license will not be renewed.

505 (b) Examples of renewal qualifications which by statute or rule the division may
506 require the licensee to document completion of or compliance with include:

- 507 (i) continuing education;
- 508 (ii) continuing competency;
- 509 (iii) quality assurance;
- 510 (iv) utilization plan and protocol;
- 511 (v) financial responsibility;
- 512 (vi) certification renewal; and
- 513 (vii) calibration of equipment.

514 (4) (a) (i) An application for renewal that complies with Subsection (3) is complete.

515 (ii) A renewed license shall be issued to applicants who submit a complete application,
516 unless it is apparent to the division that the applicant no longer meets the qualifications for
517 continued licensure.

518 (b) (i) The division may evaluate or verify documentation showing completion of or
519 compliance with renewal requirements on an entire population or a random sample basis, and
520 may be assisted by advisory peer committees.

521 (ii) If necessary, the division may complete its evaluation or verification subsequent to

522 renewal and, if appropriate, pursue action to suspend or revoke the license of a licensee who no
523 longer meets the qualifications for continued licensure.

524 (c) The application procedures specified in Subsection 58-1-301(2), apply to renewal
525 applications to the extent they are not in conflict with this section.

526 (5) (a) Any license that is not renewed may be reinstated [~~at any time within two years~~
527 ~~after nonrenewal~~];

528 (i) upon submission of an application for reinstatement, payment of the renewal fee
529 together with a reinstatement fee determined by the department under Section 63J-1-504, and
530 upon submission of documentation showing completion of or compliance with renewal
531 qualifications[-]; and

532 (ii) (A) at any time within two years after nonrenewal; or

533 (B) between two years and five years after nonrenewal, if established by rule made by
534 the division in consultation with the applicable licensing board in accordance with Title 63G,
535 Chapter 3, Utah Administrative Rulemaking Act.

536 (b) The application procedures specified in Subsection 58-1-301(2) apply to the
537 reinstatement applications to the extent they are not in conflict with this section.

538 (c) Except as otherwise provided by rule, a license that is reinstated no later than 120
539 days after it expires shall be retroactively reinstated to the date it expired.

540 (6) (a) [~~H~~] Except as provided in Subsection (5)(a), if not reinstated within two years,
541 the holder may obtain a license only if the holder meets requirements provided by the division
542 by rule or by statute for a new license.

543 (b) Each licensee under this title who has been active in the licensed occupation or
544 profession while in the full-time employ of the United States government or under license to
545 practice that occupation or profession in any other state or territory of the United States may
546 reinstate the licensee's license without taking an examination by submitting an application for
547 reinstatement, paying the current annual renewal fee and the reinstatement fee, and submitting
548 documentation showing completion of or compliance with any renewal qualifications at any
549 time within six months after reestablishing domicile within Utah or terminating full-time
550 government service.

551 Section 8. Section 58-1-401 is amended to read:

552 **58-1-401. Grounds for denial of license -- Disciplinary proceedings -- Time**

553 **limitations -- Sanctions.**

554 (1) The division shall refuse to issue a license to an applicant and shall refuse to renew
555 or shall revoke, suspend, restrict, place on probation, or otherwise act upon the license of a
556 licensee who does not meet the qualifications for licensure under this title.

557 (2) The division may refuse to issue a license to an applicant and may refuse to renew
558 or may revoke, suspend, restrict, place on probation, issue a public reprimand to, or otherwise
559 act upon the license of a licensee for the following reasons:

560 (a) the applicant or licensee has engaged in unprofessional conduct, as defined by
561 statute or rule under this title;

562 (b) the applicant or licensee has engaged in unlawful conduct as defined by statute
563 under this title;

564 (c) the applicant or licensee has been determined to be mentally incompetent by a court
565 of competent jurisdiction; or

566 (d) the applicant or licensee is unable to practice the occupation or profession with
567 reasonable skill and safety because of illness, drunkenness, excessive use of drugs, narcotics,
568 chemicals, or other type of material, or as a result of a mental or physical condition, when the
569 condition demonstrates a threat or potential threat to the public health, safety, or welfare.

570 (3) A licensee whose license to practice an occupation or profession regulated by this
571 title has been suspended, revoked, placed on probation, or restricted may apply for
572 reinstatement of the license at reasonable intervals and upon compliance with conditions
573 imposed upon the licensee by statute, rule, or terms of the license suspension, revocation,
574 probation, or restriction.

575 (4) The division may issue cease and desist orders to:

576 (a) a licensee or applicant who may be disciplined under Subsection (1) or (2);

577 (b) a person who engages in or represents that the person is engaged in an occupation
578 or profession regulated under this title; and

579 (c) a person who otherwise violates this title or a rule adopted under this title.

580 (5) The division may impose an administrative penalty in accordance with Section

581 [58-1-502](#).

582 (6) (a) The division may not take disciplinary action against a person for
583 unprofessional or unlawful conduct under this title, unless the division enters into a stipulated

584 agreement or initiates an adjudicative proceeding regarding the conduct within four years after
585 the conduct is reported to the division, except under Subsection (6)(b).

586 (b) (i) The division may not take disciplinary action against a person for unprofessional
587 or unlawful conduct more than 10 years after the occurrence of the conduct, unless the
588 proceeding is in response to a civil or criminal judgment or settlement and the proceeding is
589 initiated within one year following the judgment or settlement.

590 (ii) Notwithstanding Subsection (6)(b)(i), the division may refuse to issue a license due
591 to unprofessional or unlawful conduct that occurred more than 10 years before a request or
592 application for licensure is made.

593 Section 9. Section **58-1-502** is amended to read:

594 **58-1-502. Unlawful and unprofessional conduct -- Penalties.**

595 (1) Unless otherwise specified in this title, a person who violates the unlawful conduct
596 provisions defined in this title is guilty of a class A misdemeanor.

597 (2) (a) In addition to any other statutory penalty for a violation related to a specific
598 occupation or profession regulated by this title, if upon inspection or investigation, the division
599 concludes that a person has violated Subsection **58-1-501**(1)(a), (1)(c), or (2)(o), or a rule or
600 order issued with respect to those subsections, and that disciplinary action is appropriate, the
601 director or the director's designee from within the division shall promptly:

602 (i) issue a citation to the person according to this section and any pertinent rules;

603 (ii) attempt to negotiate a stipulated settlement; or

604 (iii) notify the person to appear before an adjudicative proceeding conducted under
605 Title 63G, Chapter 4, Administrative Procedures Act.

606 (b) (i) The division may assess a fine under this Subsection (2) against a person who
607 violates Subsection **58-1-501**(1)(a), (1)(c), or (2)(o), or a rule or order issued with respect to
608 those subsections, as evidenced by:

609 (A) an uncontested citation;

610 (B) a stipulated settlement; or

611 (C) a finding of a violation in an adjudicative proceeding.

612 (ii) The division may, in addition to or in lieu of a fine under Subsection (2)(b)(i),
613 order the person to cease and desist from violating Subsection **58-1-501**(1)(a), (1)(c), or (2)(o),
614 or a rule or order issued with respect to those subsections.

- 615 (c) Except for a cease and desist order, the division may not assess the licensure
616 sanctions cited in Section 58-1-401 through a citation.
- 617 (d) A citation shall:
- 618 (i) be in writing;
- 619 (ii) describe with particularity the nature of the violation, including a reference to the
620 provision of the chapter, rule, or order alleged to have been violated;
- 621 (iii) clearly state that the recipient must notify the division in writing within 20
622 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing
623 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and
- 624 (iv) clearly explain the consequences of failure to timely contest the citation or to make
625 payment of a fine assessed by the citation within the time specified in the citation.
- 626 (e) The division may issue a notice in lieu of a citation.
- 627 (f) (i) If within 20 calendar days from the service of the citation, the person to whom
628 the citation was issued fails to request a hearing to contest the citation, the citation becomes the
629 final order of the division and is not subject to further agency review.
- 630 (ii) The period to contest a citation may be extended by the division for cause.
- 631 (g) The division may refuse to issue or renew, suspend, revoke, or place on probation
632 the license of a licensee who fails to comply with a citation after it becomes final.
- 633 (h) The failure of an applicant for licensure to comply with a citation after it becomes
634 final is a ground for denial of license.
- 635 (i) The division may not issue a citation under this section after the expiration of [~~six~~
636 ~~months~~] one year following the occurrence of a violation.
- 637 (j) The director or the director's designee shall assess fines according to the following:
- 638 (i) for the first offense handled pursuant to Subsection (2)(a), a fine of up to \$1,000;
- 639 (ii) for a second offense handled pursuant to Subsection (2)(a), a fine of up to \$2,000;
- 640 and
- 641 (iii) for each subsequent offense handled pursuant to Subsection (2)(a), a fine of up to
642 \$2,000 for each day of continued offense.
- 643 (3) (a) An action for a first or second offense that has not yet resulted in a final order of
644 the division may not preclude initiation of a subsequent action for a second or subsequent
645 offense during the pendency of a preceding action.

646 (b) The final order on a subsequent action is considered a second or subsequent
647 offense, respectively, provided the preceding action resulted in a first or second offense,
648 respectively.

649 (4) (a) The director may collect a penalty that is not paid by:

650 (i) either referring the matter to a collection agency; or

651 (ii) bringing an action in the district court of the county where the person against whom
652 the penalty is imposed resides or in the county where the office of the director is located.

653 (b) A county attorney or the attorney general of the state shall provide legal assistance
654 and advice to the director in an action to collect the penalty.

655 (c) A court may award reasonable attorney fees and costs to the division in an action
656 brought by the division to enforce the provisions of this section.

657 Section 10. Section **58-11a-302.5** is enacted to read:

658 **58-11a-302.5. Qualification for licensure as esthetics school -- Online curriculum.**

659 (1) An applicant for licensure as an esthetics school under Subsection [58-11a-302\(13\)](#)
660 and an esthetics school licensed under this chapter may offer up to 30% of its total curriculum
661 online:

662 (a) for instruction in theory; and

663 (b) in accordance with standards adopted by nationally recognized accrediting
664 organizations.

665 (2) The provisions of this section do not:

666 (a) require the board to allow other schools licensed under this chapter to offer
667 curriculum online; or

668 (b) limit the authority of the board to allow other schools licensed under this chapter to
669 offer curriculum online.

670 Section 11. Section **58-11a-501** is amended to read:

671 **58-11a-501. Unprofessional conduct.**

672 Unprofessional conduct includes:

673 (1) failing as a licensed school to obtain or maintain accreditation as required by rule;

674 (2) failing as a licensed school to comply with the standards of accreditation applicable
675 to such schools;

676 (3) failing as a licensed school to provide adequate instruction to enrolled students;

- 677 (4) failing as an apprentice supervisor to provide direct supervision to the apprentice;
- 678 (5) failing as an instructor to provide direct supervision to students who are providing
- 679 services to an individual under [~~their instruction~~] the instructor's supervision;
- 680 (6) failing as an apprentice supervisor to comply with division rules relating to
- 681 apprenticeship programs under this chapter;
- 682 (7) keeping a salon or school, its furnishing, tools, utensils, linen, or appliances in an
- 683 unsanitary condition;
- 684 (8) failing to comply with Title 26, Utah Health Code;
- 685 (9) failing to display licenses or certificates as required under Section [58-11a-305](#);
- 686 (10) failing to comply with physical facility requirements established by rule;
- 687 (11) failing to maintain mechanical or electrical equipment in safe operating condition;
- 688 (12) failing to adequately monitor patrons using steam rooms, dry heat rooms, baths,
- 689 showers, or saunas;
- 690 (13) prescribing or administering prescription drugs;
- 691 (14) failing to comply with all applicable state and local health or sanitation laws;
- 692 (15) engaging in any act or practice in a professional capacity that is outside the
- 693 applicable scope of practice;
- 694 (16) engaging in any act or practice in a professional capacity which the licensee is not
- 695 competent to perform through education or training;
- 696 (17) in connection with the use of a chemical exfoliant, unless under the supervision of
- 697 a licensed health care practitioner acting within the scope of his or her license:
- 698 (a) using any acid, concentration of an acid, or combination of treatments which
- 699 violates the standards established by rule;
- 700 (b) removing any layer of skin deeper than the stratum corneum of the epidermis; or
- 701 (c) using an exfoliant that contains phenol, TCA acid of over 15%, or BCA acid;
- 702 (18) in connection with the sanding of the skin, unless under the supervision of a
- 703 licensed health care practitioner acting within the scope of his or her license, removing any
- 704 layer of skin deeper than the stratum corneum of the epidermis; or
- 705 (19) using as a barber, cosmetologist/barber, or nail technician any laser procedure or
- 706 intense, pulsed light source, except that nothing in this chapter precludes an individual licensed
- 707 under this chapter from using a nonprescriptive laser device.

708 Section 12. Section **58-13-3** is amended to read:

709 **58-13-3. Qualified immunity -- Health professionals -- Charity care.**

710 (1) (a) (i) The Legislature finds many residents of this state do not receive medical care
711 and preventive health care because they lack health insurance or because of financial
712 difficulties or cost.

713 (ii) The Legislature also finds that many physicians, charity health care facilities, and
714 other health care professionals in this state would be willing to volunteer medical and allied
715 services without compensation if they were not subject to the high exposure of liability
716 connected with providing these services.

717 (b) The Legislature therefore declares that its intention in enacting this section is to
718 encourage the provision of uncompensated volunteer charity health care in exchange for a
719 limitation on liability for the health care facilities and health care professionals who provide
720 those volunteer services.

721 (2) As used in this section:

722 (a) "Health care facility" means any clinic or hospital, church, or organization whose
723 primary purpose is to sponsor, promote, or organize uncompensated health care services for
724 people unable to pay for health care services.

725 (b) "Health care professional" means a person licensed under:

726 (i) Chapter 5a, Podiatric Physician Licensing Act;

727 (ii) Chapter 16a, Utah Optometry Practice Act;

728 (iii) Chapter 17b, Pharmacy Practice Act;

729 (iv) Chapter 24b, Physical Therapy Practice Act;

730 (v) Chapter 31b, Nurse Practice Act;

731 (vi) Chapter 40, Recreational Therapy Practice Act;

732 (vii) Chapter 41, Speech-Language Pathology and Audiology Licensing Act;

733 (viii) Chapter 42a, Occupational Therapy Practice Act;

734 (ix) Chapter 44a, Nurse Midwife Practice Act;

735 (x) Chapter 49, Dietitian Certification Act;

736 (xi) Chapter 60, Mental Health Professional Practice Act;

737 (xii) Chapter 67, Utah Medical Practice Act;

738 (xiii) Chapter 68, Utah Osteopathic Medical Practice Act;

739 (xiv) Chapter 69, Dentist and Dental Hygienist Practice Act;
740 (xv) Chapter 70a, Physician Assistant Act; [~~and~~]
741 (xvi) Chapter 71, Naturopathic Physician Practice Act; and
742 [~~(xvi)~~] (xvii) Chapter 73, Chiropractic Physician Practice Act.
743 (c) "Remuneration or compensation":
744 (i) (A) means direct or indirect receipt of any payment by a health care professional or
745 health care facility on behalf of the patient, including payment or reimbursement under
746 Medicare or Medicaid, or under the state program for the medically indigent on behalf of the
747 patient; and
748 (B) compensation, salary, or reimbursement to the health care professional from any
749 source for the health care professional's services or time in volunteering to provide
750 uncompensated health care; and
751 (ii) does not mean:
752 (A) any grant or donation to the health care facility used to offset direct costs
753 associated with providing the uncompensated health care such as:
754 (I) medical supplies;
755 (II) drugs; or
756 (III) a charitable donation that is restricted for charitable services at the health care
757 facility; or
758 (B) incidental reimbursements to the volunteer such as:
759 (I) food supplied to the volunteer;
760 (II) clothing supplied to the volunteer to help identify the volunteer during the time of
761 volunteer services;
762 (III) mileage reimbursement to the volunteer; or
763 (IV) other similar support to the volunteer.
764 (3) A health care professional who provides health care treatment at or on behalf of a
765 health care facility is not liable in a medical malpractice action if:
766 (a) the treatment was within the scope of the health care professional's license under
767 this title;
768 (b) neither the health care professional nor the health care facility received
769 compensation or remuneration for the treatment;

770 (c) the acts or omissions of the health care professional were not grossly negligent or
771 willful and wanton; and

772 (d) prior to rendering services:

773 (i) the health care professional disclosed in writing to the patient, or if a minor, to the
774 patient's parent or legal guardian, that the health care professional is providing the services
775 without receiving remuneration or compensation; and

776 (ii) the patient consented in writing to waive any right to sue for professional
777 negligence except for acts or omissions which are grossly negligent or are willful and wanton.

778 (4) A health care facility which sponsors, promotes, or organizes the uncompensated
779 care is not liable in a medical malpractice action for acts and omissions if:

780 (a) the health care facility meets the requirements in Subsection (3)(b);

781 (b) the acts and omissions of the health care facility were not grossly negligent or
782 willful and wanton; and

783 (c) the health care facility has posted, in a conspicuous place, a notice that in
784 accordance with this section the health care facility is not liable for any civil damages for acts
785 or omissions except for those acts or omissions that are grossly negligent or are willful and
786 wanton.

787 (5) A health care professional who provides health care treatment at a federally
788 qualified health center, as defined in Subsection 1905(1)(2)(b) of the Social Security Act, or an
789 Indian health clinic or Urban Indian Health Center, as defined in Title V of the Indian Health
790 Care Improvement Act, is not liable in a medical malpractice action if:

791 (a) the treatment was within the scope of the health care professional's license under
792 this title;

793 (b) the health care professional:

794 (i) does not receive compensation or remuneration for treatment provided to any
795 patient that the provider treats at the federally qualified health center, the Indian health clinic,
796 or the Urban Indian Health Center; and

797 (ii) is not eligible to be included in coverage under the Federal Tort Claims Act for the
798 treatment provided at the federally qualified health center, the Indian health clinic, or the Urban
799 Indian Health Center;

800 (c) the acts or omissions of the health care professional were not grossly negligent or

801 willful and wanton; and

802 (d) prior to rendering services:

803 (i) the health care professional disclosed in writing to the patient, or if a minor, to the
804 patient's parent or legal guardian, that the health care professional is providing the services
805 without receiving remuneration or compensation; and

806 (ii) the patient consented in writing to waive any right to sue for professional
807 negligence except for acts or omissions that are grossly negligent or are willful and wanton.

808 (6) Immunity from liability under this section does not extend to the use of general
809 anesthesia or care that requires an overnight stay in a general acute or specialty hospital
810 licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

811 (7) The provisions of Subsection (5) apply to treatment provided by a healthcare
812 professional on or after May 13, 2014.

813 Section 13. Section **58-15-2** is amended to read:

814 **58-15-2. Definitions.**

815 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

816 (1) "Administrator" means a person who is charged with the general administration of a
817 health facility, regardless of whether that person has an ownership interest in the facility and
818 whether his functions and duties are shared with one or more persons.

819 (2) "Board" means the Health Facility Administrators Licensing Board created in
820 Section [58-15-3](#).

821 (3) "Health facility" means a skilled nursing facility, an intermediate care facility, or an
822 intermediate care facility for ~~[people]~~ individuals with an intellectual disability.

823 (4) "Intermediate care facility" means an institution ~~[which]~~ that provides, on a regular
824 basis, health care and services to ~~[persons]~~ individuals who do not require the degree of care
825 and treatment a hospital or skilled nursing facility provide, but who require health care and
826 services in addition to room and board.

827 (5) "Intermediate care facility for people with an intellectual disability" means an
828 institution ~~[which]~~ that provides, on a regular basis, health-related care and service to ~~[mentally~~
829 ~~retarded individuals or persons]~~ individuals with intellectual disabilities as defined in Section
830 [68-3-12.5](#) or individuals with related conditions, who do not require the degree of care and
831 treatment a hospital or skilled nursing facility provide, but who require health-related care and

832 services above the need for room and board.

833 (6) "Skilled nursing facility" means an institution primarily providing inpatients with
834 skilled nursing care and related services on a continuing basis for patients who require mental,
835 medical, or nursing care, or service for the rehabilitation of an injured ~~[person]~~ individual, a
836 sick ~~[person]~~ individual, or ~~[a person]~~ an individual with a disability.

837 (7) "Unprofessional conduct" as defined in Section [58-1-501](#) and as may be further
838 defined by rule includes:

839 (a) intentionally filing a false report or record, intentionally failing to file a report or
840 record required by state or federal law, or wilfully impeding or obstructing the filing of a
841 required report. These reports or records only include those which are signed in the capacity of
842 a licensed health facility administrator; and

843 (b) acting in a manner inconsistent with the health and safety of the patients of the
844 health facility in which he is the administrator.

845 Section 14. Section **58-16a-302** is amended to read:

846 **58-16a-302. Qualifications for licensure.**

847 (1) An applicant for licensure as an optometrist shall:

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

849 (b) pay a fee as determined by the division under Section [63J-1-504](#);

850 (c) be of good moral character;

851 (d) (i) be a doctoral graduate of a recognized school of optometry accredited by the
852 American Optometric Association's Accreditation Council on Optometric Education; or

853 (ii) be a graduate of a school of optometry located outside the United States that meets
854 the criteria that would qualify the school for accreditation under Subsection (1)(d)(i), as
855 demonstrated by the applicant for licensure;

856 (e) if the applicant graduated from a recognized school of optometry prior to July 1,
857 1996, have successfully completed a course of study satisfactory to the division, in consultation
858 with the board, in general and ocular pharmacology and emergency medical care;

859 (f) have passed examinations approved by the division in consultation with the board
860 that include:

861 (i) a standardized national optometry examination;

862 (ii) a standardized clinical examination; and

863 (iii) a standardized national therapeutics examination; and
864 [~~(iv) the Utah Optometry Law Examination; and~~]
865 (g) meet with the board and representatives of the division, if requested by either party,
866 for the purpose of evaluating the applicant's qualifications for licensure.

867 (2) Notwithstanding Subsection (1) and Section 58-1-302, the division shall issue a
868 license under this chapter by endorsement to an individual who:

869 (a) submits an application for licensure by endorsement on a form approved by the
870 division;

871 (b) pays a fee established by the division in accordance with Section 63J-1-504;

872 (c) provides satisfactory evidence to the division that the individual is of good moral
873 character;

874 (d) verifies that the individual is licensed as an optometrist in good standing in each
875 state of the United States, or province of Canada, in which the individual is currently licensed
876 as an optometrist; and

877 (e) has been actively engaged in the legal practice of optometry for at least 3,200 hours
878 during the immediately preceding two years in a manner consistent with the legal practice of
879 optometry in this state.

880 Section 15. Section 58-17b-610.5 is amended to read:

881 **58-17b-610.5. Dispensing in emergency department -- Patient's immediate need.**

882 (1) The division shall adopt administrative rules in accordance with Title 63G, Chapter
883 3, Utah Administrative Rulemaking Act, in consultation with hospital pharmacies and the
884 boards of [~~dispensing medical~~] practitioners authorized to prescribe prescription drugs to
885 establish guidelines under which a [~~dispensing medical~~] practitioner may dispense prescription
886 drugs to a patient in a hospital emergency department if:

887 (a) the hospital pharmacy is closed;

888 (b) in the professional judgment of the [~~dispensing medical~~] practitioner, dispensing
889 the drug is necessary for the patient's immediate needs; and

890 (c) dispensing the prescription drug meets protocols established by the hospital
891 pharmacy.

892 (2) A [~~prescribing medical~~] practitioner in an emergency department may dispense a
893 prescription drug in accordance with Subsection (1).

894 Section 16. Section **58-24b-301** is amended to read:

895 **58-24b-301. Authority to practice physical therapy.**

896 A person may not engage in the practice of physical therapy, unless the person is:

897 (1) licensed under this chapter and practices within the scope of that license; or

898 (2) exempted from the licensing requirements of this chapter under Section [58-1-307](#)

899 or 58-24b-304.

900 Section 17. Section **58-24b-302** is amended to read:

901 **58-24b-302. Licensure.**

902 (1) An applicant for a license as a physical therapist shall:

903 (a) be of good moral character;

904 (b) complete the application process, including payment of fees;

905 (c) submit proof of graduation from a professional physical therapist education

906 program that is accredited by a recognized accreditation agency;

907 [~~(d) pass an open-book, take-home Utah Physical Therapy Law and Rule~~

908 Examination;]

909 [(e)] (d) after complying with Subsection (1)(c), pass a licensing examination;

910 [(f)] (e) be able to read, write, speak, understand, and be understood in the English

911 language and demonstrate proficiency to the satisfaction of the board if requested by the board;

912 and

913 [(g)] (f) meet any other requirements established by the division, by rule.

914 (2) An applicant for a license as a physical therapist assistant shall:

915 (a) be of good moral character;

916 (b) complete the application process, including payment of fees set by the division, in

917 accordance with Section [63J-1-504](#), to recover the costs of administering the licensing

918 requirements relating to physical therapist assistants;

919 (c) submit proof of graduation from a physical therapist assistant education program

920 that is accredited by a recognized accreditation agency;

921 [~~(d) pass an open-book, take-home Utah Physical Therapy Law and Rule~~

922 Examination;]

923 [(e)] (d) after complying with Subsection (2)(c), pass a licensing examination;

924 [(f)] (e) be able to read, write, speak, understand, and be understood in the English

925 language and demonstrate proficiency to the satisfaction of the board if requested by the board;
926 and

927 ~~[(g)]~~ (f) meet any other requirements established by the division, by rule.

928 (3) An applicant for a license as a physical therapist who is educated outside of the
929 United States shall:

930 (a) be of good moral character;

931 (b) complete the application process, including payment of fees; and

932 (c) (i) provide satisfactory evidence that the applicant graduated from a professional
933 physical therapist education program that is accredited by a recognized accreditation agency; or

934 (ii) (A) provide satisfactory evidence that the applicant graduated from a physical
935 therapist education program that prepares the applicant to engage in the practice of physical
936 therapy, without restriction;

937 (B) provide satisfactory evidence that the education program described in Subsection
938 (3)(c)(ii)(A) is recognized by the government entity responsible for recognizing a physical
939 therapist education program in the country where the program is located; and

940 (C) pass a credential evaluation to ensure that the applicant has satisfied uniform
941 educational requirements;

942 ~~[(d) pass an open-book, take-home Utah Physical Therapy Law and Rule
943 Examination;]~~

944 ~~[(e)]~~ (d) after complying with Subsection (3)(c), pass a licensing examination;

945 ~~[(f)]~~ (e) be able to read, write, speak, understand, and be understood in the English
946 language and demonstrate proficiency to the satisfaction of the board if requested by the board;
947 and

948 ~~[(g)]~~ (f) meet any other requirements established by the division, by rule.

949 (4) The division shall issue a license to a person who holds a current unrestricted
950 license to practice physical therapy in a state, district, or territory of the United States of
951 America, other than Utah, if the person:

952 (a) is of good moral character;

953 (b) completes the application process, including payment of fees; and

954 ~~[(c) passes an open-book, take-home Utah Physical Therapy Law and Rule
955 Examination; and]~~

956 ~~[(d)]~~ (c) is able to read, write, speak, understand, and be understood in the English
957 language and demonstrate proficiency to the satisfaction of the board if requested by the board.

958 (5) (a) Notwithstanding Subsection 58-1-307(1)(c), an individual may not engage in an
959 internship in physical therapy, unless the person is:

960 (i) certified by the division; or

961 (ii) exempt from licensure under Section 58-24b-304.

962 (b) The provisions of Subsection (5)(a) apply, regardless of whether the individual is
963 participating in the supervised clinical training program for the purpose of becoming a physical
964 therapist or a physical therapist assistant.

965 Section 18. Section 58-24b-303 is amended to read:

966 **58-24b-303. Term of license -- Renewal -- Temporary license for physical**
967 **therapist assistant.**

968 (1) A license issued under this chapter shall be issued in accordance with a two-year
969 renewal cycle established by rule. The division may, by rule, extend or shorten a license
970 renewal process by one year in order to stagger the renewal cycles that the division administers.

971 (2) At the time of license renewal, the licensee shall provide satisfactory evidence that
972 the licensee completed continuing education competency requirements, established by the
973 division, by rule.

974 (3) If a license renewal cycle is shortened or extended under Subsection (1), the
975 division shall increase or reduce the required continuing education competency requirements
976 accordingly.

977 (4) A license issued under this chapter expires on the expiration date indicated on the
978 license, unless the license is renewed under this section.

979 (5) Notwithstanding any other provision of this chapter, the division may, by rule, grant
980 a temporary license, that expires on July 1, 2014, as a physical therapist assistant to an
981 individual who:

982 (a) was working as a physical therapist assistant in Utah before July 1, 2009; and

983 (b) complies with the requirements described in Subsections 58-24b-302(2)(a), (b), (c),

984 ~~[(f)]~~ (e), and ~~[(g)]~~ (f).

985 Section 19. Section 58-26a-501 is amended to read:

986 **58-26a-501. Unlawful conduct.**

987 "Unlawful conduct" includes:

988 (1) using "certified public accountant," "public accountant," "CPA," or any other title,
989 designation, words, letters, abbreviation, sign, card, or device tending to indicate that the
990 person is a certified public accountant, unless that person:

991 (a) has a current license as a certified public accountant issued under this chapter; or

992 (b) qualifies for a practice privilege as provided [~~for~~] in Subsection 58-26a-305(1)(a);

993 (2) a firm assuming or using "certified public accountant," "CPA," or any other title,
994 designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm
995 is composed of certified public accountants unless each office of the firm in this state:

996 (a) is registered with the division; and

997 (b) meets the requirements of Subsections 58-26a-302(3)(a)(iii) and (iv);

998 (3) signing or affixing to any accounting or financial statement the person's name or
999 any trade or assumed name used in that person's profession or business, with any wording
1000 indicating that the person is an auditor, or with any wording indicating that the person has
1001 expert knowledge in accounting or auditing, unless that person is licensed under this chapter
1002 and all of the person's offices in this state for the practice of public accountancy are maintained
1003 and registered as provided in this chapter; and

1004 (4) except as provided in Section 58-26a-305, engaging in the following conduct if not
1005 licensed under this chapter to practice public accountancy:

1006 (a) issuing a report on financial statements of any other person, firm, organization, or
1007 governmental unit; or

1008 (b) issuing a report using any form of language substantially similar to conventional
1009 language used by licensees respecting:

1010 (i) a review of financial statements; or

1011 (ii) a compilation of financial statements.

1012 Section 20. Section 58-37f-301 is amended to read:

1013 **58-37f-301. Access to database.**

1014 (1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
1015 Administrative Rulemaking Act, to:

1016 (a) effectively enforce the limitations on access to the database as described in this
1017 part; and

1018 (b) establish standards and procedures to ensure accurate identification of individuals
1019 requesting information or receiving information without request from the database.

1020 (2) The division shall make information in the database and information obtained from
1021 other state or federal prescription monitoring programs by means of the database available only
1022 to the following individuals, in accordance with the requirements of this chapter and division
1023 rules:

1024 (a) personnel of the division specifically assigned to conduct investigations related to
1025 controlled substance laws under the jurisdiction of the division;

1026 (b) authorized division personnel engaged in analysis of controlled substance
1027 prescription information as a part of the assigned duties and responsibilities of their
1028 employment;

1029 (c) a board member if:

1030 (i) the board member is assigned to monitor a licensee on probation; and

1031 (ii) the board member is limited to obtaining information from the database regarding
1032 the specific licensee on probation;

1033 (d) a member of a diversion committee established in accordance with Subsection
1034 58-1-404(2) if:

1035 (i) the diversion committee member is limited to obtaining information from the
1036 database regarding the person whose conduct is the subject of the committee's consideration;
1037 and

1038 (ii) the conduct that is the subject of the committee's consideration includes a violation
1039 or a potential violation of Chapter 37, Utah Controlled Substances Act, or another relevant
1040 violation or potential violation under this title;

1041 [~~e~~] (e) in accordance with a written agreement entered into with the department,
1042 employees of the Department of Health:

1043 (i) whom the director of the Department of Health assigns to conduct scientific studies
1044 regarding the use or abuse of controlled substances, if the identity of the individuals and
1045 pharmacies in the database are confidential and are not disclosed in any manner to any
1046 individual who is not directly involved in the scientific studies; [~~or~~]

1047 (ii) when the information is requested by the Department of Health in relation to a
1048 person or provider whom the Department of Health suspects may be improperly obtaining or

1049 providing a controlled substance; or
1050 (iii) in the medical examiner's office;
1051 ~~[(d)]~~ (f) in accordance with a written agreement entered into with the department, a
1052 designee of the director of the Department of Health, who is not an employee of the
1053 Department of Health, whom the director of the Department of Health assigns to conduct
1054 scientific studies regarding the use or abuse of controlled substances pursuant to an application
1055 process established in rule by the Department of Health, if:

- 1056 (i) the designee provides explicit information to the Department of Health regarding
1057 the purpose of the scientific studies;
- 1058 (ii) the scientific studies to be conducted by the designee:
 - 1059 (A) fit within the responsibilities of the Department of Health for health and welfare;
 - 1060 (B) are reviewed and approved by an Institutional Review Board that is approved for
1061 human subject research by the United States Department of Health and Human Services; and
 - 1062 (C) are not conducted for profit or commercial gain; and
 - 1063 (D) are conducted in a research facility, as defined by division rule, that is associated
1064 with a university or college ~~[in the state]~~ accredited by one or more regional or national
1065 accrediting agencies recognized by the United States Department of Education;
- 1066 (iii) the designee protects the information as a business associate of the Department of
1067 Health; and
- 1068 (iv) the identity of the prescribers, patients, and pharmacies in the database are
1069 de-identified, confidential, not disclosed in any manner to the designee or to any individual
1070 who is not directly involved in the scientific studies;

1071 ~~[(e)]~~ (g) in accordance with the written agreement entered into with the department and
1072 the Department of Health, authorized employees of a managed care organization, as defined in
1073 42 C.F.R. Sec. 438, if:

- 1074 (i) the managed care organization contracts with the Department of Health under the
1075 provisions of Section [26-18-405](#) and the contract includes provisions that:
 - 1076 (A) require a managed care organization employee who will have access to information
1077 from the database to submit to a criminal background check; and
 - 1078 (B) limit the authorized employee of the managed care organization to requesting either
1079 the division or the Department of Health to conduct a search of the database regarding a

1080 specific Medicaid enrollee and to report the results of the search to the authorized employee;
1081 and

1082 (ii) the information is requested by an authorized employee of the managed care
1083 organization in relation to a person who is enrolled in the Medicaid program with the managed
1084 care organization, and the managed care organization suspects the person may be improperly
1085 obtaining or providing a controlled substance;

1086 ~~(f)~~ (h) a licensed practitioner having authority to prescribe controlled substances, to
1087 the extent the information:

1088 (i) (A) relates specifically to a current or prospective patient of the practitioner; and
1089 (B) is provided to or sought by the practitioner for the purpose of:

1090 (I) prescribing or considering prescribing any controlled substance to the current or
1091 prospective patient;

1092 (II) diagnosing the current or prospective patient;

1093 (III) providing medical treatment or medical advice to the current or prospective
1094 patient; or

1095 (IV) determining whether the current or prospective patient:

1096 (Aa) is attempting to fraudulently obtain a controlled substance from the practitioner;

1097 or

1098 (Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled
1099 substance from the practitioner;

1100 (ii) (A) relates specifically to a former patient of the practitioner; and

1101 (B) is provided to or sought by the practitioner for the purpose of determining whether
1102 the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a
1103 controlled substance from the practitioner;

1104 (iii) relates specifically to an individual who has access to the practitioner's Drug
1105 Enforcement Administration identification number, and the practitioner suspects that the
1106 individual may have used the practitioner's Drug Enforcement Administration identification
1107 number to fraudulently acquire or prescribe a controlled substance;

1108 (iv) relates to the practitioner's own prescribing practices, except when specifically
1109 prohibited by the division by administrative rule;

1110 (v) relates to the use of the controlled substance database by an employee of the

1111 practitioner, described in Subsection (2)~~(g)~~(i); or
1112 (vi) relates to any use of the practitioner's Drug Enforcement Administration
1113 identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a
1114 controlled substance;
1115 ~~(g)~~ (i) in accordance with Subsection (3)(a), an employee of a practitioner described
1116 in Subsection (2)~~(f)~~(h), for a purpose described in Subsection (2)~~(f)~~(h)(i) or (ii), if:
1117 (i) the employee is designated by the practitioner as an individual authorized to access
1118 the information on behalf of the practitioner;
1119 (ii) the practitioner provides written notice to the division of the identity of the
1120 employee; and
1121 (iii) the division:
1122 (A) grants the employee access to the database; and
1123 (B) provides the employee with a password that is unique to that employee to access
1124 the database in order to permit the division to comply with the requirements of Subsection
1125 [58-37f-203](#)(5) with respect to the employee;
1126 ~~(h)~~ (j) an employee of the same business that employs a licensed practitioner under
1127 Subsection (2)~~(f)~~(h) if:
1128 (i) the employee is designated by the practitioner as an individual authorized to access
1129 the information on behalf of the practitioner;
1130 (ii) the practitioner and the employing business provide written notice to the division of
1131 the identity of the designated employee; and
1132 (iii) the division:
1133 (A) grants the employee access to the database; and
1134 (B) provides the employee with a password that is unique to that employee to access
1135 the database in order to permit the division to comply with the requirements of Subsection
1136 [58-37f-203](#)(5) with respect to the employee;
1137 ~~(i)~~ (k) a licensed pharmacist having authority to dispense a controlled substance to
1138 the extent the information is provided or sought for the purpose of:
1139 (i) dispensing or considering dispensing any controlled substance; or
1140 (ii) determining whether a person:
1141 (A) is attempting to fraudulently obtain a controlled substance from the pharmacist; or

1142 (B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled
1143 substance from the pharmacist;

1144 ~~(f)~~ (l) in accordance with Subsection (3)(a), a licensed pharmacy technician and
1145 pharmacy intern who is an employee of a pharmacy as defined in Section 58-17b-102, for the
1146 purposes described in Subsection (2)~~(h)~~(j)(i) or (ii), if:

1147 (i) the employee is designated by the pharmacist-in-charge as an individual authorized
1148 to access the information on behalf of a licensed pharmacist employed by the pharmacy;

1149 (ii) the pharmacist-in-charge provides written notice to the division of the identity of
1150 the employee; and

1151 (iii) the division:

1152 (A) grants the employee access to the database; and

1153 (B) provides the employee with a password that is unique to that employee to access
1154 the database in order to permit the division to comply with the requirements of Subsection
1155 58-37f-203(5) with respect to the employee;

1156 ~~(k)~~ (m) pursuant to a valid search warrant, federal, state, and local law enforcement
1157 agencies and state and local prosecutors that are engaged in an investigation related to:

1158 (i) one or more controlled substances; and

1159 (ii) a specific person who is a subject of the investigation;

1160 ~~(t)~~ (n) employees of the Office of Internal Audit and Program Integrity within the
1161 Department of Health who are engaged in their specified duty of ensuring Medicaid program
1162 integrity under Section 26-18-2.3;

1163 ~~(m)~~ (o) a mental health therapist, if:

1164 (i) the information relates to a patient who is:

1165 (A) enrolled in a licensed substance abuse treatment program; and

1166 (B) receiving treatment from, or under the direction of, the mental health therapist as
1167 part of the patient's participation in the licensed substance abuse treatment program described
1168 in Subsection (2)~~(m)~~(o)(i)(A);

1169 (ii) the information is sought for the purpose of determining whether the patient is
1170 using a controlled substance while the patient is enrolled in the licensed substance abuse
1171 treatment program described in Subsection (2)~~(m)~~(o)(i)(A); and

1172 (iii) the licensed substance abuse treatment program described in Subsection

1173 (2)(~~m~~)(o)(i)(A) is associated with a practitioner who:

1174 (A) is a physician, a physician assistant, an advance practice registered nurse, or a
1175 pharmacist; and

1176 (B) is available to consult with the mental health therapist regarding the information
1177 obtained by the mental health therapist, under this Subsection (2)(~~m~~)(o), from the database;

1178 [~~m~~] (p) an individual who is the recipient of a controlled substance prescription
1179 entered into the database, upon providing evidence satisfactory to the division that the
1180 individual requesting the information is in fact the individual about whom the data entry was
1181 made;

1182 [~~o~~] (q) an individual under Subsection (2)(~~m~~)(p) for the purpose of obtaining a list of
1183 the persons and entities that have requested or received any information from the database
1184 regarding the individual, except if the individual's record is subject to a pending or current
1185 investigation as authorized under this Subsection (2);

1186 [~~p~~] (r) the inspector general, or a designee of the inspector general, of the Office of
1187 Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in
1188 Title 63A, Chapter 13, Part 2, Office and Powers; and

1189 [~~q~~] (s) the following licensed physicians for the purpose of reviewing and offering an
1190 opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter
1191 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

1192 (i) a member of the medical panel described in Section [34A-2-601](#);

1193 (ii) a physician employed as medical director for a licensed workers' compensation
1194 insurer or an approved self-insured employer; or

1195 (iii) a physician offering a second opinion regarding treatment.

1196 (3) (a) (i) A practitioner described in Subsection (2)(~~f~~)(h) may designate up to three
1197 employees to access information from the database under Subsection (2)(~~g~~)(i), (2)(~~h~~)(j), or
1198 (4)(c).

1199 (ii) A pharmacist described in Subsection (2)(i) who is a pharmacist-in-charge may
1200 designate up to five employees to access information from the database under Subsection
1201 (2)(~~f~~)(l).

1202 (b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
1203 Administrative Rulemaking Act, to:

1204 (i) establish background check procedures to determine whether an employee
1205 designated under Subsection (2)~~(g)~~(i), (2)~~(h)~~(j), or (4)(c) should be granted access to the
1206 database; and

1207 (ii) establish the information to be provided by an emergency room employee under
1208 Subsection (4).

1209 (c) The division shall grant an employee designated under Subsection (2)~~(g)~~(i),
1210 (2)~~(h)~~(j), or (4)(c) access to the database, unless the division determines, based on a
1211 background check, that the employee poses a security risk to the information contained in the
1212 database.

1213 (4) (a) An individual who is employed in the emergency room of a hospital may
1214 exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if
1215 the individual is designated under Subsection (4)(c) and the licensed practitioner:

1216 (i) is employed in the emergency room;

1217 (ii) is treating an emergency room patient for an emergency medical condition; and

1218 (iii) requests that an individual employed in the emergency room and designated under
1219 Subsection (4)(c) obtain information regarding the patient from the database as needed in the
1220 course of treatment.

1221 (b) The emergency room employee obtaining information from the database shall,
1222 when gaining access to the database, provide to the database the name and any additional
1223 identifiers regarding the requesting practitioner as required by division administrative rule
1224 established under Subsection (3)(b).

1225 (c) An individual employed in the emergency room under this Subsection (4) may
1226 obtain information from the database as provided in Subsection (4)(a) if:

1227 (i) the employee is designated by the practitioner as an individual authorized to access
1228 the information on behalf of the practitioner;

1229 (ii) the practitioner and the hospital operating the emergency room provide written
1230 notice to the division of the identity of the designated employee; and

1231 (iii) the division:

1232 (A) grants the employee access to the database; and

1233 (B) provides the employee with a password that is unique to that employee to access
1234 the database in order to permit the division to comply with the requirements of Subsection

1235 58-37f-203(5) with respect to the employee.

1236 (d) The division may impose a fee, in accordance with Section 63J-1-504, on a
1237 practitioner who designates an employee under Subsection (2)~~(g)~~(i), (2)~~(h)~~(j), or (4)(c) to
1238 pay for the costs incurred by the division to conduct the background check and make the
1239 determination described in Subsection (3)(b).

1240 (5) (a) An individual who is granted access to the database based on the fact that the
1241 individual is a licensed practitioner or a mental health therapist shall be denied access to the
1242 database when the individual is no longer licensed.

1243 (b) An individual who is granted access to the database based on the fact that the
1244 individual is a designated employee of a licensed practitioner shall be denied access to the
1245 database when the practitioner is no longer licensed.

1246 Section 21. Section 58-37f-601 is amended to read:

1247 **58-37f-601. Unlawful release or use of database information -- Criminal and civil**
1248 **penalties.**

1249 (1) (a) Any person who knowingly and intentionally releases any information in the
1250 database or any information obtained from other state or federal prescription monitoring
1251 programs by means of the database in violation of the limitations under Part 3, Access, is guilty
1252 of a third degree felony.

1253 (b) Any person who negligently or recklessly releases any information in the database
1254 or any information obtained from other state or federal prescription monitoring programs by
1255 means of the database in violation of the limitations under Title 58, Chapter 37f, Part 3,
1256 Access, is guilty of a class C misdemeanor.

1257 (2) (a) Any person who obtains or attempts to obtain information from the database or
1258 from any other state or federal prescription monitoring programs by means of the database by
1259 misrepresentation or fraud is guilty of a third degree felony.

1260 (b) Any person who obtains or attempts to obtain information from the database for a
1261 purpose other than a purpose authorized by this chapter or by rule is guilty of a third degree
1262 felony.

1263 (3) (a) Except as provided in Subsection (3)(e), a person may not knowingly and
1264 intentionally use, release, publish, or otherwise make available to any other person any
1265 information obtained from the database or from any other state or federal prescription

1266 monitoring programs by means of the database for any purpose other than those specified in
1267 Part 3, Access.

1268 (b) Each separate violation of this Subsection (3) is a third degree felony and is also
1269 subject to a civil penalty not to exceed \$5,000.

1270 (c) The procedure for determining a civil violation of this Subsection (3) is in
1271 accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

1272 (d) Civil penalties assessed under this Subsection (3) shall be deposited in the General
1273 Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

1274 (e) This Subsection (3) does not prohibit a person who obtains information from the
1275 database under Subsection 58-37f-301(2)[(f), (g), (i)](h), (i), (k), or (4)(c) from:

1276 (i) including the information in the person's medical chart or file for access by a person
1277 authorized to review the medical chart or file; or

1278 (ii) providing the information to a person in accordance with the requirements of the
1279 Health Insurance Portability and Accountability Act of 1996.

1280 Section 22. Section 58-44a-302 is amended to read:

1281 **58-44a-302. Qualifications for licensure.**

1282 (1) An applicant for licensure as a nurse midwife shall:

1283 (a) submit an application in a form as prescribed by the division;

1284 (b) pay a fee as determined by the department under Section 63J-1-504;

1285 (c) be of good moral character;

1286 (d) at the time of application for licensure hold a license in good standing as a
1287 registered nurse in Utah, or be at that time qualified for a license as a registered nurse under
1288 Title 58, Chapter 31b, Nurse Practice Act;

1289 (e) have completed:

1290 (i) a certified nurse midwifery education program accredited by the [~~American College~~
1291 ~~of Nurse Midwives~~] Accreditation Commission for Midwifery Education and approved by the
1292 division; or

1293 (ii) a nurse midwifery education program located outside of the United States which is
1294 approved by the division and is equivalent to a program accredited by the [~~American College of~~
1295 ~~Nurse Midwives~~] Accreditation Commission for Midwifery Education, as demonstrated by a
1296 graduate's being accepted to sit for the national certifying examination administered by the

1297 [~~American College of Nurse Midwives~~] Accreditation Commission for Midwifery Education or
1298 its designee; and

1299 (f) have passed examinations established by the division rule in collaboration with the
1300 board within two years after completion of the approved education program required under
1301 Subsection (1)(e).

1302 (2) For purposes of Subsection (1)(e), as of January 1, 2010, the accredited education
1303 program or its equivalent must grant a graduate degree, including post-master's certificate, in
1304 nurse midwifery.

1305 Section 23. Section **58-55-302** is amended to read:

1306 **58-55-302. Qualifications for licensure.**

1307 (1) Each applicant for a license under this chapter shall:

1308 (a) submit an application prescribed by the division;

1309 (b) pay a fee as determined by the department under Section [63J-1-504](#);

1310 (c) (i) meet the examination requirements established by rule by the commission with
1311 the concurrence of the director, except for the classifications of apprentice plumber and
1312 apprentice electrician for whom no examination is required; or

1313 (ii) if required in Section [58-55-304](#), the individual qualifier must pass the required
1314 examination if the applicant is a business entity;

1315 (d) if an apprentice, identify the proposed supervisor of the apprenticeship;

1316 (e) if an applicant for a contractor's license:

1317 (i) produce satisfactory evidence of financial responsibility, except for a construction
1318 trades instructor for whom evidence of financial responsibility is not required;

1319 (ii) produce satisfactory evidence of:

1320 (A) two years full-time paid employment experience in the construction industry,
1321 which experience, unless more specifically described in this section, may be related to any
1322 contracting classification; and

1323 (B) knowledge of the principles of the conduct of business as a contractor, reasonably
1324 necessary for the protection of the public health, safety, and welfare;

1325 (iii) except as otherwise provided by rule by the commission with the concurrence of
1326 the director, complete a 20-hour course established by rule by the commission with the
1327 concurrence of the director, which course may include:

- 1328 (A) construction business practices;
- 1329 (B) bookkeeping fundamentals;
- 1330 (C) mechanics lien fundamentals; and
- 1331 (D) other aspects of business and construction principles considered important by the
- 1332 commission with the concurrence of the director;
- 1333 (iv) (A) be a licensed master electrician if an applicant for an electrical contractor's
- 1334 license or a licensed master residential electrician if an applicant for a residential electrical
- 1335 contractor's license;
- 1336 (B) be a licensed master plumber if an applicant for a plumbing contractor's license or
- 1337 a licensed master residential plumber if an applicant for a residential plumbing contractor's
- 1338 license; or
- 1339 (C) be a licensed elevator mechanic and produce satisfactory evidence of three years
- 1340 experience as an elevator mechanic if an applicant for an elevator contractor's license; and
- 1341 (v) when the applicant is an unincorporated entity, provide a list of the one or more
- 1342 individuals who hold an ownership interest in the applicant as of the day on which the
- 1343 application is filed that includes for each individual:
- 1344 (A) the individual's name, address, birth date, and social security number; and
- 1345 (B) whether the individual will engage in a construction trade; and
- 1346 (f) if an applicant for a construction trades instructor license, satisfy any additional
- 1347 requirements established by rule.
- 1348 (2) After approval of an applicant for a contractor's license by the applicable board and
- 1349 the division, the applicant shall file the following with the division before the division issues
- 1350 the license:
- 1351 (a) proof of workers' compensation insurance which covers employees of the applicant
- 1352 in accordance with applicable Utah law;
- 1353 (b) proof of public liability insurance in coverage amounts and form established by rule
- 1354 except for a construction trades instructor for whom public liability insurance is not required;
- 1355 and
- 1356 (c) proof of registration as required by applicable law with the:
- 1357 (i) Utah Department of Commerce;
- 1358 (ii) Division of Corporations and Commercial Code;

1359 (iii) Unemployment Insurance Division in the Department of Workforce Services, for
1360 purposes of Title 35A, Chapter 4, Employment Security Act;

1361 (iv) State Tax Commission; and

1362 (v) Internal Revenue Service.

1363 (3) In addition to the general requirements for each applicant in Subsection (1),
1364 applicants shall comply with the following requirements to be licensed in the following
1365 classifications:

1366 (a) (i) A master plumber shall produce satisfactory evidence that the applicant:

1367 (A) has been a licensed journeyman plumber for at least two years and had two years of
1368 supervisory experience as a licensed journeyman plumber in accordance with division rule;

1369 (B) has received at least an associate of applied science degree or similar degree
1370 following the completion of a course of study approved by the division and had one year of
1371 supervisory experience as a licensed journeyman plumber in accordance with division rule; or

1372 (C) meets the qualifications determined by the division in collaboration with the board
1373 to be equivalent to Subsection (3)(a)(i)(A) or (B).

1374 (ii) An individual holding a valid Utah license as a journeyman plumber, based on at
1375 least four years of practical experience as a licensed apprentice under the supervision of a
1376 licensed journeyman plumber and four years as a licensed journeyman plumber, in effect
1377 immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current
1378 master plumber license under this chapter, and satisfies the requirements of this Subsection
1379 (3)(a) for the purpose of renewal or reinstatement of that license under Section [58-55-303](#).

1380 (iii) An individual holding a valid plumbing contractor's license or residential
1381 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,
1382 2008:

1383 (A) considered to hold a current master plumber license under this chapter if licensed
1384 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this
1385 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section
1386 [58-55-303](#); and

1387 (B) considered to hold a current residential master plumber license under this chapter if
1388 licensed as a residential plumbing contractor and a residential journeyman plumber, and
1389 satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of

1390 that license under Section 58-55-303.

1391 (b) A master residential plumber applicant shall produce satisfactory evidence that the
1392 applicant:

1393 (i) has been a licensed residential journeyman plumber for at least two years and had
1394 two years of supervisory experience as a licensed residential journeyman plumber in
1395 accordance with division rule; or

1396 (ii) meets the qualifications determined by the division in collaboration with the board
1397 to be equivalent to Subsection (3)(b)(i).

1398 (c) A journeyman plumber applicant shall produce satisfactory evidence of:

1399 (i) successful completion of the equivalent of at least four years of full-time training
1400 and instruction as a licensed apprentice plumber under supervision of a licensed master
1401 plumber or journeyman plumber and in accordance with a planned program of training
1402 approved by the division;

1403 (ii) at least eight years of full-time experience approved by the division in collaboration
1404 with the Plumbers Licensing Board; or

1405 (iii) satisfactory evidence of meeting the qualifications determined by the board to be
1406 equivalent to Subsection (3)(c)(i) or (c)(ii).

1407 (d) A residential journeyman plumber shall produce satisfactory evidence of:

1408 (i) completion of the equivalent of at least three years of full-time training and
1409 instruction as a licensed apprentice plumber under the supervision of a licensed residential
1410 master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in
1411 accordance with a planned program of training approved by the division;

1412 (ii) completion of at least six years of full-time experience in a maintenance or repair
1413 trade involving substantial plumbing work; or

1414 (iii) meeting the qualifications determined by the board to be equivalent to Subsection
1415 (3)(d)(i) or (d)(ii).

1416 (e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be
1417 in accordance with the following:

1418 (i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be
1419 under the immediate supervision of a licensed master plumber, licensed residential master
1420 plumber, licensed journeyman plumber, or a licensed residential journeyman plumber; and

1421 (ii) a licensed apprentice plumber in the fourth through tenth year of training may work
1422 without supervision for a period not to exceed eight hours in any 24-hour period, but if the
1423 apprentice does not become a licensed journeyman plumber or licensed residential journeyman
1424 plumber by the end of the tenth year of apprenticeship, this nonsupervision provision no longer
1425 applies.

1426 (f) A master electrician applicant shall produce satisfactory evidence that the applicant:

1427 (i) is a graduate electrical engineer of an accredited college or university approved by
1428 the division and has one year of practical electrical experience as a licensed apprentice
1429 electrician;

1430 (ii) is a graduate of an electrical trade school, having received an associate of applied
1431 sciences degree following successful completion of a course of study approved by the division,
1432 and has two years of practical experience as a licensed journeyman electrician;

1433 (iii) has four years of practical experience as a journeyman electrician; or

1434 (iv) meets the qualifications determined by the board to be equivalent to Subsection
1435 (3)(f)(i), (ii), or (iii).

1436 (g) A master residential electrician applicant shall produce satisfactory evidence that
1437 the applicant:

1438 (i) has at least two years of practical experience as a residential journeyman electrician;
1439 or

1440 (ii) meets the qualifications determined by the board to be equivalent to this practical
1441 experience.

1442 (h) A journeyman electrician applicant shall produce satisfactory evidence that the
1443 applicant:

1444 (i) has successfully completed at least four years of full-time training and instruction as
1445 a licensed apprentice electrician under the supervision of a master electrician or journeyman
1446 electrician and in accordance with a planned training program approved by the division;

1447 (ii) has at least eight years of full-time experience approved by the division in
1448 collaboration with the Electricians Licensing Board; or

1449 (iii) meets the qualifications determined by the board to be equivalent to Subsection
1450 (3)(h)(i) or (ii).

1451 (i) A residential journeyman electrician applicant shall produce satisfactory evidence

1452 that the applicant:

1453 (i) has successfully completed two years of training in an electrical training program
1454 approved by the division;

1455 (ii) has four years of practical experience in wiring, installing, and repairing electrical
1456 apparatus and equipment for light, heat, and power under the supervision of a licensed master,
1457 journeyman, residential master, or residential journeyman electrician; or

1458 (iii) meets the qualifications determined by the division and applicable board to be
1459 equivalent to Subsection (3)(i)(i) or (ii).

1460 (j) The conduct of licensed apprentice electricians and their licensed supervisors shall
1461 be in accordance with the following:

1462 (i) A licensed apprentice electrician shall be under the immediate supervision of a
1463 licensed master, journeyman, residential master, or residential journeyman electrician. An
1464 apprentice in the fourth year of training may work without supervision for a period not to
1465 exceed eight hours in any 24-hour period.

1466 (ii) A licensed master, journeyman, residential master, or residential journeyman
1467 electrician may have under immediate supervision on a residential project up to three licensed
1468 apprentice electricians.

1469 (iii) A licensed master or journeyman electrician may have under immediate
1470 supervision on nonresidential projects only one licensed apprentice electrician.

1471 (k) An alarm company applicant shall:

1472 (i) have a qualifying agent who is an officer, director, partner, proprietor, or manager of
1473 the applicant who:

1474 (A) demonstrates 6,000 hours of experience in the alarm company business;

1475 (B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm
1476 company business or in a construction business; and

1477 (C) passes an examination component established by rule by the commission with the
1478 concurrence of the director;

1479 (ii) if a corporation, provide:

1480 (A) the names, addresses, dates of birth, social security numbers, and fingerprint cards
1481 of all corporate officers, directors, and those responsible management personnel employed
1482 within the state or having direct responsibility for managing operations of the applicant within

1483 the state; and

1484 (B) the names, addresses, dates of birth, social security numbers, and fingerprint cards
1485 of all shareholders owning 5% or more of the outstanding shares of the corporation, except this
1486 shall not be required if the stock is publicly listed and traded;

1487 (iii) if a limited liability company, provide:

1488 (A) the names, addresses, dates of birth, social security numbers, and fingerprint cards
1489 of all company officers, and those responsible management personnel employed within the
1490 state or having direct responsibility for managing operations of the applicant within the state;
1491 and

1492 (B) the names, addresses, dates of birth, social security numbers, and fingerprint cards
1493 of all individuals owning 5% or more of the equity of the company;

1494 (iv) if a partnership, provide the names, addresses, dates of birth, social security
1495 numbers, and fingerprint cards of all general partners, and those responsible management
1496 personnel employed within the state or having direct responsibility for managing operations of
1497 the applicant within the state;

1498 (v) if a proprietorship, provide the names, addresses, dates of birth, social security
1499 numbers, and fingerprint cards of the proprietor, and those responsible management personnel
1500 employed within the state or having direct responsibility for managing operations of the
1501 applicant within the state;

1502 (vi) if a trust, provide the names, addresses, dates of birth, social security numbers, and
1503 fingerprint cards of the trustee, and those responsible management personnel employed within
1504 the state or having direct responsibility for managing operations of the applicant within the
1505 state;

1506 (vii) be of good moral character in that officers, directors, shareholders described in
1507 Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel
1508 have not been convicted of a felony, a misdemeanor involving moral turpitude, or any other
1509 crime that when considered with the duties and responsibilities of an alarm company is
1510 considered by the board to indicate that the best interests of the public are served by granting
1511 the applicant a license;

1512 (viii) document that none of the applicant's officers, directors, shareholders described
1513 in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management

1514 personnel have been declared by any court of competent jurisdiction incompetent by reason of
1515 mental defect or disease and not been restored;

1516 (ix) document that none of the applicant's officers, directors, shareholders described in
1517 Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel are
1518 currently suffering from habitual drunkenness or from drug addiction or dependence;

1519 (x) file and maintain with the division evidence of:

1520 (A) comprehensive general liability insurance in form and in amounts to be established
1521 by rule by the commission with the concurrence of the director;

1522 (B) workers' compensation insurance that covers employees of the applicant in
1523 accordance with applicable Utah law; and

1524 (C) registration as is required by applicable law with the:

1525 (I) Division of Corporations and Commercial Code;

1526 (II) Unemployment Insurance Division in the Department of Workforce Services, for
1527 purposes of Title 35A, Chapter 4, Employment Security Act;

1528 (III) State Tax Commission; and

1529 (IV) Internal Revenue Service; and

1530 (xi) meet with the division and board.

1531 (l) Each applicant for licensure as an alarm company agent shall:

1532 (i) submit an application in a form prescribed by the division accompanied by
1533 fingerprint cards;

1534 (ii) pay a fee determined by the department under Section [63J-1-504](#);

1535 (iii) be of good moral character in that the applicant has not been convicted of a felony,
1536 a misdemeanor involving moral turpitude, or any other crime that when considered with the
1537 duties and responsibilities of an alarm company agent is considered by the board to indicate
1538 that the best interests of the public are served by granting the applicant a license;

1539 (iv) not have been declared by any court of competent jurisdiction incompetent by
1540 reason of mental defect or disease and not been restored;

1541 (v) not be currently suffering from habitual drunkenness or from drug addiction or
1542 dependence; and

1543 (vi) meet with the division and board if requested by the division or the board.

1544 (m) (i) Each applicant for licensure as an elevator mechanic shall:

1545 (A) provide documentation of experience and education credits of not less than three
1546 years work experience in the elevator industry, in construction, maintenance, or service and
1547 repair; and

1548 (B) satisfactorily complete a written examination administered by the division
1549 established by rule under Section 58-1-203; or

1550 (C) provide certificates of completion of an apprenticeship program for elevator
1551 mechanics, having standards substantially equal to those of this chapter and registered with the
1552 United States Department of Labor Bureau Apprenticeship and Training or a state
1553 apprenticeship council.

1554 (ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed
1555 elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing,
1556 repairing, or maintaining an elevator, the contractor may:

1557 (I) notify the division of the unavailability of licensed personnel; and

1558 (II) request the division issue a temporary elevator mechanic license to an individual
1559 certified by the contractor as having an acceptable combination of documented experience and
1560 education to perform the work described in this Subsection (3)(m)(ii)(A).

1561 (B) (I) The division may issue a temporary elevator mechanic license to an individual
1562 certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by
1563 the appropriate fee as determined by the department under Section 63J-1-504.

1564 (II) The division shall specify the time period for which the license is valid and may
1565 renew the license for an additional time period upon its determination that a shortage of
1566 licensed elevator mechanics continues to exist.

1567 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1568 division may make rules establishing when Federal Bureau of Investigation records shall be
1569 checked for applicants as an alarm company or alarm company agent.

1570 (5) To determine if an applicant meets the qualifications of Subsections (3)(k)(vii) and
1571 (3)(l)(iii), the division shall provide an appropriate number of copies of fingerprint cards to the
1572 Department of Public Safety with the division's request to:

1573 (a) conduct a search of records of the Department of Public Safety for criminal history
1574 information relating to each applicant for licensure as an alarm company or alarm company
1575 agent and each applicant's officers, directors, shareholders described in Subsection

1576 (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and
1577 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
1578 requiring a check of records of the Federal Bureau of Investigation for criminal history
1579 information under this section.

1580 (6) The Department of Public Safety shall send to the division:
1581 (a) a written record of criminal history, or certification of no criminal history record, as
1582 contained in the records of the Department of Public Safety in a timely manner after receipt of
1583 a fingerprint card from the division and a request for review of Department of Public Safety
1584 records; and
1585 (b) the results of the Federal Bureau of Investigation review concerning an applicant in
1586 a timely manner after receipt of information from the Federal Bureau of Investigation.

1587 (7) (a) The division shall charge each applicant for licensure as an alarm company or
1588 alarm company agent a fee, in accordance with Section 63J-1-504, equal to the cost of
1589 performing the records reviews under this section.
1590 (b) The division shall pay the Department of Public Safety the costs of all records
1591 reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the
1592 costs of records reviews under this section.

1593 (8) Information obtained by the division from the reviews of criminal history records of
1594 the Department of Public Safety and the Federal Bureau of Investigation shall be used or
1595 disseminated by the division only for the purpose of determining if an applicant for licensure as
1596 an alarm company or alarm company agent is qualified for licensure.

1597 (9) (a) An application for licensure under this chapter shall be denied if:
1598 (i) the applicant has had a previous license, which was issued under this chapter,
1599 suspended or revoked within [~~one year prior to~~] two years before the date of the applicant's
1600 application;
1601 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and
1602 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
1603 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
1604 status, performing similar functions, or directly or indirectly controlling the applicant has
1605 served in any similar capacity with any person or entity which has had a previous license,
1606 which was issued under this chapter, suspended or revoked within [~~one year prior to~~] two years

1607 before the date of the applicant's application;

1608 (iii) (A) the applicant is an individual or sole proprietorship; and

1609 (B) any owner or agent acting as a qualifier has served in any capacity listed in

1610 Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under

1611 this chapter, suspended or revoked within [~~one year prior to~~] two years before the date of the

1612 applicant's application; or

1613 (iv) (A) the applicant includes an individual who was an owner, director, or officer of
1614 an unincorporated entity at the time the entity's license under this chapter was revoked; and

1615 (B) the application for licensure is filed within 60 months after the revocation of the
1616 unincorporated entity's license.

1617 (b) An application for licensure under this chapter shall be reviewed by the appropriate
1618 licensing board prior to approval if:

1619 (i) the applicant has had a previous license, which was issued under this chapter,
1620 suspended or revoked more than [~~one year prior to~~] two years before the date of the applicant's
1621 application;

1622 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

1623 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
1624 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
1625 status, performing similar functions, or directly or indirectly controlling the applicant has
1626 served in any similar capacity with any person or entity which has had a previous license,
1627 which was issued under this chapter, suspended or revoked more than [~~one year prior to~~] two
1628 years before the date of the applicant's application; or

1629 (iii) (A) the applicant is an individual or sole proprietorship; and

1630 (B) any owner or agent acting as a qualifier has served in any capacity listed in

1631 Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under
1632 this chapter, suspended or revoked more than [~~one year prior to~~] two years before the date of
1633 the applicant's application.

1634 (10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status
1635 report with the division every 30 days after the day on which the license is issued if the licensee
1636 has more than five owners who are individuals who:

1637 (A) own an interest in the contractor that is an unincorporated entity;

1638 (B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the
1639 division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the
1640 unincorporated entity; and

1641 (C) engage, or will engage, in a construction trade in the state as owners of the
1642 contractor described in Subsection (10)(a)(i)(A).

1643 (ii) If the licensee has five or fewer owners described in Subsection (10)(a)(i), the
1644 licensee shall provide the ownership status report with an application for renewal of licensure.

1645 (b) An ownership status report required under this Subsection (10) shall:

1646 (i) specify each addition or deletion of an owner:

1647 (A) for the first ownership status report, after the day on which the unincorporated
1648 entity is licensed under this chapter; and

1649 (B) for a subsequent ownership status report, after the day on which the previous
1650 ownership status report is filed;

1651 (ii) be in a format prescribed by the division that includes for each owner, regardless of
1652 the owner's percentage ownership in the unincorporated entity, the information described in
1653 Subsection(1)(e)(v);

1654 (iii) list the name of:

1655 (A) each officer or manager of the unincorporated entity; and

1656 (B) each other individual involved in the operation, supervision, or management of the
1657 unincorporated entity; and

1658 (iv) be accompanied by a fee set by the division in accordance with Section [63J-1-504](#)
1659 if the ownership status report indicates there is a change described in Subsection (10)(b)(i).

1660 (c) The division may, at any time, audit an ownership status report under this
1661 Subsection (10):

1662 (i) to determine if financial responsibility has been demonstrated or maintained as
1663 required under Section [58-55-306](#); and

1664 (ii) to determine compliance with Subsection [58-55-501](#)(24), (25), or (27) or
1665 Subsection [58-55-502](#)(8) or (9).

1666 (11) (a) An unincorporated entity that provides labor to an entity licensed under this
1667 chapter by providing an individual who owns an interest in the unincorporated entity to engage
1668 in a construction trade in Utah shall file with the division:

1669 (i) before the individual who owns an interest in the unincorporated entity engages in a
1670 construction trade in Utah, a current list of the one or more individuals who hold an ownership
1671 interest in the unincorporated entity that includes for each individual:

1672 (A) the individual's name, address, birth date, and social security number; and

1673 (B) whether the individual will engage in a construction trade; and

1674 (ii) every 30 days after the day on which the unincorporated entity provides the list
1675 described in Subsection (11)(a)(i), an ownership status report containing the information that
1676 would be required under Subsection (10) if the unincorporated entity were a licensed
1677 contractor.

1678 (b) When filing an ownership list described in Subsection (11)(a)(i) or an ownership
1679 status report described in Subsection (11)(a)(ii), an unincorporated entity shall pay a fee set by
1680 the division in accordance with Section 63J-1-504.

1681 (12) This chapter may not be interpreted to create or support an express or implied
1682 independent contractor relationship between an unincorporated entity described in Subsection
1683 (10) or (11) and the owners of the unincorporated entity for any purpose, including income tax
1684 withholding.

1685 (13) A social security number provided under Subsection (1)(e)(v) is a private record
1686 under Subsection 63G-2-302(1)(i).

1687 Section 24. Section 58-55-307 is amended to read:

1688 **58-55-307. Confidentiality of records and reports.**

1689 (1) Credit reports, financial statements, and other information submitted to the division
1690 by or at the request and direction of an applicant or licensee for the purpose of supporting a
1691 representation of financial responsibility:

1692 (a) constitute protected records under Title 63G, Chapter 2, Government Records
1693 Access and Management Act[-]; and

1694 (b) notwithstanding Subsection (1)(a), may be considered by the commission in a
1695 public meeting, unless the owner of the information requests that the meeting be closed to the
1696 public in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

1697 (2) Notwithstanding the provisions of Title 63G, Chapter 2, Government Records
1698 Access and Management Act, the records described in Subsection (1) are not open for public
1699 inspection and are not subject to discovery in civil or administrative proceedings.

1700 Section 25. Section **58-60-508** is amended to read:

1701 **58-60-508. Substance use disorder counselor supervisor's qualifications --**

1702 **Functions.**

1703 (1) A mental health therapist supervisor of a substance use disorder counselor shall:

1704 (a) be qualified by education or experience to treat substance use disorders;

1705 (b) be currently working in the substance use disorder treatment field;

1706 (c) review substance use disorder counselor assessment procedures and

1707 recommendations;

1708 (d) provide substance use disorder diagnosis and other mental health diagnoses in

1709 accordance with Subsection **58-60-102(7)**;

1710 (e) supervise the development of a treatment plan;

1711 (f) approve the treatment plan; and

1712 (g) provide direct supervision for not more than five persons, unless granted an

1713 exception in writing from the board and the division.

1714 (2) A supervisor of a certified substance use disorder counselor, certified substance use

1715 disorder counselor intern, certified advanced substance use disorder counselor, certified

1716 advanced substance use disorder counselor intern, or licensed substance use disorder counselor

1717 [~~may~~] shall:

1718 (a) be a licensed advanced substance use disorder counselor [~~with~~];

1719 [~~(i) until July 1, 2014, at least two years of experience as a substance use disorder~~

1720 ~~counselor; or~~]

1721 [~~(ii) beginning on July 1, 2014,~~]

1722 (b) have at least two years of experience as a licensed advanced substance use disorder

1723 counselor;

1724 [~~(b)~~] (c) be currently working in the substance use disorder field; and

1725 [~~(c)~~] (d) provide direct supervision for no more than three persons, unless granted an

1726 exception in writing from the board and the division.

1727 Section 26. Section **58-63-302** is amended to read:

1728 **58-63-302. Qualifications for licensure.**

1729 (1) Each applicant for licensure as an armored car company or a contract security

1730 company shall:

- 1731 (a) submit an application in a form prescribed by the division;
- 1732 (b) pay a fee determined by the department under Section 63J-1-504;
- 1733 (c) have a qualifying agent who:
- 1734 (i) is a resident of the state and an officer, director, partner, proprietor, or manager of
- 1735 the applicant;
- 1736 (ii) passes an examination component established by rule by the division in
- 1737 collaboration with the board; and
- 1738 (iii) (A) demonstrates 6,000 hours of compensated experience as a manager,
- 1739 supervisor, or administrator of an armored car company or a contract security company; or
- 1740 (B) demonstrates 6,000 hours of supervisory experience acceptable to the division in
- 1741 collaboration with the board with a federal, United States military, state, county, or municipal
- 1742 law enforcement agency;
- 1743 (d) if a corporation, provide:
- 1744 (i) the names, addresses, dates of birth, and social security numbers of all corporate
- 1745 officers, directors, and those responsible management personnel employed within the state or
- 1746 having direct responsibility for managing operations of the applicant within the state; and
- 1747 (ii) the names, addresses, dates of birth, and social security numbers, of all
- 1748 shareholders owning 5% or more of the outstanding shares of the corporation, unless waived by
- 1749 the division if the stock is publicly listed and traded;
- 1750 (e) if a limited liability company, provide:
- 1751 (i) the names, addresses, dates of birth, and social security numbers of all company
- 1752 officers, and those responsible management personnel employed within the state or having
- 1753 direct responsibility for managing operations of the applicant within the state; and
- 1754 (ii) the names, addresses, dates of birth, and social security numbers of all individuals
- 1755 owning 5% or more of the equity of the company;
- 1756 (f) if a partnership, provide the names, addresses, dates of birth, and social security
- 1757 numbers of all general partners, and those responsible management personnel employed within
- 1758 the state or having direct responsibility for managing operations of the applicant within the
- 1759 state;
- 1760 (g) if a proprietorship, provide the names, addresses, dates of birth, and social security
- 1761 numbers of the proprietor, and those responsible management personnel employed within the

1762 state or having direct responsibility for managing operations of the applicant within the state;

1763 (h) have good moral character in that officers, directors, shareholders described in
1764 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have not
1765 been convicted of:

1766 (i) a felony;

1767 (ii) a misdemeanor involving moral turpitude; or

1768 (iii) a crime that when considered with the duties and responsibilities of a contract
1769 security company or an armored car company by the division and the board indicates that the
1770 best interests of the public are not served by granting the applicant a license;

1771 (i) document that none of the applicant's officers, directors, shareholders described in
1772 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel:

1773 (i) have been declared by a court of competent jurisdiction incompetent by reason of
1774 mental defect or disease and not been restored; and

1775 (ii) currently suffer from habitual drunkenness or from drug addiction or dependence;

1776 (j) file and maintain with the division evidence of:

1777 (i) comprehensive general liability insurance in a form and in amounts established by
1778 rule by the division in collaboration with the board;

1779 (ii) workers' compensation insurance that covers employees of the applicant in
1780 accordance with applicable Utah law;

1781 (iii) registration with the Division of Corporations and Commercial Code; and

1782 (iv) registration as required by applicable law with the:

1783 (A) Unemployment Insurance Division in the Department of Workforce Services, for
1784 purposes of Title 35A, Chapter 4, Employment Security Act;

1785 (B) State Tax Commission; and

1786 (C) Internal Revenue Service; and

1787 (k) meet with the division and board if requested by the division or board.

1788 (2) Each applicant for licensure as an armed private security officer shall:

1789 (a) submit an application in a form prescribed by the division;

1790 (b) pay a fee determined by the department under Section [63J-1-504](#);

1791 (c) have good moral character in that the applicant has not been convicted of:

1792 (i) a felony;

- 1793 (ii) a misdemeanor involving moral turpitude; or
- 1794 (iii) a crime that when considered with the duties and responsibilities of an armed
- 1795 private security officer by the division and the board indicates that the best interests of the
- 1796 public are not served by granting the applicant a license;
- 1797 (d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C.
- 1798 Sec. 922(g);
- 1799 [~~(d)~~] (e) not have been declared incompetent by a court of competent jurisdiction by
- 1800 reason of mental defect or disease and not been restored;
- 1801 [~~(e)~~] (f) not be currently suffering from habitual drunkenness or from drug addiction or
- 1802 dependence;
- 1803 [~~(f)~~] (g) successfully complete basic education and training requirements established by
- 1804 rule by the division in collaboration with the board;
- 1805 [~~(g)~~] (h) successfully complete firearms training requirements established by rule by
- 1806 the division in collaboration with the board;
- 1807 [~~(h)~~] (i) pass the examination requirement established by rule by the division in
- 1808 collaboration with the board; and
- 1809 [~~(i)~~] (j) meet with the division and board if requested by the division or the board.
- 1810 (3) Each applicant for licensure as an unarmed private security officer shall:
- 1811 (a) submit an application in a form prescribed by the division;
- 1812 (b) pay a fee determined by the department under Section [63J-1-504](#);
- 1813 (c) have good moral character in that the applicant has not been convicted of:
- 1814 (i) a felony;
- 1815 (ii) a misdemeanor involving moral turpitude; or
- 1816 (iii) a crime that when considered with the duties and responsibilities of an unarmed
- 1817 private security officer by the division and the board indicates that the best interests of the
- 1818 public are not served by granting the applicant a license;
- 1819 (d) not have been declared incompetent by a court of competent jurisdiction by reason
- 1820 of mental defect or disease and not been restored;
- 1821 (e) not be currently suffering from habitual drunkenness or from drug addiction or
- 1822 dependence;
- 1823 (f) successfully complete basic education and training requirements established by rule

1824 by the division in collaboration with the board;

1825 (g) pass the examination requirement established by rule by the division in
1826 collaboration with the board; and

1827 (h) meet with the division and board if requested by the division or board.

1828 (4) Each applicant for licensure as an armored car security officer shall:

1829 (a) submit an application in a form prescribed by the division;

1830 (b) pay a fee determined by the department under Section 63J-1-504;

1831 (c) have good moral character in that the applicant has not been convicted of:

1832 (i) a felony;

1833 (ii) a misdemeanor involving moral turpitude; or

1834 (iii) a crime that when considered with the duties and responsibilities of an armored car
1835 security officer by the division and the board indicates that the best interests of the public are
1836 not served by granting the applicant a license;

1837 (d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C.
1838 Sec. 922(g);

1839 [~~(d)~~] (e) not have been declared incompetent by a court of competent jurisdiction by
1840 reason of mental defect or disease and not been restored;

1841 [~~(e)~~] (f) not be currently suffering from habitual drunkenness or from drug addiction or
1842 dependence;

1843 [~~(f)~~] (g) successfully complete basic education and training requirements established by
1844 rule by the division in collaboration with the board;

1845 [~~(g)~~] (h) successfully complete firearms training requirements established by rule by
1846 the division in collaboration with the board;

1847 [~~(h)~~] (i) pass the examination requirements established by rule by the division in
1848 collaboration with the board; and

1849 [~~(i)~~] (j) meet with the division and board if requested by the division or the board.

1850 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1851 division may make a rule establishing when the division shall request a Federal Bureau of
1852 Investigation records' review for an applicant.

1853 (6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c),
1854 (3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint

1855 cards to the Department of Public Safety with the division's request to:

1856 (a) conduct a search of records of the Department of Public Safety for criminal history
1857 information relating to each applicant for licensure under this chapter and each applicant's
1858 officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and
1859 responsible management personnel; and

1860 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
1861 requiring a check of records of the FBI for criminal history information under this section.

1862 (7) The Department of Public Safety shall send the division:

1863 (a) a written record of criminal history, or certification of no criminal history record, as
1864 contained in the records of the Department of Public Safety in a timely manner after receipt of
1865 a fingerprint card from the division and a request for review of Department of Public Safety
1866 records; and

1867 (b) the results of the FBI review concerning an applicant in a timely manner after
1868 receipt of information from the FBI.

1869 (8) (a) The division shall charge each applicant a fee, in accordance with Section
1870 [63J-1-504](#), equal to the cost of performing the records reviews under this section.

1871 (b) The division shall pay the Department of Public Safety the costs of all records
1872 reviews, and the Department of Public Safety shall pay the FBI the costs of records reviews
1873 under this chapter.

1874 (9) The division shall use or disseminate the information it obtains from the reviews of
1875 criminal history records of the Department of Public Safety and the FBI only to determine if an
1876 applicant for licensure under this chapter is qualified for licensure.

1877 Section 27. Section **58-64-304** is amended to read:

1878 **58-64-304. Exemptions from licensure.**

1879 [The] In addition to the exemptions from licensure [under the provisions of this chapter
1880 are limited to those set forth] described in Section [58-1-307](#)[-], a law enforcement officer, as
1881 defined under Section [53-13-103](#), who is not licensed under this chapter may operate a voice
1882 stress analyzer in the course of the officer's full-time employment with a federal, state, or local
1883 law enforcement agency if the officer:

1884 (1) has completed the manufacturer's training course and is certified by the
1885 manufacturer to operate that voice stress analyzer; and

1886 (2) is operating the voice stress analyzer in accordance with Section [58-64-601](#),
1887 regarding deception detection instruments.

1888 Section 28. Section **58-70a-305** is amended to read:

1889 **58-70a-305. Exemptions from licensure.**

1890 In addition to the exemptions from licensure in Section [58-1-307](#), the following persons
1891 may engage in acts included within the definition of practice as a physician assistant, subject to
1892 the stated circumstances and limitations, without being licensed under this chapter:

1893 (1) a student enrolled in an accredited physician assistant education program while
1894 engaged in activities as a physician assistant:

1895 (a) that are a part of the education program;

1896 (b) that are conducted under the direct supervision of a:

1897 (i) physician associated with the program; or

1898 (ii) licensed physician assistant, at the request of the supervising physician and on a
1899 temporary basis, as defined by rule;

1900 (c) for which the program accepts in writing the responsibility for the student; and

1901 (2) a "medical assistant," as defined in Sections [58-67-102](#) and [58-68-102](#), who:

1902 [~~(a) is working under the direct supervision of a physician;~~]

1903 [~~(b)~~] (a) does not diagnose, advise, independently treat, or prescribe to or on behalf of
1904 any person; and

1905 [~~(c)~~] (b) for whom the supervising physician accepts responsibility.

1906 Section 29. Section **58-74-102** is amended to read:

1907 **58-74-102. Definitions.**

1908 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

1909 (1) "Board" means the Certified Court Reporters Licensing Board created in Section
1910 [58-74-201](#).

1911 [~~(2) "Certified Shorthand Reporter" means any person licensed under this chapter who
1912 is engaged in the practice of shorthand reporting.~~]

1913 [~~(3)~~] (2) "Certified court reporter" means any person who engages in the practice of
1914 court reporting who is:

1915 (a) a shorthand reporter certified by the National Court Reporters Association; or

1916 (b) a voice reporter certified by the National Verbatim Reporters Association.

1917 ~~[(4)]~~ (3) "Certified voice reporter" means any person licensed under this chapter who
1918 engages in the practice of voice reporting.

1919 ~~[(5)]~~ (4) "Official court reporter" means a certified shorthand reporter employed by the
1920 courts.

1921 ~~[(6)]~~ (5) "Official court transcriber" means a person certified in accordance with rules
1922 of the Judicial Council as competent to transcribe into written form an audio or video recording
1923 of court proceedings.

1924 ~~[(7)]~~ (6) "Practice of court reporting" means the making of a verbatim record of any
1925 trial, legislative public hearing, state agency public hearing, deposition, examination before
1926 trial, hearing or proceeding before any grand jury, referee, board, commission, master or
1927 arbitrator, or other sworn testimony given under oath.

1928 ~~[(8) "Practice of shorthand reporting" means the practice of making a verbatim record,
1929 using symbols or abbreviations.]~~

1930 ~~[(9)]~~ (7) "Practice of voice reporting" means the practice of making a verbatim record,
1931 using voice writing.

1932 ~~[(10)]~~ (8) "Voice writing" means the making of a verbatim record of the spoken word
1933 by means of repeating the words of the speaker into a device capable of either digital
1934 translation into English text or creation of a tape or digital recording.

1935 ~~[(11)]~~ (9) "Unlawful conduct" ~~[is as]~~ means the same as that term is defined in Sections
1936 58-1-501 and 58-74-501.

1937 ~~[(12)]~~ (10) "Unprofessional conduct" ~~[is as]~~ means the same as that term is defined in
1938 Sections 58-1-501 and 58-74-502 and as may be further defined by rule.

1939 Section 30. Section **58-77-601** is amended to read:

1940 **58-77-601. Standards of practice.**

1941 (1) (a) Prior to providing any services, a licensed direct-entry midwife must obtain an
1942 informed consent from a client.

1943 (b) The consent must include:

1944 (i) the name and license number of the direct-entry midwife;

1945 (ii) the client's name, address, telephone number, and primary care provider, if the
1946 client has one;

1947 (iii) the fact, if true, that the licensed direct-entry midwife is not a certified nurse

- 1948 midwife or a physician;
- 1949 (iv) a description of the licensed direct-entry midwife's education, training, continuing
1950 education, and experience in midwifery;
- 1951 (v) a description of the licensed direct-entry midwife's peer review process;
- 1952 (vi) the licensed direct-entry midwife's philosophy of practice;
- 1953 (vii) a promise to provide the client, upon request, separate documents describing the
1954 rules governing licensed direct-entry midwifery practice, including a list of conditions
1955 indicating the need for consultation, collaboration, referral, transfer or mandatory transfer, and
1956 the licensed direct-entry midwife's personal written practice guidelines;
- 1957 (viii) a medical back-up or transfer plan;
- 1958 (ix) a description of the services provided to the client by the licensed direct-entry
1959 midwife;
- 1960 (x) the licensed direct-entry midwife's current legal status;
- 1961 (xi) the availability of a grievance process;
- 1962 (xii) client and licensed direct-entry midwife signatures and the date of signing; and
- 1963 (xiii) whether the licensed direct-entry midwife is covered by a professional liability
1964 insurance policy.
- 1965 (2) A licensed direct-entry midwife shall:
- 1966 (a) (i) limit the licensed direct-entry midwife's practice to a normal pregnancy, labor,
1967 postpartum, newborn and interconceptual care, which for purposes of this section means a
1968 normal labor:
- 1969 (A) that is not pharmacologically induced;
- 1970 (B) that is low risk at the start of labor;
- 1971 (C) that remains low risk through out the course of labor and delivery;
- 1972 (D) in which the infant is born spontaneously in the vertex position between 37 and 43
1973 completed weeks of pregnancy; and
- 1974 (E) except as provided in Subsection (2)(a)(ii), in which after delivery, the mother and
1975 infant remain low risk; and
- 1976 (ii) the limitation of Subsection (2)(a)(i) does not prohibit a licensed direct-entry
1977 midwife from delivering an infant when there is:
- 1978 (A) intrauterine fetal demise; or

1979 (B) a fetal anomaly incompatible with life; and
1980 (b) appropriately recommend and facilitate consultation with, collaboration with,
1981 referral to, or transfer or mandatory transfer of care to a licensed health care professional when
1982 the circumstances require that action in accordance with this section and standards established
1983 by division rule.

1984 (3) If after a client has been informed that she has or may have a condition indicating
1985 the need for medical consultation, collaboration, referral, or transfer and the client chooses to
1986 decline, then the licensed direct-entry midwife shall:

1987 (a) terminate care in accordance with procedures established by division rule; or
1988 (b) continue to provide care for the client if the client signs a waiver of medical
1989 consultation, collaboration, referral, or transfer.

1990 (4) If after a client has been informed that she has or may have a condition indicating
1991 the need for mandatory transfer, the licensed direct-entry midwife shall, in accordance with
1992 procedures established by division rule, terminate the care or initiate transfer by:

1993 (a) calling 911 and reporting the need for immediate transfer;
1994 (b) immediately transporting the client by private vehicle to the receiving provider; or
1995 (c) contacting the physician to whom the client will be transferred and following that
1996 physician's orders.

1997 (5) The standards for consultation and transfer are the minimum standards that a
1998 licensed direct-entry midwife must follow. A licensed direct-entry midwife shall initiate
1999 consultation, collaboration, referral, or transfer of a patient sooner than required by
2000 administrative rule if in the opinion and experience of the licensed direct-entry midwife, the
2001 condition of the client or infant warrant a consultation, collaboration, referral, or transfer.

2002 [~~(6) For the period from 2006 through 2011, a licensed direct-entry midwife must~~
2003 ~~submit outcome data to the Midwives' Alliance of North America's Division of Research on the~~
2004 ~~form and in the manner prescribed by rule.]~~

2005 [(7)] (6) This chapter does not mandate health insurance coverage for midwifery
2006 services.

2007 Section 31. Section **58-81-102** is amended to read:

2008 **58-81-102. Definitions.**

2009 For purposes of this chapter:

- 2010 (1) "Board" means the state licensing board created for each of the health care
2011 practitioners included in Subsection (2).
- 2012 (2) "Health care practitioner" includes:
- 2013 (a) a podiatrist licensed under Chapter 5a, Podiatric Physician Licensing Act;
- 2014 (b) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;
- 2015 (c) a nurse or advanced practice registered nurse licensed under Chapter 31b, Nurse
2016 Practice Act;
- 2017 (d) a recreational therapist licensed under Chapter 40, Recreational Therapy Practice
2018 Act;
- 2019 (e) an occupational therapist licensed under Chapter 42a, Occupational Therapy
2020 Practice Act;
- 2021 (f) a nurse midwife licensed under Chapter 44a, Nurse Midwife Practice Act;
- 2022 (g) a mental health professional licensed under Chapter 60, Mental Health Professional
2023 Practice Act;
- 2024 (h) a psychologist licensed under Chapter 61, Psychologist Licensing Act;
- 2025 [~~(h)~~] (i) a physician licensed under Chapter 67, Utah Medical Practice Act;
- 2026 [~~(i)~~] (j) an osteopath licensed under Chapter 68, Utah Osteopathic Medical Practice
2027 Act;
- 2028 [~~(j)~~] (k) a dentist or dental hygienist licensed under Chapter 69, Dentist and Dental
2029 Hygienist Practice Act;
- 2030 [~~(k)~~] (l) a physician assistant licensed under Chapter 70a, Physician Assistant Act;
- 2031 [~~(l)~~] (m) a pharmacist licensed under Chapter 17b, Pharmacy Practice Act; or
- 2032 [~~(m)~~] (n) an optometrist licensed under Chapter 16a, Utah Optometry Practice Act.
- 2033 (3) "Qualified location" means:
- 2034 (a) a clinic, hospital, church, or organization whose primary purpose is to sponsor,
2035 promote, or organize uncompensated health care services for people unable to pay for health
2036 care services; and
- 2037 (b) is a location approved by the division.
- 2038 (4) "Remuneration or compensation" [~~is as~~] means the same as that term is defined in
2039 Section [58-13-3](#).
- 2040 (5) "Supervising professional" means a health care practitioner:

- 2041 (a) who has an active license in the state in good standing;
- 2042 (b) with a scope of practice that is appropriate for supervising the applicant as
- 2043 determined by the division and board; and
- 2044 (c) who is practicing at the qualified location.
- 2045 (6) "Supervision" means:
- 2046 (a) the level of supervision required for:
- 2047 (i) a social service worker in Chapter 60, Mental Health Professional Practice Act;
- 2048 (ii) a dental hygienist in Chapter 69, Dentist and Dental Hygienist Practice Act;
- 2049 (iii) a recreational therapist technician in Chapter 40, Recreational Therapy Practice
- 2050 Act; and
- 2051 (iv) an occupational technician assistant in Chapter 42a, Occupational Therapy Practice
- 2052 Act; and
- 2053 (b) for the health care practitioners listed in Subsections (2)(a) through (m) and not
- 2054 included in Subsection (5)(a):
- 2055 (i) entering into a delegation of service agreement with a supervising professional in
- 2056 accordance with Subsection 58-81-103(2);
- 2057 (ii) having the ability to contact the supervising professional during the time the
- 2058 volunteer is providing volunteer services; and
- 2059 (iii) for every 40 hours of volunteer service hours, meeting with the supervising
- 2060 professional.
- 2061 (7) "Volunteer" means the individual health care practitioner:
- 2062 (a) will devote the health care practitioner's practice exclusively to providing care to
- 2063 the needy and indigent in the state:
- 2064 (i) within:
- 2065 (A) the practitioner's scope of practice; and
- 2066 (B) the delegation of service agreement between the volunteer and the supervising
- 2067 professional; and
- 2068 (ii) at a qualified location;
- 2069 (b) will agree to donate professional services in a qualified location; and
- 2070 (c) will not receive remuneration or compensation for the health care practitioner's
- 2071 services.

2072 Section 32. **Coordinating S.B. 136 with H.B. 185 -- Substantive and technical**
2073 **amendments.**

2074 If this S.B. 136 and H.B. 185, Deception Detection Examiners Licensing Amendments,
2075 both pass and become law, it is the intent of the Legislature that the Office of Legislative
2076 Research and General Counsel, in preparing the Utah Code database for publication, modify
2077 Section 58-64-304 to read:

2078 "[The] In addition to the exemptions from licensure [under the provisions of this
2079 chapter are limited to those set forth] described in Section 58-1-307[-], a law enforcement
2080 officer, as defined under Section 53-13-103, who is not licensed under this chapter, may
2081 operate a voice stress analyzer or software application designed for detecting deception in the
2082 course of the officer's employment with a federal, state, or local law enforcement agency, if the
2083 officer:

2084 (1) has completed the manufacturer's training course and is certified by the
2085 manufacturer to operate the voice stress analyzer or software application designed for detecting
2086 deception; and

2087 (2) is operating the voice stress analyzer or software application designed for detecting
2088 deception in accordance with Section 58-64-601, regarding deception detection instruments."