

EMERGENCY MEDICAL SERVICE SYSTEM AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Adam Gardiner

Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill amends provisions in the Utah Emergency Medical Services System Act.

Highlighted Provisions:

This bill:

- ▶ adds an exemption from the requirements to have a Department of Health background clearance for licensure for law enforcement employees working as emergency medical service dispatchers that have received an approved Department of Public Safety background clearance; and
- ▶ makes technical and conforming changes to align with the Emergency Medical Services Personnel Licensure Interstate Compact.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-8a-102, as last amended by Laws of Utah 2013, Chapter 246

26-8a-103, as last amended by Laws of Utah 2011, Chapters 51 and 297

26-8a-104, as last amended by Laws of Utah 2016, Chapter 74

26-8a-105, as last amended by Laws of Utah 2016, Chapter 168



- 28 **26-8a-106**, as last amended by Laws of Utah 2016, Chapter 74
- 29 **26-8a-208**, as last amended by Laws of Utah 2010, Chapter 391
- 30 **26-8a-301**, as last amended by Laws of Utah 2009, Chapter 22
- 31 **26-8a-302**, as last amended by Laws of Utah 2015, Chapter 307
- 32 **26-8a-308**, as last amended by Laws of Utah 2009, Chapter 22
- 33 **26-8a-310**, as repealed and reenacted by Laws of Utah 2015, Chapter 307
- 34 **26-8a-408**, as last amended by Laws of Utah 2015, Chapter 307
- 35 **26-8a-409**, as enacted by Laws of Utah 1999, Chapter 141
- 36 **26-8a-501**, as enacted by Laws of Utah 1999, Chapter 141
- 37 **26-8a-502**, as last amended by Laws of Utah 2009, Chapter 22
- 38 **26-8a-503**, as last amended by Laws of Utah 2015, Chapter 167
- 39 **26-8a-506**, as enacted by Laws of Utah 1999, Chapter 141
- 40 **26-8a-601**, as last amended by Laws of Utah 2009, Chapter 22
- 41 **41-6a-523**, as last amended by Laws of Utah 2012, Chapter 267
- 42 **53-10-405**, as last amended by Laws of Utah 2012, Chapter 267
- 43 **58-1-307**, as last amended by Laws of Utah 2016, Chapters 201 and 238
- 44 **72-10-502**, as last amended by Laws of Utah 2012, Chapter 267
- 45 **76-5-102.7**, as last amended by Laws of Utah 2016, Chapter 339
- 46 **78A-6-209**, as last amended by Laws of Utah 2016, Chapters 122 and 144
- 47 **78B-8-401**, as last amended by Laws of Utah 2013, Chapter 114

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

50 Section 1. Section **26-8a-102** is amended to read:

51 **26-8a-102. Definitions.**

52 As used in this chapter:

53 (1) (a) "911 ambulance or paramedic services" means:

54 (i) either:

55 (A) 911 ambulance service;

56 (B) 911 paramedic service; or

57 (C) both 911 ambulance and paramedic service; and

58 (ii) a response to a 911 call received by a designated dispatch center that receives 911

59 or E911 calls.

60 (b) "911 ambulance or paramedic service" does not mean a seven or ten digit telephone
61 call received directly by an ambulance provider licensed under this chapter.

62 (2) "Ambulance" means a ground, air, or water vehicle that:

63 (a) transports patients and is used to provide emergency medical services; and

64 (b) is required to obtain a permit under Section 26-8a-304 to operate in the state.

65 (3) "Ambulance provider" means an emergency medical service provider that:

66 (a) transports and provides emergency medical care to patients; and

67 (b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

68 (4) "Committee" means the State Emergency Medical Services Committee created by
69 Section 26-1-7.

70 (5) "Direct medical observation" means in-person observation of a patient by a
71 physician, registered nurse, physician's assistant, or individual [~~certified~~] licensed under
72 Section 26-8a-302.

73 (6) "Emergency medical condition" means:

74 (a) a medical condition that manifests itself by symptoms of sufficient severity,
75 including severe pain, that a prudent layperson, who possesses an average knowledge of health
76 and medicine, could reasonably expect the absence of immediate medical attention to result in:

77 (i) placing the individual's health in serious jeopardy;

78 (ii) serious impairment to bodily functions; or

79 (iii) serious dysfunction of any bodily organ or part; or

80 (b) a medical condition that in the opinion of a physician or his designee requires direct
81 medical observation during transport or may require the intervention of an individual [~~certified~~]
82 licensed under Section 26-8a-302 during transport.

83 (7) "Emergency medical service personnel":

84 (a) means an individual who provides emergency medical services to a patient and is
85 required to be [~~certified~~] licensed under Section 26-8a-302; and

86 (b) includes a paramedic, medical director of a licensed emergency medical service
87 provider, emergency medical service instructor, and other categories established by the
88 committee.

89 (8) "Emergency medical service providers" means:

- 90 (a) licensed ambulance providers and paramedic providers;
- 91 (b) a facility or provider that is required to be designated under Section 26-8a-303; and
- 92 (c) emergency medical service personnel.

93 (9) "Emergency medical services" means medical services, transportation services, or
94 both rendered to a patient.

95 (10) "Emergency medical service vehicle" means a land, air, or water vehicle that is:

96 (a) maintained and used for the transportation of emergency medical personnel,
97 equipment, and supplies to the scene of a medical emergency; and

98 (b) required to be permitted under Section 26-8a-304.

99 (11) "Governing body":

100 (a) is as defined in Section 11-42-102; and

101 (b) for purposes of a "special service district" under Section 11-42-102, means a
102 special service district that has been delegated the authority to select a provider under this
103 chapter by the special service district's legislative body or administrative control board.

104 (12) "Interested party" means:

105 (a) a licensed or designated emergency medical services provider that provides
106 emergency medical services within or in an area that abuts an exclusive geographic service area
107 that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic
108 Providers;

109 (b) any municipality, county, or fire district that lies within or abuts a geographic
110 service area that is the subject of an application submitted pursuant to Part 4, Ambulance and
111 Paramedic Providers; or

112 (c) the department when acting in the interest of the public.

113 (13) "Medical control" means a person who provides medical supervision to an
114 emergency medical service provider.

115 (14) "Non-911 service" means transport of a patient that is not 911 transport under
116 Subsection (1).

117 (15) "Paramedic provider" means an entity that:

118 (a) employs emergency medical service personnel; and

119 (b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

120 (16) "Patient" means an individual who, as the result of illness or injury, meets any of

121 the criteria in Section 26-8a-305.

122 (17) "Political subdivision" means:

123 (a) a city or town located in a county of the first or second class as defined in Section
124 17-50-501;

125 (b) a county of the first or second class;

126 (c) the following districts located in a county of the first or second class:

127 (i) a special service district created under Title 17D, Chapter 1, Special Service District
128 Act; or

129 (ii) a local district under Title 17B, Limited Purpose Local Government Entities - Local
130 Districts, for the purpose of providing fire protection, paramedic, and emergency services;

131 (d) areas coming together as described in Subsection 26-8a-405.2(2)(b)(ii);

132 (e) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act; or

133 (f) a special service district for fire protection service under Subsection 17D-1-201(9).

134 (18) "Trauma" means an injury requiring immediate medical or surgical intervention.

135 (19) "Trauma system" means a single, statewide system that:

136 (a) organizes and coordinates the delivery of trauma care within defined geographic
137 areas from the time of injury through transport and rehabilitative care; and

138 (b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in
139 delivering care for trauma patients, regardless of severity.

140 (20) "Triage" means the sorting of patients in terms of disposition, destination, or
141 priority. For prehospital trauma victims, triage requires a determination of injury severity to
142 assess the appropriate level of care according to established patient care protocols.

143 (21) "Triage, treatment, transportation, and transfer guidelines" means written
144 procedures that:

145 (a) direct the care of patients; and

146 (b) are adopted by the medical staff of an emergency patient receiving facility, trauma
147 center, or an emergency medical service provider.

148 Section 2. Section 26-8a-103 is amended to read:

149 **26-8a-103. State Emergency Medical Services Committee -- Membership --**
150 **Expenses.**

151 (1) The State Emergency Medical Services Committee created by Section 26-1-7 shall

152 be composed of the following 16 members appointed by the governor, at least five of whom
153 shall reside in a county of the third, fourth, fifth, or sixth class:

154 (a) five physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
155 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as follows:

156 (i) one surgeon who actively provides trauma care at a hospital;

157 (ii) one rural physician involved in emergency medical care;

158 (iii) two physicians who practice in the emergency department of a general acute
159 hospital; and

160 (iv) one pediatrician who practices in the emergency department or critical care unit of
161 a general acute hospital or a children's specialty hospital;

162 (b) one representative from a private ambulance provider;

163 (c) one representative from an ambulance provider that is neither privately owned nor
164 operated by a fire department;

165 (d) two chief officers from fire agencies operated by the following classes of licensed
166 or designated emergency medical services providers: municipality, county, and fire district,
167 provided that no class of medical services providers may have more than one representative
168 under this Subsection (1)(d);

169 (e) one director of a law enforcement agency that provides emergency medical
170 services;

171 (f) one hospital administrator;

172 (g) one emergency care nurse;

173 (h) one paramedic in active field practice;

174 (i) one emergency medical technician in active field practice;

175 (j) one ~~certified~~ licensed emergency medical dispatcher affiliated with an emergency
176 medical dispatch center; and

177 (k) one consumer.

178 (2) (a) Except as provided in Subsection (2)(b), members shall be appointed to a
179 four-year term beginning July 1.

180 (b) Notwithstanding Subsection (2)(a), the governor shall, at the time of appointment
181 or reappointment, adjust the length of terms to ensure that the terms of committee members are
182 staggered so that approximately half of the committee is appointed every two years.

183 (c) When a vacancy occurs in the membership for any reason, the replacement shall be
184 appointed by the governor for the unexpired term.

185 (3) (a) Each January, the committee shall organize and select one of its members as
186 chair and one member as vice chair. The committee may organize standing or ad hoc
187 subcommittees, which shall operate in accordance with guidelines established by the
188 committee.

189 (b) The chair shall convene a minimum of four meetings per year. The chair may call
190 special meetings. The chair shall call a meeting upon request of five or more members of the
191 committee.

192 (c) Nine members of the committee constitute a quorum for the transaction of business
193 and the action of a majority of the members present is the action of the committee.

194 (4) A member may not receive compensation or benefits for the member's service, but
195 may receive per diem and travel expenses in accordance with:

196 (a) Section 63A-3-106;

197 (b) Section 63A-3-107; and

198 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
199 63A-3-107.

200 (5) Administrative services for the committee shall be provided by the department.

201 Section 3. Section 26-8a-104 is amended to read:

202 **26-8a-104. Committee advisory duties.**

203 The committee shall adopt rules, with the concurrence of the department, in accordance
204 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

205 (1) establish [~~certification~~] licensure and reciprocity requirements under Section
206 26-8a-302;

207 (2) establish designation requirements under Section 26-8a-303;

208 (3) promote the development of a statewide emergency medical services system under
209 Section 26-8a-203;

210 (4) establish insurance requirements for ambulance providers;

211 (5) provide guidelines for requiring patient data under Section 26-8a-203;

212 (6) establish criteria for awarding grants under Section 26-8a-207;

213 (7) establish requirements for the coordination of emergency medical services and the

214 medical supervision of emergency medical service providers under Section 26-8a-306; and
215 (8) are necessary to carry out the responsibilities of the committee as specified in other
216 sections of this chapter.

217 Section 4. Section 26-8a-105 is amended to read:

218 **26-8a-105. Department powers.**

219 The department shall:

- 220 (1) coordinate the emergency medical services within the state;
- 221 (2) administer this chapter and the rules established pursuant to it;
- 222 (3) establish a voluntary task force representing a diversity of emergency medical
223 service providers to advise the department and the committee on rules;

- 224 (4) establish an emergency medical service personnel peer review board to advise the
225 department concerning discipline of emergency medical service personnel under this chapter;
226 and

227 (5) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative
228 Rulemaking Act, to:

- 229 (a) license ambulance providers and paramedic providers;
- 230 (b) permit ambulances and emergency medical response vehicles, including approving
231 an emergency vehicle operator's course in accordance with Section 26-8a-304;

- 232 (c) establish:
 - 233 (i) the qualifications for membership of the peer review board created by this section;
 - 234 (ii) a process for placing restrictions on a [~~certification~~] license while an investigation
235 is pending;

- 236 (iii) the process for the investigation and recommendation by the peer review board;
237 and

- 238 (iv) the process for determining the status of a license [~~or certification~~] while a peer
239 review board investigation is pending;

240 (d) establish application, submission, and procedural requirements for licenses,
241 designations, [~~certificates,~~] and permits; and

242 (e) establish and implement the programs, plans, and responsibilities as specified in
243 other sections of this chapter.

244 Section 5. Section 26-8a-106 is amended to read:

245 **26-8a-106. Waiver of rules.**

246 (1) Upon application, the department, or the committee with the concurrence of the
247 department, may waive the requirements of a rule the department, or the committee with the
248 concurrence of the department, has adopted if:

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

- 250 (i) the waiver is necessary for a pilot project to be undertaken by the applicant;
251 (ii) in the particular situation, the requirement serves no beneficial public purpose; or
252 (iii) circumstances warrant that waiver of the requirement outweighs the public benefit

253 to be gained by adherence to the rule; and

254 (b) for a waiver granted under Subsection (1)(a)(ii) or (iii):

255 (i) the committee or department extends the waiver to similarly situated persons upon
256 application; or

257 (ii) the department, or the committee with the concurrence of the department, amends
258 the rule to be consistent with the waiver.

259 (2) A waiver of education~~[, licensing, or certification]~~ or licensing requirements may
260 be granted to a veteran, as defined in Section 68-3-12.5, if the veteran:

261 (a) provides to the committee or department documentation showing military education
262 and training in the field in which ~~[certification or]~~ licensure is sought; and

263 (b) successfully passes any examination required.

264 (3) No waiver may be granted under this section that is inconsistent with the provisions
265 of this chapter.

266 Section 6. Section **26-8a-208** is amended to read:

267 **26-8a-208. Fees for training equipment rental, testing, and quality assurance**
268 **reviews.**

269 (1) The department may charge fees, established pursuant to Section 26-1-6:

270 (a) for the use of department-owned training equipment;

271 (b) to administer tests and conduct quality assurance reviews; and

272 (c) to process an application for a ~~[certificate,]~~ designation, permit, or license.

273 (2) (a) Fees collected under Subsections (1)(a) and (b) shall be separate dedicated
274 credits.

275 (b) Fees under Subsection (1)(a) may be used to purchase training equipment.

276 (c) Fees under Subsection (1)(b) may be used to administer tests and conduct quality
277 assurance reviews.

278 Section 7. Section **26-8a-301** is amended to read:

279 **26-8a-301. General requirement.**

280 (1) Except as provided in Section **26-8a-308** or **26-8b-201**:

281 (a) an individual may not provide emergency medical services without a [~~certificate~~]
282 license issued under Section **26-8a-302**;

283 (b) a facility or provider may not hold itself out as a designated emergency medical
284 service provider without a designation issued under Section **26-8a-303**;

285 (c) a vehicle may not operate as an ambulance or emergency response vehicle without a
286 permit issued under Section **26-8a-304**; and

287 (d) an entity may not respond as an ambulance or paramedic provider without the
288 appropriate license issued under Part 4, Ambulance and Paramedic Providers.

289 (2) Section **26-8a-502** applies to violations of this section.

290 Section 8. Section **26-8a-302** is amended to read:

291 **26-8a-302. Licensure of emergency medical service personnel.**

292 (1) To promote the availability of comprehensive emergency medical services
293 throughout the state, the committee shall establish:

294 (a) initial and ongoing [~~certification~~] licensure and training requirements for
295 emergency medical service personnel in the following categories:

296 (i) paramedic;

297 (ii) medical director;

298 (iii) emergency medical service instructor; and

299 (iv) other types of emergency medical personnel as the committee considers necessary;

300 and

301 (b) guidelines for giving credit for out-of-state training and experience.

302 (2) The department shall, based on the requirements established in Subsection (1):

303 (a) develop, conduct, and authorize training and testing for emergency medical service
304 personnel; and

305 (b) issue [~~certifications and certification~~] a license and license renewals to emergency
306 medical service personnel.

307 (3) As provided in Section 26-8a-502, an individual issued a [~~certification~~] license
308 under this section may only provide emergency medical services to the extent allowed by the
309 [~~certification~~] license.

310 (4) [~~An~~] Except as provided in Subsection 28A-3a-310(13), an individual may not be
311 issued or retain a [~~certification~~] license under this section unless the individual obtains and
312 retains background clearance under Section 26-8a-310.

313 Section 9. Section 26-8a-308 is amended to read:

314 **26-8a-308. Exemptions.**

315 (1) The following persons may provide emergency medical services to a patient
316 without being [~~certified or~~] licensed under this chapter:

317 (a) out-of-state emergency medical service personnel and providers in time of disaster;

318 (b) an individual who gratuitously acts as a Good Samaritan;

319 (c) a family member;

320 (d) a private business if emergency medical services are provided only to employees at
321 the place of business and during transport;

322 (e) an agency of the United States government if compliance with this chapter would
323 be inconsistent with federal law; and

324 (f) police, fire, and other public service personnel if:

325 (i) emergency medical services are rendered in the normal course of the person's duties;
326 and

327 (ii) medical control, after being apprised of the circumstances, directs immediate
328 transport.

329 (2) An ambulance or emergency response vehicle may operate without a permit issued
330 under Section 26-8a-304 in time of disaster.

331 (3) Nothing in this chapter or Title 58, Occupations and Professions, may be construed
332 as requiring a license [~~or certificate~~] for an individual to administer cardiopulmonary
333 resuscitation or to use a fully automated external defibrillator under Section 26-8b-201.

334 (4) Nothing in this chapter may be construed as requiring a license, permit, or
335 designation[~~, or certificate~~] for an acute care hospital, medical clinic, physician's office, or
336 other fixed medical facility that:

337 (a) is staffed by a physician, physician's assistant, nurse practitioner, or registered

338 nurse; and

339 (b) treats an individual who has presented himself or was transported to the hospital,
340 clinic, office, or facility.

341 Section 10. Section **26-8a-310** is amended to read:

342 **26-8a-310. Background clearance for emergency medical service personnel.**

343 (1) The department shall determine whether to grant background clearance for an
344 individual seeking [~~certification~~] licensure under Section **26-8a-302** from whom it receives:

345 (a) the individual's social security number, fingerprints, and other personal
346 identification information specified by the department under Subsection (4); and

347 (b) any fees established by the department under Subsection (10).

348 (2) The department shall determine whether to deny or revoke background clearance
349 for individuals for whom it has previously granted background clearance.

350 (3) The department shall determine whether to grant, deny, or revoke background
351 clearance for an individual based on an initial and ongoing evaluation of information the
352 department obtains under Subsections (5) and (11), which, at a minimum, shall include an
353 initial criminal background check of state, regional, and national databases using the
354 individual's fingerprints.

355 (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
356 Administrative Rulemaking Act, that specify:

357 (a) the criteria the department will use under Subsection (3) to determine whether to
358 grant, deny, or revoke background clearance; and

359 (b) the other personal identification information an individual seeking [~~certification~~]
360 licensure under Section **26-8a-302** must submit under Subsection (1).

361 (5) To determine whether to grant, deny, or revoke background clearance, the
362 department may access and evaluate any of the following:

363 (a) Department of Public Safety arrest, conviction, and disposition records described in
364 Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including
365 information in state, regional, and national records files;

366 (b) adjudications by a juvenile court of committing an act that if committed by an adult
367 would be a felony or misdemeanor, if:

368 (i) the applicant is under 28 years of age; or

- 369 (ii) the applicant:
- 370 (A) is over 28 years of age; and
- 371 (B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in
372 abeyance or diversion agreement for a felony or misdemeanor;
- 373 (c) juvenile court arrest, adjudication, and disposition records, other than those under
374 Subsection (5)(b), as allowed under Section [78A-6-209](#);
- 375 (d) child abuse or neglect findings described in Section [78A-6-323](#);
- 376 (e) the Department of Human Services' Division of Child and Family Services
377 Licensing Information System described in Section [62A-4a-1006](#);
- 378 (f) the Department of Human Services' Division of Aging and Adult Services database
379 of reports of vulnerable adult abuse, neglect, or exploitation, described in Section [62A-3-311.1](#);
- 380 (g) Division of Occupational and Professional Licensing records of licensing and
381 certification under Title 58, Occupations and Professions;
- 382 (h) records in other federal criminal background databases available to the state; and
- 383 (i) any other records of arrests, warrants for arrest, convictions, pleas in abeyance,
384 pending diversion agreements, or dispositions.
- 385 (6) Except for the Department of Public Safety, an agency may not charge the
386 department for information accessed under Subsection (5).
- 387 (7) When evaluating information under Subsection (3), the department shall classify a
388 crime committed in another state according to the closest matching crime under Utah law,
389 regardless of how the crime is classified in the state where the crime was committed.
- 390 (8) The department shall adopt measures to protect the security of information it
391 accesses under Subsection (5), which shall include limiting access by department employees to
392 those responsible for acquiring, evaluating, or otherwise processing the information.
- 393 (9) The department may disclose personal identification information it receives under
394 Subsection (1) to the Department of Human Services to verify that the subject of the
395 information is not identified as a perpetrator or offender in the information sources described in
396 Subsections (5)(d) through (f).
- 397 (10) The department may charge fees, in accordance with Section [63J-1-504](#), to pay
398 for:
- 399 (a) the cost of obtaining, storing, and evaluating information needed under Subsection

400 (3), both initially and on an ongoing basis, to determine whether to grant, deny, or revoke
401 background clearance; and

402 (b) other department costs related to granting, denying, or revoking background
403 clearance.

404 (11) The Criminal Investigations and Technical Services Division within the
405 Department of Public Safety shall:

406 (a) retain, separate from other division records, personal information under Subsection
407 (1), including any fingerprints sent to it by the Department of Health; and

408 (b) notify the Department of Health upon receiving notice that an individual for whom
409 personal information has been retained is the subject of:

410 (i) a warrant for arrest;

411 (ii) an arrest;

412 (iii) a conviction, including a plea in abeyance; or

413 (iv) a pending diversion agreement.

414 (12) The department shall use the Direct Access Clearance System database created
415 under Section 26-21-209 to manage information about the background clearance status of each
416 individual for whom the department is required to make a determination under Subsection (1).

417 (13) An employee in law enforcement who works as an emergency medical service
418 dispatcher and has received an approved Department of Public Safety background clearance is
419 exempt from the requirements to have a Department of Health background clearance for
420 licensure.

421 Section 11. Section 26-8a-408 is amended to read:

422 **26-8a-408. Criteria for determining public convenience and necessity.**

423 (1) The criteria for determining public convenience and necessity is set forth in
424 Subsections (2) through (6).

425 (2) Access to emergency medical services shall be maintained or improved. The
426 officer shall consider the impact on existing services, including the impact on response times,
427 call volumes, populations and exclusive geographic service areas served, and the ability of
428 surrounding licensed providers to service their exclusive geographic service areas. The
429 issuance or amendment of a license may not create an orphaned area.

430 (3) The quality of service in the area shall be maintained or improved. The officer

431 shall consider the:

432 (a) staffing and equipment standards of the current licensed provider and the applicant;

433 (b) training and [~~certification~~] licensure levels of the current licensed provider's staff

434 and the applicant's staff;

435 (c) continuing medical education provided by the current licensed provider and the

436 applicant;

437 (d) levels of care as defined by department rule;

438 (e) plan of medical control; and

439 (f) the negative or beneficial impact on the regional emergency medical service system

440 to provide service to the public.

441 (4) The cost to the public shall be justified. The officer shall consider:

442 (a) the financial solvency of the applicant;

443 (b) the applicant's ability to provide services within the rates established under Section

444 [26-8a-403](#);

445 (c) the applicant's ability to comply with cost reporting requirements;

446 (d) the cost efficiency of the applicant; and

447 (e) the cost effect of the application on the public, interested parties, and the emergency

448 medical services system.

449 (5) Local desires concerning cost, quality, and access shall be considered. The officer

450 shall assess and consider:

451 (a) the existing provider's record of providing services and the applicant's record and

452 ability to provide similar or improved services;

453 (b) locally established emergency medical services goals, including those established in

454 Subsection (7);

455 (c) comment by local governments on the applicant's business and operations plans;

456 (d) comment by interested parties that are providers on the impact of the application on

457 the parties' ability to provide emergency medical services;

458 (e) comment by interested parties that are local governments on the impact of the

459 application on the citizens it represents; and

460 (f) public comment on any aspect of the application or proposed license.

461 (6) Other related criteria:

462 (a) the officer considers necessary; or

463 (b) established by department rule.

464 (7) Local governments shall establish cost, quality, and access goals for the ground
465 ambulance and paramedic services that serve their areas.

466 (8) In a formal adjudicative proceeding, the applicant bears the burden of establishing
467 that public convenience and necessity require the approval of the application for all or part of
468 the exclusive geographic service area requested.

469 Section 12. Section **26-8a-409** is amended to read:

470 **26-8a-409. Ground ambulance and paramedic licenses -- Hearing and presiding**
471 **officers.**

472 (1) The department shall set [~~certification and~~] training standards for hearing officers
473 and presiding officers.

474 (2) At a minimum, a presiding officer shall:

475 (a) be familiar with the theory and application of public convenience and necessity; and

476 (b) have a working knowledge of the emergency medical service system in the state.

477 (3) In addition to the requirements in Subsection (2), a hearing officer shall also be
478 licensed to practice law in the state.

479 (4) The department shall provide training for hearing officer and presiding officer
480 candidates in the theory and application of public convenience and necessity and on the
481 emergency medical system in the state.

482 (5) The department shall maintain a roster of no less than five individuals who meet
483 the minimum qualifications for both presiding and hearing officers and the standards set by the
484 department.

485 (6) The parties may mutually select an officer from the roster if the officer is available.

486 (7) If the parties cannot agree upon an officer under Subsection (4), the department
487 shall randomly select an officer from the roster or from a smaller group of the roster agreed
488 upon by the applicant and the objecting interested parties.

489 Section 13. Section **26-8a-501** is amended to read:

490 **26-8a-501. Discrimination.**

491 (1) No person licensed [~~, certified,~~] or designated pursuant to this chapter may
492 discriminate in the provision of emergency medical services on the basis of race, sex, color,

493 creed, or prior inquiry as to ability to pay.

494 (2) This chapter does not authorize or require medical assistance or transportation over
495 the objection of an individual on religious grounds.

496 Section 14. Section **26-8a-502** is amended to read:

497 **26-8a-502. Illegal activity.**

498 (1) Except as provided in Section 26-8a-308 or 26-8b-201, a person may not:

499 (a) practice or engage in the practice, represent [~~himself to be~~] that the person is
500 practicing or engaging in the practice, or attempt to practice or engage in the practice of any
501 activity that requires a license[~~, certification,~~] or designation under this chapter unless that
502 person [~~is so licensed, certified, or designated~~] is licensed or designated under this chapter; or

503 (b) offer an emergency medical service that requires a license[~~, certificate,~~] or
504 designation under this chapter unless the person is [~~so licensed, certified, or designated~~]
505 licensed or designated under this chapter.

506 (2) A person may not advertise or [~~hold himself out as one holding~~] represent that the
507 person holds a license[~~, certification,~~] or designation required under this chapter, unless that
508 person holds the license[~~, certification,~~] or designation under this chapter.

509 (3) A person may not employ or permit any employee to perform any service for which
510 a license [~~or certificate~~] is required by this chapter, unless the person performing the service
511 possesses the required license [~~or certificate~~] under this chapter.

512 (4) A person may not wear, display, sell, reproduce, or otherwise use any Utah
513 Emergency Medical Services insignia without authorization from the department.

514 (5) A person may not reproduce or otherwise use materials developed by the
515 department for [~~certification or recertification~~] licensure testing or examination without
516 authorization from the department.

517 (6) A person may not willfully summon an ambulance or emergency response vehicle
518 or report that one is needed when [~~such~~] the person knows that the ambulance or emergency
519 response vehicle is not needed.

520 (7) A person who violates this section is subject to Section 26-23-6.

521 Section 15. Section **26-8a-503** is amended to read:

522 **26-8a-503. Discipline of emergency medical services personnel.**

523 (1) The department may refuse to issue a [~~certificate~~] license or renewal, or revoke,

524 suspend, restrict, or place on probation an individual's [~~certificate~~] license if:

525 (a) the individual does not meet the qualifications for [~~certification~~] licensure under
526 Section 26-8a-302;

527 (b) the individual has engaged in conduct, as defined by committee rule, that:

528 (i) is unprofessional;

529 (ii) is adverse to the public health, safety, morals, or welfare; or

530 (iii) would adversely affect public trust in the emergency medical service system;

531 (c) the individual has violated Section 26-8a-502 or other provision of this chapter;

532 (d) a court of competent jurisdiction has determined the individual to be mentally
533 incompetent for any reason; or

534 (e) the individual is unable to provide emergency medical services with reasonable
535 skill and safety because of illness, drunkenness, use of drugs, narcotics, chemicals, or any other
536 type of material, or as a result of any other mental or physical condition, when the individual's
537 condition demonstrates a clear and unjustifiable threat or potential threat to oneself, coworkers,
538 or the public health, safety, or welfare that cannot be reasonably mitigated.

539 (2) (a) An action to revoke, suspend, restrict, or place a [~~certificate~~] license on
540 probation shall be done in:

541 (i) consultation with the peer review board created in Section 26-8a-105; and

542 (ii) accordance with Title 63G, Chapter 4, Administrative Procedures Act.

543 (b) Notwithstanding Subsection (2)(a), the department may issue a cease and desist
544 order under Section 26-8a-507 to immediately suspend an individual's [~~certificate~~] license
545 pending an administrative proceeding to be held within 30 days if there is evidence to show
546 that the individual poses a clear, immediate, and unjustifiable threat or potential threat to the
547 public health, safety, or welfare.

548 (3) An individual whose [~~certificate~~] license has been suspended, revoked, or restricted
549 may apply for reinstatement of the [~~certificate~~] license at reasonable intervals and upon
550 compliance with any conditions imposed upon the [~~certificate~~] license by statute, committee
551 rule, or the terms of the suspension, revocation, or restriction.

552 (4) In addition to taking disciplinary action under Subsection (1), the department may
553 impose sanctions in accordance with Section 26-23-6.

554 Section 16. Section 26-8a-506 is amended to read:

555 **26-8a-506. Investigations for enforcement of chapter.**

556 (1) The department may, for the purpose of ascertaining compliance with the
557 provisions of this chapter, enter and inspect on a routine basis the business premises and
558 equipment of a person:

559 (a) with a [~~certificate,~~] designation, permit, or license; or

560 (b) who holds himself out to the general public as providing a service for which a
561 [~~certificate,~~] designation, permit, or license is required under Section 26-8a-301.

562 (2) Before conducting an inspection under Subsection (1), the department shall, after
563 identifying the person in charge:

564 (a) give proper identification;

565 (b) describe the nature and purpose of the inspection; and

566 (c) if necessary, explain the authority of the department to conduct the inspection.

567 (3) In conducting an inspection under Subsection (1), the department may, after
568 meeting the requirements of Subsection (2):

569 (a) inspect records, equipment, and vehicles; and

570 (b) interview personnel.

571 (4) An inspection conducted under Subsection (1) shall be during regular operational
572 hours.

573 Section 17. Section **26-8a-601** is amended to read:

574 **26-8a-601. Persons and activities exempt from civil liability.**

575 (1) (a) Except as provided in Subsection (1)(b), a licensed physician, physician's
576 assistant, or licensed registered nurse who, gratuitously and in good faith, gives oral or written
577 instructions to any of the following is not liable for any civil damages as a result of issuing the
578 instructions:

579 (i) an individual [~~certified~~] licensed under Section 26-8a-302;

580 (ii) a person who uses a fully automated external defibrillator, as defined in Section
581 26-8b-102; or

582 (iii) a person who administers CPR, as defined in Section 26-8b-102.

583 (b) The liability protection described in Subsection (1)(a) does not apply if the
584 instructions given were the result of gross negligence or willful misconduct.

585 (2) An individual [~~certified~~] licensed under Section 26-8a-302, during either training or

586 after [~~certification~~] licensure, a licensed physician, a physician's assistant, or a registered nurse
587 who, gratuitously and in good faith, provides emergency medical instructions or renders
588 emergency medical care authorized by this chapter is not liable for any civil damages as a result
589 of any act or omission in providing the emergency medical instructions or medical care, unless
590 the act or omission is the result of gross negligence or willful misconduct.

591 (3) An individual [~~certified~~] licensed under Section 26-8a-302 is not subject to civil
592 liability for failure to obtain consent in rendering emergency medical services authorized by
593 this chapter to any individual who is unable to give his consent, regardless of the individual's
594 age, where there is no other person present legally authorized to consent to emergency medical
595 care, provided that the [~~certified~~] licensed individual acted in good faith.

596 (4) A principal, agent, contractor, employee, or representative of an agency,
597 organization, institution, corporation, or entity of state or local government that sponsors,
598 authorizes, supports, finances, or supervises any functions of an individual [~~certified~~] licensed
599 under Section 26-8a-302 is not liable for any civil damages for any act or omission in
600 connection with such sponsorship, authorization, support, finance, or supervision of the
601 [~~certified~~] licensed individual where the act or omission occurs in connection with the
602 [~~certified~~] licensed individual's training or occurs outside a hospital where the life of a patient
603 is in immediate danger, unless the act or omission is inconsistent with the training of the
604 [~~certified~~] licensed individual, and unless the act or omission is the result of gross negligence
605 or willful misconduct.

606 (5) A physician who gratuitously and in good faith arranges for, requests, recommends,
607 or initiates the transfer of a patient from a hospital to a critical care unit in another hospital is
608 not liable for any civil damages as a result of such transfer where:

609 (a) sound medical judgment indicates that the patient's medical condition is beyond the
610 care capability of the transferring hospital or the medical community in which that hospital is
611 located; and

612 (b) the physician has secured an agreement from the receiving facility to accept and
613 render necessary treatment to the patient.

614 (6) A person who is a registered member of the National Ski Patrol System (NSPS) or
615 a member of a ski patrol who has completed a course in winter emergency care offered by the
616 NSPS combined with CPR for medical technicians offered by the American Red Cross or

617 American Heart Association, or an equivalent course of instruction, and who in good faith
618 renders emergency care in the course of ski patrol duties is not liable for civil damages as a
619 result of any act or omission in rendering the emergency care, unless the act or omission is the
620 result of gross negligence or willful misconduct.

621 (7) An emergency medical service provider who, in good faith, transports an individual
622 against his will but at the direction of a law enforcement officer pursuant to Section
623 [62A-15-629](#) is not liable for civil damages for transporting the individual.

624 Section 18. Section **41-6a-523** is amended to read:

625 **41-6a-523. Persons authorized to draw blood -- Immunity from liability.**

626 (1) (a) Only the following, acting at the request of a peace officer, may draw blood to
627 determine its alcohol or drug content:

628 (i) a physician;

629 (ii) a registered nurse;

630 (iii) a licensed practical nurse;

631 (iv) a paramedic;

632 (v) as provided in Subsection (1)(b), emergency medical service personnel other than
633 paramedics; or

634 (vi) a person with a valid permit issued by the Department of Health under Section
635 [26-1-30](#).

636 (b) The Department of Health may designate by rule, in accordance with Title 63G,
637 Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel,
638 as defined in Section [26-8a-102](#), are authorized to draw blood under Subsection (1)(a)(v),
639 based on ~~[their]~~ the type of ~~[certification]~~ license under Section [26-8a-302](#).

640 (c) Subsection (1)(a) does not apply to taking a urine, breath, or oral fluid specimen.

641 (2) The following are immune from civil or criminal liability arising from drawing a
642 blood sample from a person whom a peace officer has reason to believe is driving in violation
643 of this chapter, if the sample is drawn in accordance with standard medical practice:

644 (a) a person authorized to draw blood under Subsection (1)(a); and

645 (b) if the blood is drawn at a hospital or other medical facility, the medical facility.

646 Section 19. Section **53-10-405** is amended to read:

647 **53-10-405. DNA specimen analysis -- Saliva sample to be obtained by agency --**

648 **Blood sample to be drawn by professional.**

649 (1) (a) A saliva sample shall be obtained by the responsible agency under Subsection
650 53-10-404(5).

651 (b) The sample shall be obtained in a professionally acceptable manner, using
652 appropriate procedures to ensure the sample is adequate for DNA analysis.

653 (2) (a) A blood sample shall be drawn in a medically acceptable manner by any of the
654 following:

655 (i) a physician;

656 (ii) a registered nurse;

657 (iii) a licensed practical nurse;

658 (iv) a paramedic;

659 (v) as provided in Subsection (2)(b), emergency medical service personnel other than
660 paramedics; or

661 (vi) a person with a valid permit issued by the Department of Health under Section
662 26-1-30.

663 (b) The Department of Health may designate by rule, in accordance with Title 63G,
664 Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel,
665 as defined in Section 26-8a-102, are authorized to draw blood under Subsection (2)(a)(v),
666 based on [~~their~~] the type of [~~certification~~] license under Section 26-8a-302.

667 (c) A person authorized by this section to draw a blood sample may not be held civilly
668 liable for drawing a sample in a medically acceptable manner.

669 (3) A test result or opinion based upon a test result regarding a DNA specimen may not
670 be rendered inadmissible as evidence solely because of deviations from procedures adopted by
671 the department that do not affect the reliability of the opinion or test result.

672 (4) A DNA specimen is not required to be obtained if:

673 (a) the court or the responsible agency confirms with the department that the
674 department has previously received an adequate DNA specimen obtained from the person in
675 accordance with this section; or

676 (b) the court determines that obtaining a DNA specimen would create a substantial and
677 unreasonable risk to the health of the person.

678 Section 20. Section 58-1-307 is amended to read:

679 **58-1-307. Exemptions from licensure.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

720 (j) the spouse of an individual serving in the armed forces of the United States while
721 the individual is stationed within this state, provided:

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

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

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

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

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

734 (4) Upon the declaration of a national, state, or local emergency, a public health
735 emergency as defined in Section [26-23b-102](#), or a declaration by the president of the United
736 States or other federal official requesting public health-related activities, the division in
737 collaboration with the board may:

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

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

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

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

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

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

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

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

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

755 (c) suspend the requirements for licensure under this title and modify the scope of
756 practice in the circumstances described in this Subsection (4) and Subsection (5) for medical
757 services personnel or paramedics required to be [~~certified~~] licensed under Section [26-8a-302](#);

758 (d) suspend requirements in Subsections [58-17b-620](#)(3) through (6) which require
759 certain prescriptive procedures;

760 (e) exempt or modify the requirement for licensure of an individual who is activated as
761 a member of a medical reserve corps during a time of emergency as provided in Section
762 [26A-1-126](#); and

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

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

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

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

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

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

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

775 (6) In accordance with the protocols established under Subsection (8), upon the
776 declaration of a national, state, or local emergency, the Department of Health or a local health
777 department shall coordinate with public safety authorities as defined in Subsection
778 26-23b-110(1) and may:

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

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

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

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

789 (A) a pharmacy;

790 (B) a prescribing practitioner;

791 (C) a licensed health care facility;

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

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

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

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

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

801 (8) The Department of Health shall establish by rule, made in accordance with Title
802 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for administering, dispensing,

803 and distributing a vaccine, an antiviral, an antibiotic, or other prescription medication that is
804 not a controlled substance in the event of a declaration of a national, state, or local emergency.
805 The protocol shall establish procedures for the Department of Health or a local health
806 department to:

807 (a) coordinate the distribution of:

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

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

814 (b) authorize the dispensing, administration, or distribution of a vaccine, an antiviral,
815 an antibiotic, or other prescription medication that is not a controlled substance to the contact
816 of a patient without a patient-practitioner relationship, if the contact's condition is the same as
817 that of the physician's patient; and

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

820 (i) is working in a triage situation;

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

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

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

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

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

829 Section 21. Section **72-10-502** is amended to read:

830 **72-10-502. Implied consent to chemical tests for alcohol or drugs -- Number of**
831 **tests -- Refusal -- Person incapable of refusal -- Results of test available -- Who may give**
832 **test -- Evidence -- Immunity from liability.**

833 (1) (a) A person operating an aircraft in this state consents to a chemical test or tests of

834 the person's breath, blood, urine, or oral fluids:

835 (i) for the purpose of determining whether the person was operating or in actual
836 physical control of an aircraft while having a blood or breath alcohol content statutorily
837 prohibited under Section 72-10-501, or while under the influence of alcohol, any drug, or
838 combination of alcohol and any drug under Section 72-10-501, if the test is or tests are
839 administered at the direction of a peace officer having grounds to believe that person to have
840 been operating or in actual physical control of an aircraft in violation of Section 72-10-501; or

841 (ii) if the person operating the aircraft is involved in an accident that results in death,
842 serious injury, or substantial aircraft damage.

843 (b) (i) The peace officer determines which of the tests are administered and how many
844 of them are administered.

845 (ii) The peace officer may order any or all tests of the person's breath, blood, urine, or
846 oral fluids.

847 (iii) If an officer requests more than one test, refusal by a person to take one or more
848 requested tests, even though the person does submit to any other requested test or tests, is a
849 refusal under this section.

850 (c) (i) A person who has been requested under this section to submit to a chemical test
851 or tests of the person's breath, blood, urine, or oral fluids may not select the test or tests to be
852 administered.

853 (ii) The failure or inability of a peace officer to arrange for any specific chemical test is
854 not a defense to taking a test requested by a peace officer, and it is not a defense in any
855 criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the
856 requested test or tests.

857 (2) (a) If the person has been placed under arrest and has then been requested by a
858 peace officer to submit to any one or more of the chemical tests provided in Subsection (1) and
859 refuses to submit to any chemical test, the person shall be warned by the peace officer
860 requesting the test that a refusal to submit to the test is admissible in civil or criminal
861 proceedings as provided under Subsection (8).

862 (b) Following this warning, unless the person immediately requests that the chemical
863 test offered by a peace officer be administered, a test may not be given.

864 (3) Any person who is dead, unconscious, or in any other condition rendering the

865 person incapable of refusal to submit to any chemical test or tests is considered to not have
866 withdrawn the consent provided for in Subsection (1), and the test or tests may be administered
867 whether the person has been arrested or not.

868 (4) Upon the request of the person who was tested, the results of the test or tests shall
869 be made available to that person.

870 (5) (a) Only the following, acting at the request of a peace officer, may draw blood to
871 determine its alcohol or drug content:

872 (i) a physician;

873 (ii) a registered nurse;

874 (iii) a licensed practical nurse;

875 (iv) a paramedic;

876 (v) as provided in Subsection (5)(b), emergency medical service personnel other than
877 paramedics; or

878 (vi) a person with a valid permit issued by the Department of Health under Section
879 [26-1-30](#).

880 (b) The Department of Health may designate by rule, in accordance with Title 63G,
881 Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel,
882 as defined in Section [26-8a-102](#), are authorized to draw blood under Subsection (5)(a)(v),
883 based on ~~[their]~~ the type of ~~[certification]~~ license under Section [26-8a-302](#).

884 (c) Subsection (5)(a) does not apply to taking a urine, breath, or oral fluid specimen.

885 (d) The following are immune from civil or criminal liability arising from drawing a
886 blood sample from a person who a peace officer has reason to believe is flying in violation of
887 this chapter if the sample is drawn in accordance with standard medical practice:

888 (i) a person authorized to draw blood under Subsection (5)(a); and

889 (ii) if the blood is drawn at a hospital or other medical facility, the medical facility.

890 (6) (a) The person to be tested may, at the person's own expense, have a physician of
891 the person's own choice administer a chemical test in addition to the test or tests administered
892 at the direction of a peace officer.

893 (b) The failure or inability to obtain the additional test does not affect admissibility of
894 the results of the test or tests taken at the direction of a peace officer, or preclude or delay the
895 test or tests to be taken at the direction of a peace officer.

896 (c) The additional test shall be subsequent to the test or tests administered at the
897 direction of a peace officer.

898 (7) For the purpose of determining whether to submit to a chemical test or tests, the
899 person to be tested does not have the right to consult an attorney or have an attorney, physician,
900 or other person present as a condition for the taking of any test.

901 (8) If a person under arrest refuses to submit to a chemical test or tests or any
902 additional test under this section, evidence of any refusal is admissible in any civil or criminal
903 action or proceeding arising out of acts alleged to have been committed while the person was
904 operating or in actual physical control of an aircraft while under the influence of alcohol, any
905 drug, or combination of alcohol and any drug.

906 (9) The results of any test taken under this section or the refusal to be tested shall be
907 reported to the Federal Aviation Administration by the peace officer requesting the test.

908 Section 22. Section **76-5-102.7** is amended to read:

909 **76-5-102.7. Assault against health care provider and emergency medical service**
910 **worker -- Penalty.**

911 (1) A person who assaults a health care provider or emergency medical service worker
912 is guilty of a class A misdemeanor if:

913 (a) the person is not a prisoner or a person detained under Section [77-7-15](#);

914 (b) the person knew that the victim was a health care provider or emergency medical
915 service worker; and

916 (c) the health care provider or emergency medical service worker was performing
917 emergency or life saving duties within the scope of his or her authority at the time of the
918 assault.

919 (2) A person who violates Subsection (1) is guilty of a third degree felony if the
920 person:

921 (a) causes substantial bodily injury, as defined in Section [76-1-601](#); and

922 (b) acts intentionally or knowingly.

923 (3) As used in this section:

924 (a) "Emergency medical service worker" means a person [~~certified~~] licensed under
925 Section [26-8a-302](#).

926 (b) "Health care provider" means the same as that term is defined in Section

927 78B-3-403.

928 Section 23. Section 78A-6-209 is amended to read:

929 **78A-6-209. Court records -- Inspection.**

930 (1) The court and the probation department shall keep records as required by the board
931 and the presiding judge.

932 (2) Court records shall be open to inspection by:

933 (a) the parents or guardian of a child, a minor who is at least 18 years of age, other
934 parties in the case, the attorneys, and agencies to which custody of a minor has been
935 transferred;

936 (b) for information relating to adult offenders alleged to have committed a sexual
937 offense, a felony or class A misdemeanor drug offense, or an offense against the person under
938 Title 76, Chapter 5, Offenses Against the Person, the State Board of Education for the purpose
939 of evaluating whether an individual should be permitted to obtain or retain a license as an
940 educator or serve as an employee or volunteer in a school, with the understanding that the State
941 Board of Education must provide the individual with an opportunity to respond to any
942 information gathered from its inspection of the records before it makes a decision concerning
943 licensure or employment;

944 (c) the Criminal Investigations and Technical Services Division, established in Section
945 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm
946 and establishing good character for issuance of a concealed firearm permit as provided in
947 Section 53-5-704;

948 (d) the Division of Child and Family Services for the purpose of Child Protective
949 Services Investigations in accordance with Sections 62A-4a-403 and 62A-4a-409 and
950 administrative hearings in accordance with Section 62A-4a-1009;

951 (e) the Office of Licensing for the purpose of conducting a background check in
952 accordance with Section 62A-2-120;

953 (f) for information related to a juvenile offender who has committed a sexual offense, a
954 felony, or an offense that if committed by an adult would be a misdemeanor, the Department of
955 Health for the purpose of evaluating under the provisions of Subsection 26-39-404(3) whether
956 a licensee should be permitted to obtain or retain a license to provide child care, with the
957 understanding that the department must provide the individual who committed the offense with

958 an opportunity to respond to any information gathered from its inspection of records before it
959 makes a decision concerning licensure;

960 (g) for information related to a juvenile offender who has committed a sexual offense,
961 a felony, or an offense that if committed by an adult would be a misdemeanor, the Department
962 of Health to determine whether an individual meets the background screening requirements of
963 Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access, with the understanding that
964 the department must provide the individual who committed the offense an opportunity to
965 respond to any information gathered from its inspection of records before it makes a decision
966 under that part; and

967 (h) for information related to a juvenile offender who has committed a sexual offense,
968 a felony, or an offense that if committed by an adult would be a misdemeanor, the Department
969 of Health to determine whether to grant, deny, or revoke background clearance under Section
970 [26-8a-310](#) for an individual who is seeking or who has obtained an emergency medical service
971 personnel [~~certification~~] license under Section [26-8a-302](#), with the understanding that the
972 department must provide the individual who committed the offense an opportunity to respond
973 to any information gathered from the department's inspection of records before it makes a
974 determination.

975 (3) With the consent of the judge, court records may be inspected by the child, by
976 persons having a legitimate interest in the proceedings, and by persons conducting pertinent
977 research studies.

978 (4) If a petition is filed charging a minor 14 years of age or older with an offense that
979 would be a felony if committed by an adult, the court shall make available to any person upon
980 request the petition, any adjudication or disposition orders, and the delinquency history
981 summary of the minor charged unless the records are closed by the court upon findings on the
982 record for good cause.

983 (5) Probation officers' records and reports of social and clinical studies are not open to
984 inspection, except by consent of the court, given under rules adopted by the board.

985 (6) (a) Any juvenile delinquency adjudication or disposition orders and the delinquency
986 history summary of any person charged as an adult with a felony offense shall be made
987 available to any person upon request.

988 (b) This provision does not apply to records that have been destroyed or expunged in

989 accordance with court rules.

990 (c) The court may charge a reasonable fee to cover the costs associated with retrieving
991 a requested record that has been archived.

992 Section 24. Section **78B-8-401** is amended to read:

993 **78B-8-401. Definitions.**

994 For purposes of this chapter:

995 (1) "Blood or contaminated body fluids" includes blood, saliva, amniotic fluid,
996 pericardial fluid, peritoneal fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen, and
997 vaginal secretions, and any body fluid visibly contaminated with blood.

998 (2) "Disease" means Human Immunodeficiency Virus infection, acute or chronic
999 Hepatitis B infection, Hepatitis C infection, and any other infectious disease specifically
1000 designated by the Labor Commission in consultation with the Department of Health for the
1001 purposes of this chapter.

1002 (3) "Emergency services provider" means:

1003 (a) an individual [~~certified~~] licensed under Section [26-8a-302](#), a public safety officer,
1004 local fire department personnel, or personnel employed by the Department of Corrections or by
1005 a county jail, who provide prehospital emergency care for an emergency services provider
1006 either as an employee or as a volunteer; or

1007 (b) an individual who provides for the care, control, support, or transport of a prisoner.

1008 (4) "First aid volunteer" means a person who provides voluntary emergency assistance
1009 or first aid medical care to an injured person prior to the arrival of an emergency medical
1010 services provider or public safety officer.

1011 (5) "Prisoner" is as defined in Section [76-5-101](#).

1012 (6) "Public safety officer" means a peace officer as defined in Title 53, Chapter 13,
1013 Peace Officer Classifications.

1014 (7) "Significant exposure" and "significantly exposed" mean:

1015 (a) exposure of the body of one person to the blood or body fluids of another person
1016 by:

1017 (i) percutaneous injury, including a needle stick, cut with a sharp object or instrument,
1018 or a wound resulting from a human bite, scratch, or similar force; or

1019 (ii) contact with an open wound, mucous membrane, or nonintact skin because of a cut,

1020 abrasion, dermatitis, or other damage; or
1021 (b) exposure that occurs by any other method of transmission defined by the
1022 Department of Health as a significant exposure.

Legislative Review Note
Office of Legislative Research and General Counsel