

SB0203S02 compared with SB0203S01

~~text~~ shows text that was in SB0203S01 but was deleted in SB0203S02.

Inserted text shows text that was not in SB0203S01 but was inserted into SB0203S02.

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Senator Curtis S. Bramble proposes the following substitute bill:

PHYSICIAN ASSISTANT AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: ~~text~~ James A. Dunnigan

LONG TITLE

General Description:

This bill amends provisions relating to practice as a physician assistant.

Highlighted Provisions:

This bill:

- ▶ amends the Insect Infestation Emergency Control Act to allow a physician assistant to sign an affidavit stating that a planned treatment for controlling an insect infestation emergency is a danger to the health of the owner or occupant of a property;
- ▶ amends the Residential, Vocational and Life Skills Program Act to allow a physician assistant to grant certain clearances;
- ▶ amends the Professional Corporation Act's definition of "professional service" to include a personal service rendered by a physician assistant;

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- ▶ amends the Election Code to allow a physician assistant to certify that a party's candidate has acquired a physical or mental disability;
- ▶ amends the Wildlife Resources Code of Utah to allow a physician assistant to make certain certifications with respect to licenses, certificates, or permits;
- ▶ amends the Utah Vital Statistics Act to allow a physician assistant to complete and file a birth certificate for a live birth that occurs outside a birthing facility;
- ▶ amends the Utah Medical Examiner Act to:
 - include the death of a person who has not been seen by a physician assistant in the definition of an "unattended death";
 - allow a physician assistant to certify cause of death in certain instances; and
 - require the state medical examiner to provide a copy of a final report of examination to a physician assistant, upon written request by the physician assistant;
- ▶ amends the Utah Communicable Disease Control Act to include a physician assistant among those:
 - from whom the Department of Health suggests a person should seek screening for a sexually transmitted disease;
 - to whom a person with venereal disease is required to report;
 - recognized to provide medical care or services to a minor who may be afflicted with a sexually transmitted disease;
 - to whom a person may be required by the Department of Health to report at the time of the expiration of the person's term of imprisonment; and
 - authorized to take a blood sample from a pregnant or recently delivered woman;
- ▶ amends the Utah Health Code to include a physician assistant among those who may find that an individual or group is subject to examination, treatment, isolation, or quarantine;
- ▶ amends the Utah Emergency Medical Services System Act by:
 - amending the composition of the Trauma System Advisory Committee within the Department of Health; and
 - extending certain immunities to a physician assistant;
- ▶ amends the composition of certain committees within the Utah Statewide Stroke

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and Cardiac Registry Act to include physician assistants;

- ▶ amends the Utah Health Code to include a physician assistant among those whose diagnosis of hearing loss in a child younger than six years old satisfies a requirement for obtaining hearing aids from a program offered by the Department of Health;
- ▶ amends the Medical Assistance Act to prohibit a pharmacist from altering an outpatient drug therapy prescribed by a physician assistant without the consent of the physician assistant when conducting a prospective drug utilization review;
- ▶ amends the Revised Uniform Anatomical Gift Act to include a physician assistant who:
 - attends a decedent's death and a physician assistant who determines the time of a decedent's death among those who are prohibited from participating in the procedures for removing or transplanting a part from the decedent; and
 - is qualified to remove a donated part from the body of a donor among those authorized to remove the part;
- ▶ amends the Utah Health Data Authority Act definition of "health care provider" to include a physician assistant;
- ▶ amends the Family Planning Access Act to permit a physician assistant to issue certain standing prescription orders;
- ▶ amends the Insurance Code to include:
 - certain physician assistants among those from whom an insured may be required by a health insurance policy to select as a primary care provider; and
 - certain consultations involving a physician assistant among the telepsychiatric consultations that must be covered by a health benefit plan that offers coverage for mental health services;
- ▶ amends the Motor Vehicle Act to include a physician assistant among those who may certify specified information about a person with a disability who is applying for a disability special group license plate, a temporary removable windshield placard, or a removable windshield placard;
- ▶ amends the Traffic Code to include a physician assistant among those who may administer certain chemical tests or draw blood under certain circumstances;

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- ▶ amends the Motor Vehicle Safety Belt Usage Act to include a physician assistant among those who may provide written verification that an operator or passenger of a motor vehicle is unable to wear a safety belt for physical or medical reasons;
- ▶ amends the Unincorporated Business Entity Act definition of "professional services" to include a personal service provided by a physician assistant;
- ▶ amends the Public Employees' Contributory Retirement Act to include a physician assistant among those who may be appointed by the Utah State Retirement Board to conduct certain medical examinations;
- ▶ amends the Firefighters' Retirement Act to include a physician assistant among those who may make certain evaluations, diagnoses, and recommendations;
- ▶ amends the Public Employees' Long-Term Disability Act to include a physician assistant among those:
 - under whom an eligible employee may receive ongoing care and treatment; and
 - who may set forth the limitations of an office-approved rehabilitation program;
- ▶ amends the Statewide Mutual Aid Act definition of "emergency responder" to include a physician assistant;
- ~~▶ amends the Uniform Driver License Act definition of "health care professional" to include a physician assistant;~~
- ‡ ▶ amends the Criminal Investigations and Technical Services Act to include a physician assistant among those who may draw a blood sample in a medically acceptable manner;
- ▶ permits a physician assistant to:
 - receive information from a behavioral health information form completed by school personnel at the request of a student's parent;
 - be included in a list of health care providers that a school counselor or other mental health professional working within a school system may provide to a parent or guardian;
 - permit a student to possess or self-apply certain sunscreens;
 - train nonlicensed volunteers to administer glucagon; and
 - train a nonlicensed school employee who volunteers to administer a seizure rescue medication;

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- ▶ amends the Public Telecommunications Law to include a physician assistant among those who may certify that a state resident is deaf, hard of hearing, or severely speech impaired;
- ▶ amends the Division of Occupational and Professional Licensing Act~~};~~
 - ~~};~~ to require the Department of Health to establish certain procedures to authorize the dispensing, administration, or distribution of a vaccine, an antiviral, an antibiotic, or other prescription medication~~}; and~~
 - ~~definition of "anatomic pathology services" to include certain services performed or requested by a physician assistant};~~
- ▶ amends the Speech-Language Pathology and Audiology Licensing Act to exempt certain physician assistants from the licensing requirement;
- ▶ amends the Hearing Instrument Specialist Licensing Act to:
 - exempt certain physician assistants from the licensing requirement; and
 - permit a physician assistant to receive certain referrals and issue certain prescriptions;
- ▶ amends the Massage Therapy Practice Act to exempt a physician assistant from the licensing requirement;
- ▶ renames the Physician Assistant Act as the Utah Physician Assistant Act;
- ▶ amends the Genetic Counselors Licensing Act to exempt certain physician assistants from the licensing requirement;
- ▶ amends the Utah Human Services Code to permit a physician assistant to take photographs of the areas of trauma visible on a child and, if medically indicated, perform radiological examinations;
- ▶ amends the Government Records Access and Management Act to include a physician assistant among those to whom a governmental entity shall, under certain conditions, disclose a controlled record upon request;
- ▶ amends the Pete Suazo Utah Athletic Commission Act to include a physician assistant in certain definitions;
- ▶ allows a physician assistant to serve on a Children's Justice Center local advisory board or the Advisory Board on Children's Justice;
- ▶ amends the Utah Criminal Code to~~};~~

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- ~~permit} {a physician assistant to provide certain medical services; and~~
- }specify that certain sexual offenses committed by a "health professional" include offenses committed by a physician assistant;
- ▶ amends the Utah Code of Criminal Procedure to include a physician assistant among those who may draw blood;
- ▶ amends the Judicial Code to include physician assistants in certain provisions relating to other health care professionals; and
- ▶ makes corresponding and other technical amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 4-35-107, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 13-53-107, as enacted by Laws of Utah 2018, Chapter 252
- 16-11-2, as last amended by Laws of Utah 2011, Chapter 289
- 20A-1-501, as last amended by Laws of Utah 2016, Chapter 16
- 23-19-36, as last amended by Laws of Utah 2011, Chapter 366
- 23-19-38, as last amended by Laws of Utah 2010, Chapter 288
- 26-2-5, as last amended by Laws of Utah 2008, Chapter 3
- 26-4-2, as last amended by Laws of Utah 2018, Chapters 326 and 414
- 26-4-14, as last amended by Laws of Utah 1993, Chapter 38
- 26-4-17, as last amended by Laws of Utah 2018, Chapter 414
- 26-6-3, as last amended by Laws of Utah 2011, Chapter 297
- 26-6-17, as enacted by Laws of Utah 1981, Chapter 126
- 26-6-18, as last amended by Laws of Utah 2011, Chapter 297
- 26-6-19, as enacted by Laws of Utah 1981, Chapter 126
- 26-6-20, as last amended by Laws of Utah 2011, Chapter 297
- 26-6b-5, as last amended by Laws of Utah 2008, Chapter 115
- 26-8a-251, as enacted by Laws of Utah 2000, Chapter 305

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26-8a-601, as last amended by Laws of Utah 2017, Chapter 326
26-8d-104, as enacted by Laws of Utah 2018, Chapter 104
26-8d-105, as enacted by Laws of Utah 2018, Chapter 104
26-10-11, as last amended by Laws of Utah 2018, Chapter 415
26-18-107, as enacted by Laws of Utah 1992, Chapter 273
26-21-7, as last amended by Laws of Utah 2011, Chapter 161
26-28-114, as last amended by Laws of Utah 2011, Chapter 297
26-33a-102, as last amended by Laws of Utah 2016, Chapter 74
26-64-105, as enacted by Laws of Utah 2018, Chapter 295
26-64-107, as enacted by Laws of Utah 2018, Chapter 295
31A-22-624, as last amended by Laws of Utah 2002, Chapter 308
31A-22-649, as enacted by Laws of Utah 2018, Chapter 119
41-1a-420, as last amended by Laws of Utah 2017, Chapter 41
41-6a-520, as last amended by Laws of Utah 2018, Chapter 35
41-6a-523, as last amended by Laws of Utah 2017, Chapter 326
41-6a-1804, as last amended by Laws of Utah 2018, Chapter 113
48-1d-102, as enacted by Laws of Utah 2013, Chapter 412
48-3a-1101, as enacted by Laws of Utah 2013, Chapter 412
49-12-601, as last amended by Laws of Utah 2011, Chapter 366
49-16-102, as last amended by Laws of Utah 2017, Chapter 93
49-16-602, as last amended by Laws of Utah 2011, Chapter 366
49-21-402, as last amended by Laws of Utah 2018, Chapter 185
49-21-406, as last amended by Laws of Utah 2015, Chapter 328
53-2a-302, as renumbered and amended by Laws of Utah 2013, Chapter 295
~~† **53-3-302**, as enacted by Laws of Utah 1993, Chapter 234~~
† **53-10-405**, as last amended by Laws of Utah 2017, Chapter 326
53G-9-203, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-9-208, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-9-504, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-9-505, as renumbered and amended by Laws of Utah 2018, Chapter 3
54-8b-10, as last amended by Laws of Utah 2017, Chapters 43 and 423

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58-1-307, as last amended by Laws of Utah 2017, Chapter 326

~~{ 58-1-501.5, as last amended by Laws of Utah 2008, Chapter 250~~

† 58-41-4, as last amended by Laws of Utah 2018, Chapter 415

58-46a-305, as last amended by Laws of Utah 2004, Chapter 90

58-46a-502, as last amended by Laws of Utah 2015, Chapter 252

58-47b-304, as last amended by Laws of Utah 2014, Chapters 330, 348 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 330

58-70a-101, as enacted by Laws of Utah 1997, Chapter 229

58-70a-305, as last amended by Laws of Utah 2016, Chapter 238

58-75-304, as enacted by Laws of Utah 2001, Chapter 100

62A-4a-406, as last amended by Laws of Utah 2008, Chapter 299

63G-2-202, as last amended by Laws of Utah 2018, Chapter 270

63N-10-102, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-10-301, as renumbered and amended by Laws of Utah 2015, Chapter 283

67-5b-105, as last amended by Laws of Utah 2016, Chapter 290

67-5b-106, as last amended by Laws of Utah 2016, Chapter 290

~~{ 76-5-110, as last amended by Laws of Utah 2011, Chapter 366~~

† 76-5-406, as last amended by Laws of Utah 2018, Chapter 176

77-23-213, as enacted by Laws of Utah 2018, Chapter 35

78B-1-137, as renumbered and amended by Laws of Utah 2008, Chapter 3

78B-2-114, as renumbered and amended by Laws of Utah 2008, Chapter 3

78B-3-403, as last amended by Laws of Utah 2013, Chapter 104

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

Section 1. Section **4-35-107** is amended to read:

4-35-107. Notice to owner or occupant -- Corrective action required -- Directive issued by department -- Costs -- Owner or occupant may prohibit treatment.

(1) The department or an authorized agent of the department shall notify the owner or occupant of the problem and the available alternatives to remedy the problem. The owner or occupant shall take corrective action within 30 days.

(2) (a) If the owner or occupant fails to take corrective action under Subsection (1), the

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department may issue a directive for corrective action which shall be taken within 15 days.

(b) If the owner or occupant fails to act within the required time, the department shall take the necessary action.

(c) The department may recover costs incurred for controlling an insect infestation emergency from the owner or occupant of the property on whose property corrective action was taken.

(3) (a) Owners or occupants of property may prohibit treatment by presenting an affidavit from the owner's or occupant's attending physician or physician assistant to the department which states that the treatment as planned is a danger to the owner's or occupant's health.

(b) The department shall provide the owner or occupant with alternatives to treatment which will abate the infestation.

Section 2. Section **13-53-107** is amended to read:

13-53-107. Participant screening.

(1) A residential, vocational and life skills program shall interview and screen all prospective participants for medical prescriptions, physical and mental health history, and recent alcohol or drug use.

(2) Unless an individual obtains a medical clearance from a physician or physician assistant, a residential, vocational and life skills program may not have as a participant an individual who:

(a) has a recent diagnosis of a mental, social, psychiatric, or psychological illness; or

(b) has an active prescription for medication for a mental, social, psychiatric, or psychological illness.

(3) A residential, vocational and life skills program may not admit a minor.

Section 3. Section **16-11-2** is amended to read:

16-11-2. Definitions.

As used in this chapter:

(1) "Filed" means the division has received and approved, as to form, a document submitted under this chapter, and has marked on the face of the document a stamp or seal indicating the time of day and date of approval, the name of the division, the division director's signature and division seal, or facsimiles of the signature or seal.

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(2) "Professional corporation" means a corporation organized under this chapter.

(3) "Professional service" means the personal service rendered by:

(a) a physician, surgeon, or doctor of medicine holding a license under Title 58, Chapter 67, Utah Medical Practice Act, and any subsequent laws regulating the practice of medicine;

(b) a doctor of dentistry holding a license under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act, and any subsequent laws regulating the practice of dentistry;

(c) an osteopathic physician or surgeon holding a license under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, and any subsequent laws regulating the practice of osteopathy;

(d) a physician assistant holding a license under Title 58, Chapter 70a, Utah Physician Assistant Act, and any subsequent laws regulating the practice as a physician assistant;

~~[(d)]~~ (e) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician Practice Act, and any subsequent laws regulating the practice of chiropractics;

~~[(e)]~~ (f) a podiatric physician holding a license under Title 58, Chapter 5a, Podiatric Physician Licensing Act, and any subsequent laws regulating the practice of podiatry;

~~[(f)]~~ (g) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry Practice Act, and any subsequent laws regulating the practice of optometry;

~~[(g)]~~ (h) a veterinarian holding a license under Title 58, Chapter 28, Veterinary Practice Act, and any subsequent laws regulating the practice of veterinary medicine;

~~[(h)]~~ (i) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act, and any subsequent laws regulating the practice of architecture;

~~[(i)]~~ (j) a public accountant holding a license under Title 58, Chapter 26a, Certified Public Accountant Licensing Act, and any subsequent laws regulating the practice of public accounting;

~~[(j)]~~ (k) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician Practice Act, and any subsequent laws regulating the practice of naturopathy;

~~[(k)]~~ (l) a pharmacist holding a license under Title 58, Chapter 17b, Pharmacy Practice Act, and any subsequent laws regulating the practice of pharmacy;

~~[(l)]~~ (m) an attorney granted the authority to practice law by:

(i) the Utah Supreme Court; or

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(ii) the Supreme Court, other court, agency, instrumentality, or regulating board that licenses or regulates the authority to practice law in any state or territory of the United States other than Utah;

~~[(m)]~~ (n) a professional engineer registered under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

~~[(n)]~~ (o) a principal broker, associate broker, or sales agent holding a license under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, and any subsequent laws regulating the selling, exchanging, purchasing, renting, or leasing of real estate;

~~[(o)]~~ (p) a psychologist holding a license under Title 58, Chapter 61, Psychologist Licensing Act, and any subsequent laws regulating the practice of psychology;

~~[(p)]~~ (q) a clinical or certified social worker holding a license under Title 58, Chapter 60, Part 2, Social Worker Licensing Act, and any subsequent laws regulating the practice of social work;

~~[(q)]~~ (r) a physical therapist holding a license under Title 58, Chapter 24b, Physical Therapy Practice Act, and any subsequent laws regulating the practice of physical therapy;

~~[(r)]~~ (s) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58, Chapter 44a, Nurse Midwife Practice Act;

~~[(s)]~~ (t) a landscape architect licensed under Title 58, Chapter 53, Landscape Architects Licensing Act, and any subsequent laws regulating landscape architects; or

~~[(t)]~~ (u) an individual licensed, certified, or registered under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, and any subsequent laws regulating the practice of appraising real estate.

(4) "Regulating board" means the board that is charged with the licensing and regulation of the practice of the profession which the professional corporation is organized to render. The definitions of Title 16, Chapter 10a, Utah Revised Business Corporation Act, apply to this chapter unless the context clearly indicates that a different meaning is intended.

Section 4. Section **20A-1-501** is amended to read:

20A-1-501. Candidate vacancies -- Procedure for filling.

(1) The state central committee of a political party, for candidates for United States senator, United States representative, governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for legislative candidates whose legislative districts encompass

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more than one county, and the county central committee of a political party, for all other party candidates seeking an office elected at a regular general election, may certify the name of another candidate to the appropriate election officer if:

(a) for a registered political party that will have a candidate on a ballot in a primary election, after the close of the period for filing a declaration of candidacy and continuing through the day before the day on which the lieutenant governor provides the list described in Subsection 20A-9-403(4)(a):

(i) only one or two candidates from that party have filed a declaration of candidacy for that office; and

(ii) one or both:

(A) dies;

(B) resigns because of acquiring a physical or mental disability, certified by a physician or physician assistant, that prevents the candidate from continuing the candidacy; or

(C) is disqualified by an election officer for improper filing or nominating procedures;

(b) for a registered political party that does not have a candidate on the ballot in a primary, but that will have a candidate on the ballot for a general election, after the close of the period for filing a declaration of candidacy and continuing through the day before the day on which the lieutenant governor makes the certification described in Section 20A-5-409, the party's candidate:

(i) dies;

(ii) resigns because of acquiring a physical or mental disability as certified by a physician or physician assistant;

(iii) is disqualified by an election officer for improper filing or nominating procedures;

or

(iv) resigns to become a candidate for president or vice president of the United States;

or

(c) for a registered political party with a candidate certified as winning a primary election, after the deadline described in Subsection (1)(a) and continuing through the day before that day on which the lieutenant governor makes the certification described in Section 20A-5-409, the party's candidate:

(i) dies;

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(ii) resigns because of acquiring a physical or mental disability as certified by a physician or physician assistant;

(iii) is disqualified by an election officer for improper filing or nominating procedures;

or

(iv) resigns to become a candidate for president or vice president of the United States.

(2) If no more than two candidates from a political party have filed a declaration of candidacy for an office elected at a regular general election and one resigns to become the party candidate for another position, the state central committee of that political party, for candidates for governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for legislative candidates whose legislative districts encompass more than one county, and the county central committee of that political party, for all other party candidates, may certify the name of another candidate to the appropriate election officer.

(3) Each replacement candidate shall file a declaration of candidacy as required by Title 20A, Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy.

(4) (a) The name of a candidate who is certified under Subsection (1)(a) after the deadline described in Subsection (1)(a) may not appear on the primary election ballot.

(b) The name of a candidate who is certified under Subsection (1)(b) after the deadline described in Subsection (1)(b) may not appear on the general election ballot.

(c) The name of a candidate who is certified under Subsection (1)(c) after the deadline described in Subsection (1)(c) may not appear on the general election ballot.

(5) A political party may not replace a candidate who is disqualified for failure to timely file a campaign disclosure financial report under Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, or Section 17-16-6.5.

Section 5. Section **23-19-36** is amended to read:

23-19-36. Persons with a physical or intellectual disability, terminally ill persons, and children in the custody of the state -- License to fish for free.

(1) A resident who is blind, has paraplegia, or has another permanent disability so as to be permanently confined to a wheelchair or the use of crutches, or who has lost either or both lower extremities, may receive a free license to fish upon furnishing satisfactory proof of this fact to the Division of Wildlife Resources.

(2) A resident who has an intellectual disability and is not eligible under Section

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23-19-14 to fish without a license may receive a free license to fish upon furnishing verification from a physician or physician assistant that the person has an intellectual disability.

(3) A resident who is terminally ill, and has less than five years to live, may receive a free license to fish:

(a) upon furnishing verification from a physician or physician assistant; and

(b) if the resident qualifies for assistance under any low income public assistance program administered by a state agency.

(4) A child placed in the custody of the state by a court order may receive a free fishing license upon furnishing verification of custody to the Division of Wildlife Resources.

Section 6. Section **23-19-38** is amended to read:

23-19-38. Sales of licenses, certificates, or permits final -- Exceptions --

Reallocation of surrendered permits.

(1) Sales of all licenses, certificates, or permits are final, and no refunds may be made by the division except as provided in Subsections (2) and (3).

(2) The division may refund the amount of the license, certificate, or permit if:

(a) the division or the Wildlife Board discontinues the activity for which the license, certificate, or permit was obtained;

(b) the division determines that it has erroneously collected a fee;

(c) (i) the person to whom the license, certificate, or permit is issued becomes ill or suffers an injury that precludes the person from using the license, certificate, or permit;

(ii) the person furnishes verification of illness or injury from a physician or physician assistant;

(iii) the person does not actually use the license, certificate, or permit; and

(iv) the license, certificate, or permit is surrendered before the end of the season for which the permit was issued; or

(d) the person to whom the license, certificate, or permit is issued dies prior to the person being able to use the license, certificate, or permit.

(3) The Wildlife Board may establish additional exceptions in rule to the refund prohibitions in Subsection (1).

(4) The division director may reallocate surrendered permits in accordance with rules adopted by the Wildlife Board.

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Section 7. Section **26-2-5** is amended to read:

26-2-5. Birth certificates -- Execution and registration requirements.

(1) As used in this section, "birthing facility" means a general acute hospital or birthing center as defined in Section 26-21-2.

(2) For each live birth occurring in the state, a certificate shall be filed with the local registrar for the district in which the birth occurred within 10 days following the birth. The certificate shall be registered if it is completed and filed in accordance with this chapter.

(3) (a) For each live birth that occurs in a birthing facility, the administrator of the birthing facility, or his designee, shall obtain and enter the information required under this chapter on the certificate, securing the required signatures, and filing the certificate.

(b) (i) The date, time, place of birth, and required medical information shall be certified by the birthing facility administrator or his designee.

(ii) The attending physician or nurse midwife may sign the certificate, but if the attending physician or nurse midwife has not signed the certificate within seven days of the date of birth, the birthing facility administrator or his designee shall enter the attending physician's or nurse midwife's name and transmit the certificate to the local registrar.

(iii) The information on the certificate about the parents shall be provided and certified by the mother or father or, in their incapacity or absence, by a person with knowledge of the facts.

(4) (a) For live births that occur outside a birthing facility, the birth certificate shall be completed and filed by the physician, physician assistant, nurse, midwife, or other person primarily responsible for providing assistance to the mother at the birth. If there is no such person, either the presumed or declarant father shall complete and file the certificate. In his absence, the mother shall complete and file the certificate, and in the event of her death or disability, the owner or operator of the premises where the birth occurred shall do so.

(b) The certificate shall be completed as fully as possible and shall include the date, time, and place of birth, the mother's name, and the signature of the person completing the certificate.

(5) (a) For each live birth to an unmarried mother that occurs in a birthing facility, the administrator or director of that facility, or his designee, shall:

(i) provide the birth mother and declarant father, if present, with:

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(A) a voluntary declaration of paternity form published by the state registrar;

(B) oral and written notice to the birth mother and declarant father of the alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing the declaration; and

(C) the opportunity to sign the declaration;

(ii) witness the signature of a birth mother or declarant father in accordance with Section 78B-15-302 if the signature occurs at the facility;

(iii) enter the declarant father's information on the original birth certificate, but only if the mother and declarant father have signed a voluntary declaration of paternity or a court or administrative agency has issued an adjudication of paternity; and

(iv) file the completed declaration with the original birth certificate.

(b) If there is a presumed father, the voluntary declaration will only be valid if the presumed father also signs the voluntary declaration.

(c) The state registrar shall file the information provided on the voluntary declaration of paternity form with the original birth certificate and may provide certified copies of the declaration of paternity as otherwise provided under Title 78B, Chapter 15, Utah Uniform Parentage Act.

(6) (a) The state registrar shall publish a form for the voluntary declaration of paternity, a description of the process for filing a voluntary declaration of paternity, and of the rights and responsibilities established or effected by that filing, in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act.

(b) Information regarding the form and services related to voluntary paternity establishment shall be made available to birthing facilities and to any other entity or individual upon request.

(7) The name of a declarant father may only be included on the birth certificate of a child of unmarried parents if:

(a) the mother and declarant father have signed a voluntary declaration of paternity; or

(b) a court or administrative agency has issued an adjudication of paternity.

(8) Voluntary declarations of paternity, adjudications of paternity by judicial or administrative agencies, and voluntary rescissions of paternity shall be filed with and maintained by the state registrar for the purpose of comparing information with the state case

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registry maintained by the Office of Recovery Services pursuant to Section 62A-11-104.

Section 8. Section **26-4-2** is amended to read:

26-4-2. Definitions.

As used in this chapter:

(1) "Dead body" is as defined in Section 26-2-2.

(2) "Death by violence" means death that resulted by the decedent's exposure to physical, mechanical, or chemical forces, and includes death which appears to have been due to homicide, death which occurred during or in an attempt to commit rape, mayhem, kidnapping, robbery, burglary, housebreaking, extortion, or blackmail accompanied by threats of violence, assault with a dangerous weapon, assault with intent to commit any offense punishable by imprisonment for more than one year, arson punishable by imprisonment for more than one year, or any attempt to commit any of the foregoing offenses.

(3) "Immediate relative" means an individual's spouse, child, parent, sibling, grandparent, or grandchild.

(4) "Medical examiner" means the state medical examiner appointed pursuant to Section 26-4-4 or a deputy appointed by the medical examiner.

(5) "Medical examiner record" means:

- (a) all information that the medical examiner obtains regarding a decedent; and
- (b) reports that the medical examiner makes regarding a decedent.

(6) "Regional pathologist" means a trained pathologist licensed to practice medicine and surgery in the state, appointed by the medical examiner pursuant to Subsection 26-4-4(3).

(7) "Sudden death while in apparent good health" means apparently instantaneous death without obvious natural cause, death during or following an unexplained syncope or coma, or death during an acute or unexplained rapidly fatal illness.

(8) "Sudden infant death syndrome" means the death of a child who was thought to be in good health or whose terminal illness appeared to be so mild that the possibility of a fatal outcome was not anticipated.

(9) "Suicide" means death caused by an intentional and voluntary act of a person who understands the physical nature of the act and intends by such act to accomplish self-destruction.

(10) "Unattended death" means the death of a person who has not been seen by a

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physician or physician assistant within the scope of the physician's or physician assistant's professional capacity within 30 days immediately prior to the date of death. This definition does not require an investigation, autopsy, or inquest in any case where death occurred without medical attendance solely because the deceased was under treatment by prayer or spiritual means alone in accordance with the tenets and practices of a well-recognized church or religious denomination.

(11) (a) "Unavailable for postmortem investigation" means that a dead body is:

(i) transported out of state;

(ii) buried at sea;

(iii) cremated;

(iv) processed by alkaline hydrolysis; or

(v) otherwise made unavailable to the medical examiner for postmortem investigation or autopsy.

(b) "Unavailable for postmortem investigation" does not include embalming or burial of a dead body pursuant to the requirements of law.

(12) "Within the scope of the decedent's employment" means all acts reasonably necessary or incident to the performance of work, including matters of personal convenience and comfort not in conflict with specific instructions.

Section 9. Section **26-4-14** is amended to read:

26-4-14. Certification of death by attending physician or physician assistant -- Deaths without medical attendance -- Cause of death uncertain -- Notice requirements.

The physician or physician assistant in attendance at the last illness of a deceased person who, in the judgment of the physician or physician assistant, does not appear to have died in a manner described in Section 26-4-7, shall certify the cause of death to his best knowledge and belief. When there is no physician or physician assistant in attendance during the last illness or when an attending physician or physician assistant is unable to determine with reasonable certainty the cause of death, the physician, physician assistant, or person with custody of the body shall so notify the medical examiner. If the medical examiner has reason to believe there may be criminal responsibility for the death, he shall notify the district attorney or county attorney having criminal jurisdiction or the head of the law enforcement agency having jurisdiction to make further investigation of the death.

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Section 10. Section **26-4-17** is amended to read:

26-4-17. Records of medical examiner -- Confidentiality.

(1) The medical examiner shall maintain complete, original records for the medical examiner record, which shall:

- (a) be properly indexed, giving the name, if known, or otherwise identifying every individual whose death is investigated;
- (b) indicate the place where the body was found;
- (c) indicate the date of death;
- (d) indicate the cause and manner of death;
- (e) indicate the occupation of the decedent, if available;
- (f) include all other relevant information concerning the death; and
- (g) include a full report and detailed findings of the autopsy or report of the investigation.

(2) Upon written request from an individual described in Subsections (2)(a) through (d), the medical examiner shall provide a copy of the medical examiner's final report of examination for the decedent, including the autopsy report, toxicology report, lab reports, and investigative reports to:

- (a) a decedent's immediate relative;
- (b) a decedent's legal representative;
- (c) a physician or physician assistant who attended the decedent during the year before the decedent's death; or
- (d) as necessary for the performance of the individual's professional duties, a county attorney, a district attorney, a criminal defense attorney, or other law enforcement official with jurisdiction.

(3) Reports provided under Subsection (2) may not include records that the medical examiner obtains from a third party in the course of investigating the decedent's death.

- (4) The medical examiner may provide a medical examiner record to a researcher who:
- (a) has an advanced degree;
 - (b) (i) is affiliated with an accredited college or university, a hospital, or another system of care, including an emergency medical response or a local health agency; or
 - (ii) is part of a research firm contracted with an accredited college or university, a

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hospital, or another system of care;

(c) requests a medical examiner record for a research project or a quality improvement initiative that will have a public health benefit, as determined by the Department of Health; and

(d) provides to the medical examiner an approval from:

(i) the researcher's sponsoring organization; and

(ii) the Utah Department of Health Institutional Review Board.

(5) Records provided under Subsection (4) may not include a third party record, unless:

(a) a court has ordered disclosure of the third party record; and

(b) disclosure is conducted in compliance with state and federal law.

(6) A person who obtains a medical examiner record under Subsection (4) shall:

(a) maintain the confidentiality of the medical examiner record by removing personally identifying information about a decedent or the decedent's family and any other information that may be used to identify a decedent before using the medical examiner record in research;

(b) conduct any research within and under the supervision of the Office of the Medical Examiner, if the medical examiner record contains a third party record with personally identifiable information;

(c) limit the use of a medical examiner record to the purpose for which the person requested the medical examiner record;

(d) destroy a medical examiner record and the data abstracted from the medical examiner record at the conclusion of the research for which the person requested the medical examiner record;

(e) reimburse the medical examiner, as provided in Section 26-1-6, for any costs incurred by the medical examiner in providing a medical examiner record;

(f) allow the medical examiner to review, before public release, a publication in which data from a medical examiner record is referenced or analyzed; and

(g) provide the medical examiner access to the researcher's database containing data from a medical examiner record, until the day on which the researcher permanently destroys the medical examiner record and all data obtained from the medical examiner record.

(7) Except as provided in this chapter or ordered by a court, the medical examiner may not disclose any part of a medical examiner record.

(8) A person who obtains a medical examiner record under Subsection (4) is guilty of a

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class B misdemeanor, if the person fails to comply with the requirements of Subsections (6)(a) through (d).

Section 11. Section 26-6-3 is amended to read:

26-6-3. Authority to investigate and control epidemic infections and communicable disease.

(1) The department has authority to investigate and control the causes of epidemic infections and communicable disease, and shall provide for the detection, reporting, prevention, and control of communicable diseases and epidemic infections or any other health hazard which may affect the public health.

(2) (a) As part of the requirements of Subsection (1), the department shall distribute to the public and to health care professionals:

(i) medically accurate information about sexually transmitted diseases that may cause infertility and sterility if left untreated, including descriptions of:

(A) the probable side effects resulting from an untreated sexually transmitted disease, including infertility and sterility;

(B) medically accepted treatment for sexually transmitted diseases;

(C) the medical risks commonly associated with the medical treatment of sexually transmitted diseases; and

(D) [~~suggest~~] suggested screening by a private physician or physician assistant; and

(ii) information about:

(A) public services and agencies available to assist individuals with obtaining treatment for the sexually transmitted disease;

(B) medical assistance benefits that may be available to the individual with the sexually transmitted disease; and

(C) abstinence before marriage and fidelity after marriage being the surest prevention of sexually transmitted disease.

(b) The information required by Subsection (2)(a):

(i) shall be distributed by the department and by local health departments free of charge;

(ii) shall be relevant to the geographic location in which the information is distributed by:

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(A) listing addresses and telephone numbers for public clinics and agencies providing services in the geographic area in which the information is distributed; and

(B) providing the information in English as well as other languages that may be appropriate for the geographic area.

(c) (i) Except as provided in Subsection (2)(c)(ii), the department shall develop written material that includes the information required by this Subsection (2).

(ii) In addition to the written materials required by Subsection (2)(c)(i), the department may distribute the information required by this Subsection (2) by any other methods the department determines is appropriate to educate the public, excluding public schools, including websites, toll free telephone numbers, and the media.

(iii) If the information required by Subsection (2)(b)(ii)(A) is not included in the written pamphlet developed by the department, the written material shall include either a website, or a 24-hour toll free telephone number that the public may use to obtain that information.

Section 12. Section **26-6-17** is amended to read:

26-6-17. Venereal disease -- Examinations by authorities -- Treatment of infected persons.

State, county, and municipal health officers within their respective jurisdictions may make examinations of persons reasonably suspected of being infected with venereal disease. Persons infected with venereal disease shall be required to report for treatment to either a reputable physician or physician assistant and continue treatment until cured or to submit to treatment provided at public expense until cured.

Section 13. Section **26-6-18** is amended to read:

26-6-18. Venereal disease -- Consent of minor to treatment.

(1) A consent to medical care or services by a hospital or public clinic or the performance of medical care or services by a licensed physician or physician assistant executed by a minor who is or professes to be afflicted with a sexually transmitted disease, shall have the same legal effect upon the minor and the same legal obligations with regard to the giving of consent as a consent given by a person of full legal age and capacity, the infancy of the minor and any contrary provision of law notwithstanding.

(2) The consent of the minor is not subject to later disaffirmance by reason of minority

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at the time it was given and the consent of no other person or persons shall be necessary to authorize hospital or clinical care or services to be provided to the minor by a licensed physician or physician assistant.

(3) The provisions of this section shall apply also to minors who profess to be in need of hospital or clinical care and services or medical care or services provided by a physician or physician assistant for suspected sexually transmitted disease, regardless of whether such professed suspicions are subsequently substantiated on a medical basis.

Section 14. Section **26-6-19** is amended to read:

26-6-19. Venereal disease -- Examination and treatment of persons in prison or jail.

(1) All persons confined in any state, county, or city prison or jail shall be examined, and if infected, treated for venereal diseases by the health authorities. The prison authorities of every state, county, or city prison or jail shall make available to the health authorities such portion of the prison or jail as may be necessary for a clinic or hospital wherein all persons suffering with venereal disease at the time of the expiration of their terms of imprisonment, shall be isolated and treated at public expense until cured.

(2) The department may require persons suffering with venereal disease at the time of the expiration of their terms of imprisonment to report for treatment to a licensed physician or physician assistant or submit to treatment provided at public expense in lieu of isolation. Nothing in this section shall interfere with the service of any sentence imposed by a court as a punishment for the commission of crime.

Section 15. Section **26-6-20** is amended to read:

26-6-20. Serological testing of pregnant or recently delivered women.

(1) Every licensed physician and surgeon attending a pregnant or recently delivered woman for conditions relating to her pregnancy shall take or cause to be taken a sample of blood of the woman at the time of first examination or within 10 days thereafter. The blood sample shall be submitted to an approved laboratory for a standard serological test for syphilis. The provisions of this section do not apply to any female who objects thereto on the grounds that she is a bona fide member of a specified, well recognized religious organization whose teachings are contrary to the tests.

(2) Every other person attending a pregnant or recently delivered woman, who is not

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permitted by law to take blood samples, shall within 10 days from the time of first attendance cause a sample of blood to be taken by a licensed physician or physician assistant. The blood sample shall be submitted to an approved laboratory for a standard serological test for syphilis.

(3) An approved laboratory is a laboratory approved by the department according to its rules governing the approval of laboratories for the purpose of this title. In submitting the sample to the laboratory the physician or physician assistant shall designate whether it is a prenatal test or a test following recent delivery.

(4) For the purpose of this chapter, a "standard serological test" means a test for syphilis approved by the department and made at an approved laboratory.

(5) The laboratory shall transmit a detailed report of the standard serological test, showing the result thereof to the physician or physician assistant.

Section 16. Section **26-6b-5** is amended to read:

26-6b-5. Petition for judicial review of order of restriction -- Court-ordered examination period.

(1) (a) A department may petition for a judicial review of the department's order of restriction for an individual or group of individuals who are subject to restriction by filing a written petition with the district court of the county in which the individual or group of individuals reside or are located.

(b) (i) The county attorney for the county where the individual or group of individuals reside or are located shall represent the local health department in any proceedings under this chapter.

(ii) The Office of the Attorney General shall represent the department when the petitioner is the Department of Health in any proceedings under this chapter.

(2) The petition under Subsection (1) shall be accompanied by:

(a) written affidavit of the department stating:

(i) a belief the individual or group of individuals are subject to restriction;

(ii) a belief that the individual or group of individuals who are subject to restriction are likely to fail to submit to examination, treatment, quarantine, or isolation if not immediately restrained;

(iii) this failure would pose a threat to the public health; and

(iv) the personal knowledge of the individual's or group of individuals' condition or the

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circumstances that lead to that belief; and

(b) a written statement by a licensed physician or physician assistant indicating the physician or physician assistant finds the individual or group of individuals are subject to restriction.

(3) The court shall issue an order of restriction requiring the individual or group of individuals to submit to involuntary restriction to protect the public health if the district court finds:

(a) there is a reasonable basis to believe that the individual's or group of individuals' condition requires involuntary examination, quarantine, treatment, or isolation pending examination and hearing; or

(b) the individual or group of individuals have refused to submit to examination by a health professional as directed by the department or to voluntarily submit to examination, treatment, quarantine, or isolation.

(4) If the individual or group of individuals who are subject to restriction are not in custody, the court may make its determination and issue its order of restriction in an ex parte hearing.

(5) At least 24 hours prior to the hearing required by Section 26-6b-6, the department which is the petitioner, shall report to the court, in writing, the opinion of qualified health care providers:

(a) regarding whether the individual or group of individuals are infected by or contaminated with:

(i) a communicable or possible communicable disease that poses a threat to public health;

(ii) an infectious agent or possibly infectious agent that poses a threat to public health;

(iii) a chemical or biological agent that poses a threat to public health; or

(iv) a condition that poses a threat to public health;

(b) that despite the exercise of reasonable diligence, the diagnostic studies have not been completed;

(c) whether the individual or group of individuals have agreed to voluntarily comply with necessary examination, treatment, quarantine, or isolation; and

(d) whether the petitioner believes the individual or group of individuals will comply

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without court proceedings.

Section 17. Section **26-8a-251** is amended to read:

26-8a-251. Trauma system advisory committee.

(1) There is created within the department the trauma system advisory committee.

(2) (a) The committee shall be comprised of individuals knowledgeable in adult or pediatric trauma care, including physicians, physician assistants, nurses, hospital administrators, emergency medical services personnel, government officials, consumers, and persons affiliated with professional health care associations.

(b) Representation on the committee shall be broad and balanced among the health care delivery systems in the state with no more than three representatives coming from any single delivery system.

(3) The committee shall:

(a) advise the department regarding trauma system needs throughout the state;

(b) assist the department in evaluating the quality and outcomes of the overall trauma system;

(c) review and comment on proposals and rules governing the statewide trauma system; and

(d) make recommendations for the development of statewide triage, treatment, transportation, and transfer guidelines.

(4) The department shall:

(a) determine, by rule, the term and causes for removal of committee members;

(b) establish committee procedures and administration policies consistent with this chapter and department rule; and

(c) provide administrative support to the committee.

Section 18. Section **26-8a-601** is amended to read:

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

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

(i) an individual licensed under Section 26-8a-302;

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

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

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

(2) An individual licensed under Section 26-8a-302, during either training or after licensure, a licensed physician, a ~~[physician's]~~ physician assistant, or a registered nurse who, gratuitously and in good faith, provides emergency medical instructions or renders emergency medical care authorized by this chapter is not liable for any civil damages as a result of any act or omission in providing the emergency medical instructions or medical care, unless the act or omission is the result of gross negligence or willful misconduct.

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

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

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

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

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

(6) A person who is a registered member of the National Ski Patrol System (NSPS) or a member of a ski patrol who has completed a course in winter emergency care offered by the NSPS combined with CPR for medical technicians offered by the American Red Cross or American Heart Association, or an equivalent course of instruction, and who in good faith renders emergency care in the course of ski patrol duties is not liable for civil damages as a result of any act or omission in rendering the emergency care, unless the act or omission is the result of gross negligence or willful misconduct.

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

Section 19. Section **26-8d-104** is amended to read:

26-8d-104. Stroke registry advisory committee.

(1) There is created within the department a stroke registry advisory committee.

(2) The stroke registry advisory committee created in Subsection (1) shall:

(a) be composed of individuals knowledgeable in adult and pediatric stroke care, including physicians, physician assistants, nurses, hospital administrators, emergency medical services personnel, government officials, consumers, and persons affiliated with professional health care associations;

(b) advise the department regarding the development and implementation of the stroke registry;

(c) assist the department in evaluating the quality and outcomes of the stroke registry;
and

(d) review and comment on proposals and rules governing the statewide stroke registry.

Section 20. Section **26-8d-105** is amended to read:

26-8d-105. Cardiac registry advisory committee.

(1) There is created within the department a cardiac registry advisory committee.

(2) The cardiac registry advisory committee created in Subsection (1) shall:

(a) be composed of individuals knowledgeable in adult and pediatric cardiac care, including physicians, physician assistants, nurses, hospital administrators, emergency medical

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services personnel, government officials, consumers, and persons affiliated with professional health care associations;

(b) advise the department regarding the development and implementation of the cardiac registry;

(c) assist the department in evaluating the quality and outcomes of the cardiac registry; and

(d) review and comment on proposals and rules governing the statewide cardiac registry.

Section 21. Section **26-10-11** is amended to read:

26-10-11. Children's Hearing Aid Program.

(1) The department shall offer a program to provide hearing aids to children who qualify under this section.

(2) The department shall provide hearing aids to a child who:

(a) is younger than six years old;

(b) is a resident of Utah;

(c) has been diagnosed with hearing loss by:

(i) an audiologist with pediatric expertise; and

(ii) a physician or physician assistant;

(d) provides documentation from an audiologist with pediatric expertise certifying that the child needs hearing aids;

(e) has obtained medical clearance by a medical provider for hearing aid fitting;

(f) does not qualify to receive a contribution that equals the full cost of a hearing aid from the state's Medicaid program or the Utah Children's Health Insurance Program; and

(g) meets the financial need qualification criteria established by the department by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for participation in the program.

(3) (a) There is established the Children's Hearing Aid Advisory Committee.

(b) The committee shall be composed of five members appointed by the executive director, and shall include:

(i) one audiologist with pediatric expertise;

(ii) one speech language pathologist;

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- (iii) one teacher, certified under Title 53E, Public Education System -- State Administration, as a teacher of the deaf or a listening and spoken language therapist;
- (iv) one ear, nose, and throat specialist; and
- (v) one parent whose child:
 - (A) is six years old or older; and
 - (B) has hearing loss.
- (c) A majority of the members constitutes a quorum.
- (d) A vote of the majority of the members, with a quorum present, constitutes an action of the committee.
- (e) The committee shall elect a chair from its members.
- (f) The committee shall:
 - (i) meet at least quarterly;
 - (ii) recommend to the department medical criteria and procedures for selecting children who may qualify for assistance from the account; and
 - (iii) review rules developed by the department.
- (g) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with Sections 63A-3-106 and 63A-3-107 and rules made by the Division of Finance, pursuant to Sections 63A-3-106 and 63A-3-107.
- (h) The department shall provide staff to the committee.
- (4) (a) There is created within the General Fund a restricted account known as the "Children's Hearing Aid Program Restricted Account."
- (b) The Children's Hearing Aid Program Restricted Account shall consist of:
 - (i) amounts appropriated to the account by the Legislature; and
 - (ii) gifts, grants, devises, donations, and bequests of real property, personal property, or services, from any source, or any other conveyance that may be made to the account from private sources.
- (c) Upon appropriation, all actual and necessary operating expenses for the committee described in Subsection (3) shall be paid by the account.
- (d) Upon appropriation, no more than 9% of the account money may be used for the department's expenses.

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(e) If this account is repealed in accordance with Section 63I-1-226, any remaining assets in the account shall be deposited into the General Fund.

(5) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish procedures for:

(a) identifying the children who are financially eligible to receive services under the program; and

(b) reviewing and paying for services provided to a child under the program.

(6) The department shall, before December 1 of each year, submit a report to the Health and Human Services Interim Committee that describes the operation and accomplishments of the program.

Section 22. Section **26-18-107** is amended to read:

26-18-107. Retrospective and prospective DUR.

(1) The board, in cooperation with the division, shall include in its state plan the creation and implementation of a retrospective and prospective DUR program for Medicaid outpatient drugs to ensure that prescriptions are appropriate, medically necessary, and not likely to result in adverse medical outcomes.

(2) The retrospective and prospective DUR program shall be operated under guidelines established by the board under Subsections (3) and (4).

(3) The retrospective DUR program shall be based on guidelines established by the board, using the mechanized drug claims processing and information retrieval system to analyze claims data in order to:

(a) identify patterns of fraud, abuse, gross overuse, and inappropriate or medically unnecessary care; and

(b) assess data on drug use against explicit predetermined standards that are based on the compendia and other sources for the purpose of monitoring:

(i) therapeutic appropriateness;

(ii) overutilization or underutilization;

(iii) therapeutic duplication;

(iv) drug-disease contraindications;

(v) drug-drug interactions;

(vi) incorrect drug dosage or duration of drug treatment; and

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(vii) clinical abuse and misuse.

(4) The prospective DUR program shall be based on guidelines established by the board and shall provide that, before a prescription is filled or delivered, a review will be conducted by the pharmacist at the point of sale to screen for potential drug therapy problems resulting from:

- (a) therapeutic duplication;
- (b) drug-drug interactions;
- (c) incorrect dosage or duration of treatment;
- (d) drug-allergy interactions; and
- (e) clinical abuse or misuse.

(5) In conducting the prospective DUR, a pharmacist may not alter the prescribed outpatient drug therapy without the consent of the prescribing physician or physician assistant. This section does not effect the ability of a pharmacist to substitute a generic equivalent.

Section 23. Section **26-21-7** is amended to read:

26-21-7. Exempt facilities.

This chapter does not apply to:

- (1) a dispensary or first aid facility maintained by any commercial or industrial plant, educational institution, or convent;
- (2) a health care facility owned or operated by an agency of the United States;
- (3) the office of a physician, physician assistants, or dentist whether it is an individual or group practice, except that it does apply to an abortion clinic;
- (4) a health care facility established or operated by any recognized church or denomination for the practice of religious tenets administered by mental or spiritual means without the use of drugs, whether gratuitously or for compensation, if it complies with statutes and rules on environmental protection and life safety;
- (5) any health care facility owned or operated by the Department of Corrections, created in Section 64-13-2; and
- (6) a residential facility providing 24-hour care:
 - (a) that does not employ direct care staff;
 - (b) in which the residents of the facility contract with a licensed hospice agency to receive end-of-life medical care; and

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(c) that meets other requirements for an exemption as designated by administrative rule.

Section 24. Section **26-28-114** is amended to read:

26-28-114. Rights and duties of procurement organization and others.

(1) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the Department of Public Safety and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(2) A procurement organization shall be allowed reasonable access to information in the records of the Department of Public Safety to ascertain whether an individual at or near death is a donor.

(3) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(4) Unless prohibited by law other than this chapter, at any time after a donor's death, the person to which a part passes under Section 26-28-111 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(5) Unless prohibited by law other than this chapter, an examination under Subsection (3) or (4) may include an examination of all medical and dental records of the donor or prospective donor.

(6) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(7) Upon referral by a hospital under Subsection (1), a procurement organization shall make a reasonable search for any person listed in Section 26-28-109 having priority to make an

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anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(8) Subject to Subsection 26-28-111(9) and Section 26-28-123, the rights of the person to which a part passes under Section 26-28-111 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this chapter, a person that accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under Section 26-28-111, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

(9) Neither the physician or physician assistant who attends the decedent at death nor the physician or physician assistant who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

(10) A physician, physician assistant, or technician may remove a donated part from the body of a donor that the physician, physician assistant, or technician is qualified to remove.

Section 25. Section **26-33a-102** is amended to read:

26-33a-102. Definitions.

As used in this chapter:

(1) "Committee" means the Health Data Committee created by Section 26-1-7.

(2) "Control number" means a number assigned by the committee to an individual's health data as an identifier so that the health data can be disclosed or used in research and statistical analysis without readily identifying the individual.

(3) "Data supplier" means a health care facility, health care provider, self-funded employer, third-party payor, health maintenance organization, or government department which could reasonably be expected to provide health data under this chapter.

(4) "Disclosure" or "disclose" means the communication of health care data to any individual or organization outside the committee, its staff, and contracting agencies.

(5) "Executive director" means the director of the department.

(6) (a) "Health care facility" means a facility that is licensed by the department under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

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(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee, with the concurrence of the department, may by rule add, delete, or modify the list of facilities that come within this definition for purposes of this chapter.

(7) "Health care provider" means any person, partnership, association, corporation, or other facility or institution that renders or causes to be rendered health care or professional services as a physician, physician assistant, registered nurse, licensed practical nurse, nurse-midwife, dentist, dental hygienist, optometrist, clinical laboratory technologist, pharmacist, physical therapist, podiatric physician, psychologist, chiropractic physician, naturopathic physician, osteopathic physician, osteopathic physician and surgeon, audiologist, speech pathologist, certified social worker, social service worker, social service aide, marriage and family counselor, or practitioner of obstetrics, and others rendering similar care and services relating to or arising out of the health needs of persons or groups of persons, and officers, employees, or agents of any of the above acting in the course and scope of their employment.

(8) "Health data" means information relating to the health status of individuals, health services delivered, the availability of health manpower and facilities, and the use and costs of resources and services to the consumer, except vital records as defined in Section 26-2-2 shall be excluded.

(9) "Health maintenance organization" has the meaning set forth in Section 31A-8-101.

(10) "Identifiable health data" means any item, collection, or grouping of health data that makes the individual supplying or described in the health data identifiable.

(11) "Individual" means a natural person.

(12) "Organization" means any corporation, association, partnership, agency, department, unit, or other legally constituted institution or entity, or part thereof.

(13) "Research and statistical analysis" means activities using health data analysis including:

- (a) describing the group characteristics of individuals or organizations;
- (b) analyzing the noncompliance among the various characteristics of individuals or organizations;
- (c) conducting statistical procedures or studies to improve the quality of health data;
- (d) designing sample surveys and selecting samples of individuals or organizations;

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and

(e) preparing and publishing reports describing these matters.

(14) "Self-funded employer" means an employer who provides for the payment of health care services for employees directly from the employer's funds, thereby assuming the financial risks rather than passing them on to an outside insurer through premium payments.

(15) "Plan" means the plan developed and adopted by the Health Data Committee under Section 26-33a-104.

(16) "Third party payor" means:

(a) an insurer offering a health benefit plan, as defined by Section 31A-1-301, to at least 2,500 enrollees in the state;

(b) a nonprofit health service insurance corporation licensed under Title 31A, Chapter 7, Nonprofit Health Service Insurance Corporations;

(c) a program funded or administered by Utah for the provision of health care services, including the Medicaid and medical assistance programs described in Chapter 18, Medical Assistance Act; and

(d) a corporation, organization, association, entity, or person:

(i) which administers or offers a health benefit plan to at least 2,500 enrollees in the state; and

(ii) which is required by administrative rule adopted by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to supply health data to the committee.

Section 26. Section **26-64-105** is amended to read:

26-64-105. Standing prescription drug orders for a self-administered hormonal contraceptive.

A physician or physician assistant who is licensed to prescribe a self-administered hormonal contraceptive, including a physician or physician assistant acting in the physician's or physician assistant's capacity as an employee of the department, or a medical director of a local health department, may issue a standing prescription drug order authorizing the dispensing of the self-administered hormonal contraceptive under Section 26-64-104 in accordance with a protocol that:

(1) requires the physician or physician assistant to specify the persons, by professional

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license number, authorized to dispense the self-administered hormonal contraceptive;

(2) requires the physician or physician assistant to review at least annually the dispensing practices of those authorized by the physician or physician assistant to dispense the self-administered hormonal contraceptive;

(3) requires those authorized by the physician or physician assistant to dispense the self-administered hormonal contraceptive to make and retain a record of each person to whom the self-administered hormonal contraceptive is dispensed, including:

- (a) the name of the person;
- (b) the drug dispensed; and
- (c) other relevant information; and

(4) is approved by the department by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 27. Section **26-64-107** is amended to read:

26-64-107. Limited civil liability.

A physician or physician assistant who issues a standing prescription drug order in accordance with Section 26-64-105 is not liable for any civil damages for acts or omissions resulting from the dispensing of a self-administered hormonal contraceptive under this chapter.

Section 28. Section **31A-22-624** is amended to read:

31A-22-624. Primary care physician or physician assistant.

An accident and health insurance policy that requires an insured to select a primary care physician to receive optimum coverage:

(1) shall permit an insured to select a participating provider who:

- (a) is an:
 - (i) obstetrician;
 - (ii) gynecologist; [~~or~~]
 - (iii) pediatrician; [~~and~~] or
 - (iv) physician assistant **who works with a physician:**
 - (A) providing primary care; or
 - (B) described in Subsections (1)(a)(i), (ii), or (iii); and

(b) is qualified and willing to provide primary care services, as defined by the health care plan, as the insured's provider from whom primary care services are received;

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(2) shall clearly state in literature explaining the policy the option available to insureds under Subsection (1); and

(3) may not impose a higher premium, higher copayment requirement, or any other additional expense on an insured because the insured selected a primary care physician in accordance with Subsection (1).

Section 29. Section **31A-22-649** is amended to read:

31A-22-649. Coverage of telepsychiatric consultations.

(1) As used in this section:

(a) "Telehealth services" means the same as that term is defined in Section 26-60-102.

(b) "Telepsychiatric consultation" means a consultation [~~between a physician and a board certified psychiatrist, both of whom are licensed to engage in the practice of medicine in the state,];~~

(i) between the following individuals who are licensed to practice in the state:

(A) a physician or physician assistant; and

(B) a board certified psychiatrist or a physician assistant working with a psychiatrist;

and

(ii) that utilizes:

~~(i)~~ (A) the health records of the patient, provided from the patient or the referring physician;

~~(ii)~~ (B) a written, evidence-based patient questionnaire; and

~~(iii)~~ (C) telehealth services that meet industry security and privacy standards, including compliance with the~~[-(A)]~~ Health Insurance Portability and Accountability Act~~[-and~~ ~~(B)]~~ and the Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-5, 123 Stat. 226, 467, as amended.

(2) Beginning January 1, 2019, a health benefit plan that offers coverage for mental health services shall:

(a) provide coverage for a telepsychiatric consultation during or after an initial visit between the patient and a referring in-network physician or physician assistant;

(b) provide coverage for a telepsychiatric consultation from an out-of-network board certified psychiatrist if a telepsychiatric consultation is not made available to a physician or physician assistant within seven business days after the initial request is made by the physician

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or physician assistant to an in-network provider of telepsychiatric consultations; and

(c) reimburse for the services described in Subsections (2)(a) and (b) at the equivalent in-network or out-of-network rate set by the health benefit plan after taking into account cost-sharing that may be required under the health benefit plan.

(3) A single telepsychiatric consultation includes all contacts, services, discussion, and information review required to complete an individual request from a referring physician or physician assistant for a patient.

(4) An insurer may satisfy the requirement to cover a telepsychiatric consultation described in Subsection (2)(a) for a patient by:

(a) providing coverage for behavioral health treatment, as defined in Section 31A-22-642, in person or using telehealth services; and

(b) ensuring that the patient receives an appointment for the behavioral health treatment in person or using telehealth services on a date that is within seven business days after the initial request is made by the in-network referring physician or physician assistant.

(5) A referring physician or physician assistant who uses a telepsychiatric consultation for a patient shall, at the time that the questionnaire described in Subsection (1)(b)(ii) is completed, notify the patient that:

(a) the referring physician or physician assistant plans to request a telepsychiatric consultation; and

(b) additional charges to the patient may apply.

(6) (a) An insurer may receive a temporary waiver from the department from the requirements in this section if the insurer demonstrates to the department that the insurer is unable to provide the benefits described in this section due to logistical reasons.

(b) An insurer that receives a waiver from the department under Subsection (6)(a) is subject to the requirements of this section beginning July 1, 2019.

(7) This section does not limit an insurer from engaging in activities that ensure payment integrity or facilitate review and investigation of improper practices by health care providers.

Section 30. Section **41-1a-420** is amended to read:

41-1a-420. Disability special group license plates -- Application and qualifications -- Rulemaking.

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(1) As used in this section:

(a) "Advanced practice registered nurse" means a person licensed to practice as an advanced practice registered nurse in this state under Title 58, Chapter 31b, Nurse Practice Act.

(b) "Nurse practitioner" means an advanced practice registered nurse specializing as a nurse practitioner.

(c) "Physician" means a person licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(d) "Physician assistant" means an individual licensed to practice as a physician assistant in the state under Title 58, Chapter 70a, Utah Physician Assistant Act.

~~[(d)]~~ (e) "Temporary wheelchair user placard" means a removable windshield placard that is issued to a qualifying person, as provided in this section, who has a walking disability that is not permanent.

~~[(e)]~~ (f) "Walking disability" means a physical disability that requires the use of a walking-assistive device or wheelchair or similar low-powered motorized or mechanically propelled vehicle that is designed to specifically assist a person who has a limited or impaired ability to walk.

~~[(f)]~~ (g) "Wheelchair user placard" means a removable windshield placard that is issued to a qualifying person, as provided in this section, who has a walking disability.

(2) (a) The division shall issue a disability special group license plate, a temporary removable windshield placard, or a removable windshield placard to an applicant who is either:

(i) a qualifying person with a disability; or

(ii) the registered owner of a vehicle that an organization uses primarily for the transportation of persons with disabilities that limit or impair the ability to walk.

(b) The division shall issue a temporary wheelchair user placard or a wheelchair user placard to an applicant who is either:

(i) a qualifying person with a walking disability; or

(ii) the registered owner of a vehicle that an organization uses primarily for the transportation of persons with walking disabilities.

(c) The division shall require that an applicant under Subsection (2)(b) certifies that the person travels in a vehicle equipped with a wheelchair lift or a vehicle carrying the person's

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walking-assistive device or wheelchair and requires a van accessible parking space.

(3) (a) The person with a disability shall ensure that the initial application contains the certification of a physician, physician assistant, or nurse practitioner that:

(i) the applicant meets the definition of a person with a disability that limits or impairs the ability to walk as defined in the federal Uniform System for Parking for Persons with Disabilities, 23 C.F.R. Ch. II, Subch. B, Pt. 1235.2 (1991);

(ii) if the person is applying for a temporary wheelchair user placard or a wheelchair user placard, the applicant has a walking disability; and

(iii) specifies the period of time that the physician, physician assistant, or nurse practitioner determines the applicant will have the disability, not to exceed six months in the case of a temporary disability or a temporary walking disability.

(b) The division shall issue a disability special group license plate, a removable windshield placard, or a wheelchair user placard, as applicable, to a person with a permanent disability.

(c) The issuance of a person with a disability special group license plate does not preclude the issuance to the same applicant of a removable windshield placard or wheelchair user placard.

(d) (i) On request of an applicant with a disability special group license plate, a temporary removable windshield placard, or a removable windshield placard, the division shall issue one additional placard.

(ii) On request of a qualified applicant with a disability special group license plate, the division shall issue up to two temporary wheelchair user placards or two wheelchair user placards.

(iii) On request of a qualified applicant with a temporary wheelchair user placard or a wheelchair user placard, the division shall issue one additional placard.

(e) The division shall ensure that a temporary wheelchair user placard and a wheelchair user placard have the following visible features:

(i) a large "W" next to the internationally recognized disabled persons symbol; and

(ii) the words "Wheelchair User" printed on a portion of the placard.

(f) A disability special group license plate, temporary removable windshield placard, or removable windshield placard may be used to allow one motorcycle to share a parking space

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reserved for persons with a disability if:

(i) the person with a disability:

(A) is using a motorcycle; and

(B) displays on the motorcycle a disability special group license plate, temporary removable windshield placard, or a removable windshield placard;

(ii) the person who shares the parking space assists the person with a disability with the parking accommodation; and

(iii) the parking space is sufficient size to accommodate both motorcycles without interfering with other parking spaces or traffic movement.

(4) (a) When a vehicle is parked in a parking space reserved for persons with disabilities, a temporary removable windshield placard, a removable windshield placard, a temporary wheelchair user placard, or a wheelchair user placard shall be displayed so that the placard is visible from the front of the vehicle.

(b) If a motorcycle is being used, the temporary removable windshield placard or removable windshield placard shall be displayed in plain sight on or near the handle bars of the motorcycle.

(5) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish qualifying criteria for persons to receive, renew, or surrender a disability special group license plate, a temporary removable windshield placard, a removable windshield placard, a temporary wheelchair user placard, or a wheelchair user placard in accordance with this section;

(b) establish the maximum number of numerals or characters for a disability special group license plate;

(c) require all temporary removable windshield placards, removable windshield placards, temporary wheelchair user placards, and wheelchair user placards to include:

(i) an identification number;

(ii) an expiration date not to exceed:

(A) six months for a temporary removable windshield placard; and

(B) two years for a removable windshield placard; and

(iii) the seal or other identifying mark of the division.

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(6) The commission shall insert the following on motor vehicle registration certificates:

"State law prohibits persons who do not lawfully possess a disability placard or disability special group license plate from parking in an accessible parking space designated for persons with disabilities. Persons who possess a disability placard or disability special group license plate are discouraged from parking in an accessible parking space designated as van accessible unless they have a temporary wheelchair user placard or a wheelchair user placard."

Section 31. Section **41-6a-520** is amended to read:

41-6a-520. Implied consent to chemical tests for alcohol or drug -- Number of tests -- Refusal -- Warning, report.

(1) (a) A person operating a motor vehicle in this state is considered to have given the person's consent to a chemical test or tests of the person's breath, blood, urine, or oral fluids for the purpose of determining whether the person was operating or in actual physical control of a motor vehicle while:

(i) having a blood or breath alcohol content statutorily prohibited under Section 41-6a-502, 41-6a-530, or 53-3-231;

(ii) under the influence of alcohol, any drug, or combination of alcohol and any drug under Section 41-6a-502; or

(iii) having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517.

(b) A test or tests authorized under this Subsection (1) must be administered at the direction of a peace officer having grounds to believe that person to have been operating or in actual physical control of a motor vehicle while in violation of any provision under Subsections (1)(a)(i) through (iii).

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

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

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

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

(2) (a) A peace officer requesting a test or tests shall warn a person that refusal to submit to the test or tests may result in revocation of the person's license to operate a motor vehicle, a five or 10 year prohibition of driving with any measurable or detectable amount of alcohol in the person's body depending on the person's prior driving history, and a three-year prohibition of driving without an ignition interlock device if the person:

(i) has been placed under arrest;

(ii) has then been requested by a peace officer to submit to any one or more of the chemical tests under Subsection (1); and

(iii) refuses to submit to any chemical test requested.

(b) (i) Following the warning under Subsection (2)(a), if the person does not immediately request that the chemical test or tests as offered by a peace officer be administered, a peace officer shall, on behalf of the Driver License Division and within 24 hours of the arrest, give notice of the Driver License Division's intention to revoke the person's privilege or license to operate a motor vehicle.

(ii) When a peace officer gives the notice on behalf of the Driver License Division, the peace officer shall:

(A) take the Utah license certificate or permit, if any, of the operator;

(B) issue a temporary license certificate effective for only 29 days from the date of arrest; and

(C) supply to the operator, in a manner specified by the Driver License Division, basic information regarding how to obtain a hearing before the Driver License Division.

(c) A citation issued by a peace officer may, if provided in a manner specified by the Driver License Division, also serve as the temporary license certificate.

(d) As a matter of procedure, the peace officer shall submit a signed report, within 10 calendar days after the day on which notice is provided under Subsection (2)(b), that:

(i) the peace officer had grounds to believe the arrested person was in violation of any provision under Subsections (1)(a)(i) through (iii); and

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(ii) the person had refused to submit to a chemical test or tests under Subsection (1).

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

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

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

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

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

(6) Notwithstanding the provisions in this section, a blood test taken under this section is subject to Section 77-23-213.

Section 32. Section **41-6a-523** is amended to read:

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

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

(i) a physician;

(ii) a physician assistant;

~~[(ii)]~~ (iii) a registered nurse;

~~[(iii)]~~ (iv) a licensed practical nurse;

~~[(iv)]~~ (v) a paramedic;

~~[(v)]~~ (vi) as provided in Subsection (1)(b), emergency medical service personnel other than paramedics; or

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

(b) The Department of Health may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel,

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as defined in Section 26-8a-102, are authorized to draw blood under Subsection [~~(1)(a)(v)~~]
(1)(a)(vi), based on the type of license under Section 26-8a-302.

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

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

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

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

Section 33. Section **41-6a-1804** is amended to read:

41-6a-1804. Exceptions.

(1) This part does not apply to an operator or passenger of:

(a) a motor vehicle manufactured before July 1, 1966;

(b) a motor vehicle in which the operator or passengers possess a written verification from a licensed physician or physician assistant that the person is unable to wear a safety belt for physical or medical reasons; or

(c) a motor vehicle or seating position which is not required to be equipped with a safety belt system under federal law.

(2) This part does not apply to a passenger if all seating positions are occupied by other passengers.

(3) This part does not apply to a passenger of a public transit vehicle with a gross vehicle weight rating exceeding 10,000 pounds.

Section 34. Section **48-1d-102** is amended to read:

48-1d-102. Definitions.

As used in this chapter:

(1) "Business" includes every trade, occupation, and profession.

(2) "Contribution," except in the phrase "right of contribution," means property or a benefit described in Section 48-1d-501 which is provided by a person to a partnership to become a partner or in the person's capacity as a partner.

(3) "Debtor in bankruptcy" means a person that is the subject of:

(a) an order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or

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(b) a comparable order under federal, state, or foreign law governing insolvency.

(4) "Distribution" means a transfer of money or other property from a partnership to a person on account of a transferable interest or in a person's capacity as a partner. The term:

(a) includes:

(i) a redemption or other purchase by a partnership of a transferable interest; and

(ii) a transfer to a partner in return for the partner's relinquishment of any right to participate as a partner in the management or conduct of the partnership's activities and affairs or have access to records or other information concerning the partnership's activities and affairs; and

(b) does not include amounts constituting reasonable compensation for present or past service or payments made in the ordinary course of business under a bona fide retirement plan or other bona fide benefits program.

(5) "Division" means the Division of Corporations and Commercial Code.

(6) "Foreign limited liability partnership" means a foreign partnership whose partners have limited liability for the debts, obligations, or other liabilities of the foreign partnership under a provision similar to Subsection 48-1d-306(3).

(7) "Foreign partnership" means an unincorporated entity formed under the law of a jurisdiction other than this state which would be a partnership if formed under the law of this state. The term includes a foreign limited liability partnership.

(8) "Jurisdiction," used to refer to a political entity, means the United States, a state, a foreign country, or a political subdivision of a foreign country.

(9) "Jurisdiction of formation" means, with respect to an entity, the jurisdiction:

(a) under whose law the entity is formed; or

(b) in the case of a limited liability partnership or foreign limited liability partnership, in which the partnership's statement of qualification is filed.

(10) "Limited liability partnership," except in the phrase "foreign limited liability partnership," means a partnership that has filed a statement of qualification under Section 48-1d-1101 and does not have a similar statement in effect in any other jurisdiction.

(11) "Partner" means a person that:

(a) has become a partner in a partnership under Section 48-1d-401 or was a partner in a partnership when the partnership became subject to this chapter under Section 48-1d-1405; and

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(b) has not dissociated as a partner under Section 48-1d-701.

(12) "Partnership" means an association of two or more persons to carry on as co-owners a business for profit formed under this chapter or that becomes subject to this chapter under Part 10, Merger, Interest Exchange, Conversion, and Domestication, or Section 48-1d-1405. The term includes a limited liability partnership.

(13) "Partnership agreement" means the agreement, whether or not referred to as a partnership agreement, and whether oral, implied, in a record, or in any combination thereof, of all the partners of a partnership concerning the matters described in Subsection 48-1d-106(1). The term includes the agreement as amended or restated.

(14) "Partnership at will" means a partnership in which the partners have not agreed to remain partners until the expiration of a definite term or the completion of a particular undertaking.

(15) "Person" means an individual, business corporation, nonprofit corporation, partnership, limited partnership, limited liability company, limited cooperative association, unincorporated nonprofit association, statutory trust, business trust, common-law business trust, estate, trust, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(16) "Principal office" means the principal executive office of a partnership or a foreign limited liability partnership, whether or not the office is located in this state.

(17) "Professional services" means a personal service provided by:

(a) a public accountant holding a license under Title 58, Chapter 26a, Certified Public Accountant Licensing Act, or a subsequent law regulating the practice of public accounting;

(b) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act, or a subsequent law regulating the practice of architecture;

(c) an attorney granted the authority to practice law by the:

(i) Utah Supreme Court; or

(ii) one or more of the following that licenses or regulates the authority to practice law in a state or territory of the United States other than Utah:

(A) a supreme court;

(B) a court other than a supreme court;

(C) an agency;

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- (D) an instrumentality; or
- (E) a regulating board;
- (d) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician Practice Act, or a subsequent law regulating the practice of chiropractics;
- (e) a doctor of dentistry holding a license under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act, or a subsequent law regulating the practice of dentistry;
- (f) a professional engineer registered under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, or a subsequent law regulating the practice of engineers or land surveyors;
- (g) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician Practice Act, or a subsequent law regulating the practice of naturopathy;
- (h) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or Chapter 44a, Nurse Midwife Practice Act, or a subsequent law regulating the practice of nursing;
- (i) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry Practice Act, or a subsequent law regulating the practice of optometry;
- (j) an osteopathic physician or surgeon holding a license under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a subsequent law regulating the practice of osteopathy;
- (k) a pharmacist holding a license under Title 58, Chapter 17b, Pharmacy Practice Act, or a subsequent law regulating the practice of pharmacy;
- (l) a physician, surgeon, or doctor of medicine holding a license under Title 58, Chapter 67, Utah Medical Practice Act, or a subsequent law regulating the practice of medicine;
- (m) a physician assistant holding a license under Title 58, Chapter 70a, Utah Physician Assistant Act, or a subsequent law regulating the practice as a physician assistant;
- ~~(m)~~ (n) a physical therapist holding a license under Title 58, Chapter 24b, Physical Therapy Practice Act, or a subsequent law regulating the practice of physical therapy;
- ~~(n)~~ (o) a podiatric physician holding a license under Title 58, Chapter 5a, Podiatric Physician Licensing Act, or a subsequent law regulating the practice of podiatry;
- ~~(o)~~ (p) a psychologist holding a license under Title 58, Chapter 61, Psychologist Licensing Act, or a subsequent law regulating the practice of psychology;

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~~(p)~~ (q) a principal broker, associate broker, or sales agent holding a license under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, or a subsequent law regulating the sale, exchange, purchase, rental, or leasing of real estate;

~~(q)~~ (r) a clinical or certified social worker holding a license under Title 58, Chapter 60, Part 2, Social Worker Licensing Act, or a subsequent law regulating the practice of social work;

~~(r)~~ (s) a mental health therapist holding a license under Title 58, Chapter 60, Mental Health Professional Practice Act, or a subsequent law regulating the practice of mental health therapy;

~~(s)~~ (t) a veterinarian holding a license under Title 58, Chapter 28, Veterinary Practice Act, or a subsequent law regulating the practice of veterinary medicine; or

~~(t)~~ (u) an individual licensed, certified, or registered under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, or a subsequent law regulating the practice of appraising real estate.

(18) "Property" means all property, whether real, personal, or mixed, or tangible or intangible, or any right or interest therein.

(19) "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(20) "Registered agent" means an agent of a limited liability partnership or foreign limited liability partnership which is authorized to receive service of any process, notice, or demand required or permitted by law to be served on the partnership.

(21) "Registered foreign limited liability partnership" means a foreign limited liability partnership that is registered to do business in this state pursuant to a statement of registration filed by the division.

(22) "Sign" means, with present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic symbol, sound, or process.

(23) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction

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of the United States.

(24) "Transfer" includes:

- (a) an assignment;
- (b) a conveyance;
- (c) a sale;
- (d) a lease;
- (e) an encumbrance, including a mortgage or security interest;
- (f) a gift; and
- (g) a transfer by operation of law.

(25) "Transferable interest" means the right, as initially owned by a person in the person's capacity as a partner, to receive distributions from a partnership in accordance with the partnership agreement, whether or not the person remains a partner or continues to own any part of the right. The term applies to any fraction of the interest, by whomever owned.

(26) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a partner.

(27) "Tribal partnership" means a partnership:

- (a) formed under the law of a tribe; and
- (b) that is at least 51% owned or controlled by the tribe under whose law the partnership is formed.

(28) "Tribe" means a tribe, band, nation, pueblo, or other organized group or community of Indians, including an Alaska Native village, that is legally recognized as eligible for and is consistent with a special program, service, or entitlement provided by the United States to Indians because of their status as Indians.

Section 35. Section **48-3a-1101** is amended to read:

48-3a-1101. Definitions.

As used in this part:

- (1) "Professional services" means a personal service provided by:
 - (a) a public accountant holding a license under Title 58, Chapter 26a, Certified Public Accountant Licensing Act, or a subsequent law regulating the practice of public accounting;
 - (b) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act, or a subsequent law regulating the practice of architecture;

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(c) an attorney granted the authority to practice law by the:

(i) Utah Supreme Court; or

(ii) one or more of the following that licenses or regulates the authority to practice law

in a state or territory of the United States other than Utah:

(A) a supreme court;

(B) a court other than a supreme court;

(C) an agency;

(D) an instrumentality; or

(E) a regulating board;

(d) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician Practice Act, or any subsequent law regulating the practice of chiropractics;

(e) a doctor of dentistry holding a license under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act, or a subsequent law regulating the practice of dentistry;

(f) a professional engineer registered under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, or a subsequent law regulating the practice of engineers and land surveyors;

(g) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician Practice Act, or a subsequent law regulating the practice of naturopathy;

(h) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58, Chapter 44a, Nurse Midwife Practice Act, or a subsequent law regulating the practice of nursing;

(i) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry Practice Act, or a subsequent law regulating the practice of optometry;

(j) an osteopathic physician or surgeon holding a license under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a subsequent law regulating the practice of osteopathy;

(k) a pharmacist holding a license under Title 58, Chapter 17b, Pharmacy Practice Act, or a subsequent law regulating the practice of pharmacy;

(l) a physician, surgeon, or doctor of medicine holding a license under Title 58, Chapter 67, Utah Medical Practice Act, or a subsequent law regulating the practice of medicine;

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(m) a physician assistant holding a license under Title 58, Chapter 70a, Utah Physician Assistant Act, or a subsequent law regulating the practice as a physician assistant;

~~(m)~~ (n) a physical therapist holding a license under Title 58, Chapter 24b, Physical Therapy Practice Act, or a subsequent law regulating the practice of physical therapy;

~~(n)~~ (o) a podiatric physician holding a license under Title 58, Chapter 5a, Podiatric Physician Licensing Act, or a subsequent law regulating the practice of podiatry;

~~(o)~~ (p) a psychologist holding a license under Title 58, Chapter 61, Psychologist Licensing Act, or any subsequent law regulating the practice of psychology;

~~(p)~~ (q) a principal broker, associate broker, or sales agent holding a license under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, or a subsequent law regulating the sale, exchange, purchase, rental, or leasing of real estate;

~~(q)~~ (r) a clinical or certified social worker holding a license under Title 58, Chapter 60, Part 2, Social Worker Licensing Act, or a subsequent law regulating the practice of social work;

~~(r)~~ (s) a mental health therapist holding a license under Title 58, Chapter 60, Mental Health Professional Practice Act, or a subsequent law regulating the practice of mental health therapy;

~~(s)~~ (t) a veterinarian holding a license under Title 58, Chapter 28, Veterinary Practice Act, or a subsequent law regulating the practice of veterinary medicine; or

~~(t)~~ (u) an individual licensed, certified, or registered under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, or a subsequent law regulating the practice of appraising real estate.

(2) "Regulating board" means the entity organized pursuant to state law that licenses and regulates the practice of the profession that a limited liability company is organized to provide.

Section 36. Section **49-12-601** is amended to read:

49-12-601. Disability retirement -- Medical examinations -- Reemployment of retirant with a disability -- Cancellation of benefit -- Service credit -- Retirant with a disability engaging in gainful employment -- Reduction of allowance -- Refusal to submit to medical examination.

(1) Only members of this system who became eligible for a disability retirement

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allowance before January 1, 1983, are covered under this section.

(2) (a) The board may, upon the recommendation of the administrator, require any retirant who has been retired for disability and who has not attained the age of 60 years, to undergo a medical examination by a physician, physician assistant, or surgeon, appointed by the board, at the place of residence of the retirant or other place mutually agreed upon.

(b) Upon the basis of the examination, the board shall determine whether the retirant with a disability is still incapacitated, physically or mentally, for service under this chapter.

(c) If the board determines that the retirant is not incapacitated, the retirement allowance shall be cancelled and the retirant shall be reinstated immediately to a position of the same class as that held by the retirant when retired for disability.

(d) If any employing unit is unable to reinstate the retirant, the board shall continue the disability retirement allowance of the retirant until employment is available.

(3) (a) If a retirant with a disability under this system reenters covered service and is eligible for membership in the retirement system, the retirement allowance shall be cancelled and the retirant shall immediately become a member of the retirement system.

(b) (i) The member's individual account shall be credited with an amount which is the actuarial equivalent, at the time of reentry, based on a disabled life, of that portion of the member's retirement allowance which was derived from the member's accumulated contributions.

(ii) The amount credited may not exceed the amount of accumulated contributions standing at the time of retirement.

(c) Each member shall receive credit for the service in the member's account at the time of retirement.

(4) If the retirement allowance of any retirant with a disability is cancelled for any cause other than reentry into service, the retirant shall be paid the accumulated contributions less the amounts prescribed by Subsection (6).

(5) (a) If any member retired for disability engages in a gainful occupation prior to attaining age 60, the administrator shall reduce the amount of the retirement allowance to an amount which, when added to the compensation earned monthly by the retirant in that occupation, may not exceed the amount of the final average monthly salary on the basis of which the current service retirement allowance was determined.

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(b) If the earning capacity of the retirant is further altered, the administrator may further alter the retirement allowance as provided in this Subsection (5).

(c) In no event, however, may the retirement benefit be reduced below that portion of the retirant's allowance derived from the retirant's own accumulated contributions.

(d) When the retirant reaches age 60, the retirement allowance shall be made equal to the amount upon which the retirant was originally retired and may not again be modified for any cause.

(6) (a) If any member who retired for disability under age 60, refuses to submit to a medical examination, the retirement allowance may be discontinued until the retirant withdraws that refusal.

(b) If the refusal continues for one year the disability status may be cancelled and membership terminated.

(c) (i) The retirant's accumulated contribution account shall be the actuarial equivalent on the date of the retirant's change of status, based on a disabled life, of that portion of the disability retirement allowance which was derived from the retirant's accumulated contributions.

(ii) The amount credited may not exceed the amount of the retirant's accumulated contributions at the time of disability retirement.

Section 37. Section **49-16-102** is amended to read:

49-16-102. Definitions.

As used in this chapter:

(1) (a) "Compensation" means the total amount of payments that are includable as gross income which are received by a firefighter service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of member contributions or any amounts the firefighter service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

(i) overtime;

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- (ii) sick pay incentives;
- (iii) retirement pay incentives;
- (iv) remuneration paid in kind such as a residence, use of equipment, uniforms, travel, or similar payments;
- (v) a lump-sum payment or special payments covering accumulated leave; and
- (vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Section 401(a)(17), Internal Revenue Code.

(2) (a) "Disability" means the complete inability, due to objective medical impairment, whether physical or mental, to perform firefighter service.

(b) "Disability" does not include the inability to meet an employer's required standards or tests relating to fitness, physical ability, or agility that is not a result of a disability as defined under Subsection (2)(a).

(3) "Final average salary" means the amount calculated by averaging the highest three years of annual compensation preceding retirement subject to Subsections (3)(a), (b), and (c).

(a) Except as provided in Subsection (3)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the office the limitation in Subsection (3)(a) may be exceeded if:

- (i) the member has transferred from another agency; or
 - (ii) the member has been promoted to a new position.
- (c) The annual compensation used to calculate final average salary shall be based on:
- (i) a calendar year for a member employed by a participating employer that is not an educational institution; or
 - (ii) a contract year for a member employed by an educational institution.

(4) (a) "Firefighter service" means employment normally requiring an average of 2,080

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hours of regularly scheduled employment per year rendered by a member who is:

(i) a firefighter service employee trained in firefighter techniques and assigned to a position of hazardous duty with a regularly constituted fire department; or

(ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire marshal.

(b) "Firefighter service" does not include secretarial staff or other similar employees.

(5) "Firefighter service employee" means an employee of a participating employer who provides firefighter service under this chapter. An employee of a regularly constituted fire department who does not perform firefighter service is not a firefighter service employee.

(6) (a) "Line-of-duty death or disability" means a death or disability resulting from:

(i) external force, violence, or disease directly resulting from firefighter service; or

(ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a firefighter service employee.

(b) "Line-of-duty death or disability" does not include a death or disability that:

(i) occurs during an activity that is required as an act of duty as a firefighter service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;

(ii) occurs during the commission of a crime committed by the employee;

(iii) occurs when the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death or disability; or

(iv) occurs in a manner other than as described in Subsection (6)(a).

(c) "Line-of-duty death or disability" includes the death or disability of a paid firefighter resulting from heart disease, lung disease, or a respiratory tract condition if the paid firefighter has five years of firefighter service credit.

(7) "Objective medical impairment" means an impairment resulting from an injury or illness which is diagnosed by a physician or physician assistant and which is based on accepted objective medical tests or findings rather than subjective complaints.

(8) "Participating employer" means an employer which meets the participation requirements of Section 49-16-201.

(9) "Regularly constituted fire department" means a fire department that employs a fire

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chief who performs firefighter service for at least 2,080 hours of regularly scheduled paid employment per year.

(10) (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.

(b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.

(11) "System" means the Firefighters' Retirement System created under this chapter.

(12) (a) "Volunteer firefighter" means any individual that is not regularly employed as a firefighter service employee, but who:

(i) has been trained in firefighter techniques and skills;

(ii) continues to receive regular firefighter training; and

(iii) is on the rolls of a legally organized volunteer fire department which provides ongoing training and serves a political subdivision of the state.

(b) An individual that volunteers assistance but does not meet the requirements of Subsection (12)(a) is not a volunteer firefighter for purposes of this chapter.

(13) "Years of service credit" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which a firefighter service employee was employed by a participating employer or received full-time pay while on sick leave, including any time the firefighter service employee was absent in the service of the United States on military duty.

Section 38. Section **49-16-602** is amended to read:

49-16-602. Disability retirement -- Disability allowance eligibility -- Conversion to service retirement -- Examinations -- Reemployment.

(1) A member of this system who applies and is qualified for disability retirement shall receive a disability retirement benefit until the earlier of:

(a) the date the member of this system no longer has a disability;

(b) the date the member of this system has accumulated 20 years of firefighter service credit, including years earned while the member of this system had a disability; or

(c) the date the member of this system has received disability retirement benefits for the following time periods:

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(i) if the member is under age 60 on the date of disability, the disability retirement benefit is payable until age 65;

(ii) if the member is 60 or 61 years of age on the date of disability, the disability retirement benefit is payable for five years;

(iii) if the member is 62 or 63 years of age on the date of disability, the disability retirement benefit is payable for four years;

(iv) if the member is 64 or 65 years of age on the date of disability, the disability retirement benefit is payable for three years;

(v) if the member is 66, 67, or 68 years of age on the date of disability, the disability retirement benefit is payable for two years; and

(vi) if the member is 69 years of age or older on the date of disability, the disability retirement benefit is payable for one year.

(2) (a) (i) The retiree with a disability shall receive service credit in this system during the period of disability.

(ii) If the retiree with a disability is employed by a participating employer during the period of disability, the retiree with a disability may not receive service credit for that employment.

(b) The disability retirement shall be converted to a service retirement at the time the disability retirement benefits terminate.

(3) The office shall approve or disapprove applications for disability retirement benefits based upon:

(a) the evaluation and recommendations of one or more treating physicians or physician assistants along with medical records relating to the condition;

(b) the evaluation and recommendations of one or more independent physicians or physician assistants selected by the office; and

(c) receipt of documentation by the office from the participating employer that the member is mentally or physically unable to perform firefighter service.

(4) (a) A retiree with a disability who receives benefits under this section shall, upon request of the executive director, submit to a medical examination by one or more physicians or physician assistants as directed by the office.

(b) If, after an examination, the examiners report that the retiree with a disability is

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physically and mentally able and capable of resuming firefighter service employment, the retiree with a disability shall be reinstated by the participating employer for which the retiree with a disability last worked at the former classification and rank of the retiree with a disability, and the disability retirement benefit shall terminate.

(c) A retiree with a disability may not be required to submit to an examination under this Subsection (4) more than once every year.

(d) A retiree with a disability who returns to firefighter service employment with a participating employer in this system shall immediately begin accruing service credit that shall be added to that service credit that has been previously accrued, including service credit while disabled.

(5) A retiree with a disability is not subject to medical examinations after reaching age 55.

(6) Refusal or neglect of a member to submit to an examination as requested by the office either before or after a decision regarding disability benefits has been made is sufficient cause for denial, suspension, or discontinuance of benefits and if the refusal or neglect continues for one year, the rights of the member or retiree with a disability to disability retirement benefits may be revoked by the office.

(7) (a) A retiree with a disability who receives benefits under this part shall file a sworn statement with the office on or before March 15 of each year for the first five years a retiree with a disability receives benefits.

(b) The sworn statement shall indicate whether or not the retiree with a disability engaged in any employment during the preceding year and, if so, the amount of earnings received during the calendar year.

(c) If the total amount received in one year by a retiree with a disability for disability retirement benefits and gross earnings from other employment exceeds 125% of the final average salary of the retiree with a disability, the office shall offset the disability retirement benefit paid the following year by the amount in excess of 125% of the final average salary of the retiree with a disability.

(d) (i) If a retiree with a disability refuses or neglects to file a sworn statement as required under this Subsection (7), the executive director may suspend payment of any and all benefits pending receipt of the statement.

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(ii) Upon filing the statement, the payments of the retiree with a disability shall be resumed.

(8) The disability retirement benefit shall be improved by the annual cost-of-living increase factor applied to retirees of the system that covered the firefighter service employee at the time of disability.

(9) A line of duty disability allowance paid on or after January 1, 2002, under Section 49-16-601 is exempt from taxation to the extent permitted under federal law.

(10) (a) An active member of this system with five or more years of firefighter service credit shall be eligible for a line-of-duty death or disability benefit resulting from heart disease, lung disease, or respiratory tract disease.

(b) An active member of this system who receives a line-of-duty disability benefit for more than six months due to violence or illness other than heart disease, lung disease, or respiratory tract disease, and then returns to paid firefighter service, is not eligible for a line-of-duty death or disability benefit due to those diseases for two years after the member returned to paid firefighter service unless clear and convincing evidence is presented that the heart, lung, or respiratory tract disease was directly a result of firefighter service.

(11) Disability retirement benefits shall be considered an allowance for purposes of Section 49-11-701.

Section 39. Section **49-21-402** is amended to read:

49-21-402. Reduction or reimbursement of benefit -- Circumstances --

Application for other benefits required.

(1) A monthly disability benefit may be terminated unless:

(a) the eligible employee is under the ongoing care and treatment of a physician or physician assistant other than the eligible employee; and

(b) the eligible employee provides the information and documentation requested by the office.

(2) (a) The monthly disability benefit shall be reduced or reimbursed by any amount received by, or payable to, the eligible employee for the same injury or illness that is the basis for the monthly disability benefit from the following sources:

(i) workers' compensation indemnity benefits, regardless of whether the amount is received as an ongoing monthly benefit, as a lump sum, or in a settlement with a workers'

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compensation indemnity carrier;

(ii) any money received by judgment, legal action, or settlement from a third party liable to the employee for the monthly disability benefit;

(iii) automobile no-fault, medical payments, or similar insurance payments;

(iv) any money received by a judgment, settlement, or other payment as a result of a claim against an employer; or

(v) annual leave or similar lump-sum payments.

(b) The monthly disability benefit shall be reduced or reimbursed by any amount received by, or payable to, the eligible employee for the same period of time during which the eligible employee is entitled to receive a monthly disability benefit from the following sources:

(i) social security disability benefits, including all benefits received by the eligible employee, the eligible employee's spouse, and the eligible employee's children as determined by the Social Security Administration;

(ii) unemployment compensation benefits;

(iii) sick leave benefits; or

(iv) compensation received for employment, including self-employment, except for eligible amounts from approved rehabilitative employment in accordance with Section 49-21-406.

(3) The monthly disability benefit shall be reduced by any amount in excess of one-third of the eligible employee's regular monthly salary received by, or payable to, the eligible employee from the following sources for the same period of time during which the eligible employee is entitled to receive a monthly disability benefit:

(a) any retirement payment earned through or provided by public or private employment; and

(b) any disability benefit, other than social security or workers' compensation indemnity benefits, resulting from the disability for which benefits are being received under this chapter.

(4) After the date of disability, cost-of-living increases to any of the benefits listed in Subsection (2) or (3) may not be considered in calculating a reduction to the monthly disability benefit.

(5) Any amounts payable to the eligible employee from one or more of the sources

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under Subsection (2) are considered as amounts received whether or not the amounts were actually received by the eligible employee.

(6) (a) An eligible employee shall first apply for all disability benefits from governmental entities under Subsection (2) to which the eligible employee is or may be entitled, and provide to the office evidence of the applications.

(b) If the eligible employee fails to make application under this Subsection (6), the monthly disability benefit shall be suspended.

(7) During a period of total disability, an eligible employee has an affirmative duty to keep the program informed regarding:

(a) the award or receipt of an amount from a source that could result in the monthly disability benefit being reduced or reimbursed under this section within 10 days of the award or receipt of the amount; and

(b) any employment, including self-employment, of the eligible employee and the compensation for that employment within 10 days of beginning the employment or a material change in the compensation from that employment.

(8) The program shall use commercially reasonable means to collect any amounts of overpayments and reimbursements.

(9) (a) If the program is unable to reduce or obtain reimbursement for the required amount from the monthly disability benefit for any reason, the employee will have received an overpayment of monthly disability benefits.

(b) If an eligible employee receives an overpayment of monthly disability benefits, the eligible employee shall repay to the office the amount of the overpayment, plus interest as determined by the program, within 30 days from the date the overpayment is received by:

(i) the eligible employee; or

(ii) a third party related to the eligible employee.

(c) The executive director may waive the interest on an overpayment of monthly disability benefits under Subsection (9)(b) if good cause is shown for the delay in repayment of the overpayment of monthly disability benefits.

Section 40. Section **49-21-406** is amended to read:

**49-21-406. Rehabilitative employment -- Interview by disability specialist --
Maintaining eligibility -- Additional treatment and care.**

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(1) (a) If an eligible employee, during a period of total disability for which the monthly disability benefit is payable, engages in approved rehabilitative employment, the monthly disability benefit otherwise payable shall be reduced:

(i) by an amount equal to 50% of the income to which the eligible employee is entitled for the employment during the month; and

(ii) so that the combined amount received from the rehabilitative employment and the monthly disability payment does not exceed 100% of the eligible employee's monthly salary prior to the employee's disability.

(b) This rehabilitative benefit is payable for up to two years or to the end of the maximum benefit period, whichever occurs first.

(2) (a) Each eligible employee receiving a monthly disability benefit shall be interviewed by the office.

(b) The office may refer the eligible employee to a rehabilitative or vocational specialist for a review of the eligible employee's condition and a written rehabilitation plan and return to work assistance.

(3) If an eligible employee receiving a monthly disability benefit fails to participate in an office-approved rehabilitation program within the limitations set forth by a physician or physician assistant, the monthly disability benefit may be suspended or terminated.

(4) The office may, as a condition of paying a monthly disability benefit, require that the eligible employee receive medical care and treatment if that treatment is reasonable or usual according to current medical practices.

Section 41. Section **53-2a-302** is amended to read:

53-2a-302. Definitions.

As used in this part:

(1) "Emergency responder":

(a) means a person in the public or private sector:

(i) who has special skills, qualification, training, knowledge, or experience, whether or not possessing a license, certificate, permit, or other official recognition for the skills, qualification, training, knowledge, or experience, that would benefit a participating political subdivision in responding to a locally declared emergency or in an authorized drill or exercise; and

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(ii) whom a participating political subdivision requests or authorizes to assist in responding to a locally declared emergency or in an authorized drill or exercise; and

(b) includes:

(i) a law enforcement officer;

(ii) a firefighter;

(iii) an emergency medical services worker;

(iv) a physician, physician assistant, nurse, or other public health worker;

(v) an emergency management official;

(vi) a public works worker;

(vii) a building inspector;

(viii) an architect, engineer, or other design professional; or

(ix) a person with specialized equipment operations skills or training or with any other skills needed to provide aid in a declared emergency.

(2) "Participating political subdivision" means each county, municipality, public safety district, and public safety interlocal entity that has not adopted a resolution under Section 53-2a-306 withdrawing itself from the statewide mutual aid system.

(3) "Public safety district" means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, that provides public safety service.

(4) "Public safety interlocal entity" means an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act, that provides public safety service.

(5) "Public safety service" means a service provided to the public to protect life and property and includes fire protection, police protection, emergency medical service, and hazardous material response service.

(6) "Requesting political subdivision" means a participating political subdivision that requests emergency assistance under Section 53-2a-207 from one or more other participating political subdivisions.

(7) "Responding political subdivision" means a participating political subdivision that responds to a request under Section 53-2a-307 from a requesting political subdivision.

(8) "State" means the state of Utah.

(9) "Statewide mutual aid system" or "system" means the aggregate of all participating

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political subdivisions and the state.

Section 42. ~~Section 53-3-302 is amended to read:~~

~~53-3-302. Definitions:~~

~~As used in this part:~~

~~(1) "Board" means the Driver License Medical Advisory Board created in Section 53-3-303.~~

~~(2) "Health care professional" means a physician [or], surgeon, or physician assistant licensed to practice [medicine] in the state, or when recommended by the Medical Advisory Board, may include other health care professionals licensed to conduct physical examinations in this state.~~

~~(3) (a) "Impaired person" means a person who has a mental, emotional, or nonstable physical disability or disease that may impair the person's ability to exercise reasonable and ordinary control at all times over a motor vehicle while driving on the highways.~~

~~(b) "Impaired person" does not include a person having a nonprogressive or stable physical impairment that is objectively observable and that may be evaluated by a functional driving examination.~~

~~Section 43.~~ Section 53-10-405 is amended to read:

53-10-405. DNA specimen analysis -- Saliva sample to be obtained by agency -- Blood sample to be drawn by professional.

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

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

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

(i) a physician;

(ii) a physician assistant;

~~(iii)~~ (iii) a registered nurse;

~~(iii)~~ (iv) a licensed practical nurse;

~~(iv)~~ (v) a paramedic;

~~(v)~~ (vi) as provided in Subsection (2)(b), emergency medical service personnel other

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than paramedics; or

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

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

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

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

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

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

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

Section ~~{44}~~43. Section 53G-9-203 is amended to read:

53G-9-203. Definitions -- School personnel -- Medical recommendations --

Exceptions -- Penalties.

(1) As used in this section:

(a) "Health care professional" means a physician, physician assistant, nurse, dentist, or mental health therapist.

(b) "School personnel" means a school district or charter school employee, including a licensed, part-time, contract, or nonlicensed employee.

(2) School personnel may:

(a) provide information and observations to a student's parent or guardian about that student, including observations and concerns in the following areas:

(i) progress;

(ii) health and wellness;

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(iii) social interactions;

(iv) behavior; or

(v) topics consistent with Subsection 53E-9-203(6);

(b) communicate information and observations between school personnel regarding a child;

(c) refer students to other appropriate school personnel and agents, consistent with local school board or charter school policy, including referrals and communication with a school counselor or other mental health professionals working within the school system;

(d) consult or use appropriate health care professionals in the event of an emergency while the student is at school, consistent with the student emergency information provided at student enrollment;

(e) exercise their authority relating to the placement within the school or readmission of a child who may be or has been suspended or expelled for a violation of Section 53G-8-205; and

(f) complete a behavioral health evaluation form if requested by a student's parent or guardian to provide information to a licensed physician or physician assistant.

(3) School personnel shall:

(a) report suspected child abuse consistent with Section 62A-4a-403;

(b) comply with applicable state and local health department laws, rules, and policies;

and

(c) conduct evaluations and assessments consistent with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments.

(4) Except as provided in Subsection (2), Subsection (6), and Section 53G-9-604, school personnel may not:

(a) recommend to a parent or guardian that a child take or continue to take a psychotropic medication;

(b) require that a student take or continue to take a psychotropic medication as a condition for attending school;

(c) recommend that a parent or guardian seek or use a type of psychiatric or psychological treatment for a child;

(d) conduct a psychiatric or behavioral health evaluation or mental health screening,

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test, evaluation, or assessment of a child, except where this Subsection (4)(d) conflicts with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments; or

(e) make a child abuse or neglect report to authorities, including the Division of Child and Family Services, solely or primarily on the basis that a parent or guardian refuses to consent to:

(i) a psychiatric, psychological, or behavioral treatment for a child, including the administration of a psychotropic medication to a child; or

(ii) a psychiatric or behavioral health evaluation of a child.

(5) Notwithstanding Subsection (4)(e), school personnel may make a report that would otherwise be prohibited under Subsection (4)(e) if failure to take the action described under Subsection (4)(e) would present a serious, imminent risk to the child's safety or the safety of others.

(6) Notwithstanding Subsection (4), a school counselor or other mental health professional acting in accordance with Title 58, Chapter 60, Mental Health Professional Practice Act, or licensed through the State Board of Education, working within the school system may:

(a) recommend, but not require, a psychiatric or behavioral health evaluation of a child;

(b) recommend, but not require, psychiatric, psychological, or behavioral treatment for a child;

(c) conduct a psychiatric or behavioral health evaluation or mental health screening, test, evaluation, or assessment of a child in accordance with Section 53E-9-203; and

(d) provide to a parent or guardian, upon the specific request of the parent or guardian, a list of three or more health care professionals or providers, including licensed physicians, physician assistants, psychologists, or other health specialists.

(7) Local school boards or charter schools shall adopt a policy:

(a) providing for training of appropriate school personnel on the provisions of this section; and

(b) indicating that an intentional violation of this section is cause for disciplinary action consistent with local school board or charter school policy and under Section 53G-11-513.

(8) Nothing in this section shall be interpreted as discouraging general communication

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not prohibited by this section between school personnel and a student's parent or guardian.

Section ~~{45}~~44. Section **53G-9-208** is amended to read:

53G-9-208. Sunscreen -- Possession -- Administration -- Immunity.

(1) As used in this section, "sunscreen" means a compound topically applied to prevent sunburn.

(2) A public school shall permit a student, without a parent [~~or physician's~~], physician, or physician assistant's authorization, to possess or self-apply sunscreen that is regulated by the Food and Drug Administration.

(3) If a student is unable to self-apply sunscreen, a volunteer school employee may apply the sunscreen on the student if the student's parent or legal guardian provides written consent for the assistance.

(4) A volunteer school employee who applies sunscreen on a student in compliance with Subsection (3) and the volunteer school employee's employer are not liable for:

(a) an adverse reaction suffered by the student as a result of having the sunscreen applied; or

(b) discontinuing the application of the sunscreen at any time.

Section ~~{46}~~45. Section **53G-9-504** is amended to read:

53G-9-504. Administration of glucagon -- Training of volunteer school personnel -- Authority to use glucagon -- Immunity from liability.

(1) As used in this section, "glucagon authorization" means a signed statement from a parent or guardian of a student with diabetes:

(a) certifying that glucagon has been prescribed for the student;

(b) requesting that the student's public school identify and train school personnel who volunteer to be trained in the administration of glucagon in accordance with this section; and

(c) authorizing the administration of glucagon in an emergency to the student in accordance with this section.

(2) (a) A public school shall, within a reasonable time after receiving a glucagon authorization, train two or more school personnel who volunteer to be trained in the administration of glucagon, with training provided by the school nurse or another qualified, licensed medical professional.

(b) A public school shall allow all willing school personnel to receive training in the

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administration of glucagon, and the school shall assist and may not obstruct the identification or training of volunteers under this Subsection (2).

(c) The Utah Department of Health, in cooperation with the state superintendent of public instruction, shall design a glucagon authorization form to be used by public schools in accordance with this section.

(3) (a) Training in the administration of glucagon shall include:

(i) techniques for recognizing the symptoms that warrant the administration of glucagon;

(ii) standards and procedures for the storage and use of glucagon;

(iii) other emergency procedures, including calling the emergency 911 number and contacting, if possible, the student's parent or guardian; and

(iv) written materials covering the information required under this Subsection (3).

(b) A school shall retain for reference the written materials prepared in accordance with Subsection (3)(a)(iv).

(4) A public school shall permit a student or school personnel to possess or store prescribed glucagon so that it will be available for administration in an emergency in accordance with this section.

(5) (a) A person who has received training in accordance with this section may administer glucagon at a school or school activity to a student with a glucagon authorization if:

(i) the student is exhibiting the symptoms that warrant the administration of glucagon; and

(ii) a licensed health care professional is not immediately available.

(b) A person who administers glucagon in accordance with Subsection (5)(a) shall direct a responsible person to call 911 and take other appropriate actions in accordance with the training materials retained under Subsection (3)(b).

(6) School personnel who provide or receive training under this section and act in good faith are not liable in any civil or criminal action for any act taken or not taken under the authority of this section with respect to the administration of glucagon.

(7) Section 53G-9-502 does not apply to the administration of glucagon in accordance with this section.

(8) Section 53G-8-205 does not apply to the possession and administration of glucagon

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in accordance with this section.

(9) The unlawful or unprofessional conduct provisions of Title 58, Occupations and Professions, do not apply to a person licensed as a health professional under Title 58, Occupations and Professions, including a nurse, physician, physician assistant, or pharmacist who, in good faith, trains nonlicensed volunteers to administer glucagon in accordance with this section.

Section ~~{47}~~46. Section **53G-9-505** is amended to read:

53G-9-505. Trained school employee volunteers -- Administration of seizure rescue medication -- Exemptions from liability.

(1) As used in this section:

(a) "Prescribing health care professional" means:

(i) a physician and surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(ii) an osteopathic physician and surgeon licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act; or

(iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(b) "Section 504 accommodation plan" means a plan developed pursuant to Section 504 of the Rehabilitation Act of 1973, as amended, to provide appropriate accommodations to an individual with a disability to ensure access to major life activities.

(c) "Seizure rescue authorization" means a student's Section 504 accommodation plan that:

(i) certifies that:

(A) a prescribing health care professional has prescribed a seizure rescue medication for the student;

(B) the student's parent or legal guardian has previously administered the student's seizure rescue medication in a nonmedically-supervised setting without a complication; and

(C) the student has previously ceased having full body prolonged or convulsive seizure activity as a result of receiving the seizure rescue medication;

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(ii) describes the specific seizure rescue medication authorized for the student, including the indicated dose, and instructions for administration;

(iii) requests that the student's public school identify and train school employees who are willing to volunteer to receive training to administer a seizure rescue medication in accordance with this section; and

(iv) authorizes a trained school employee volunteer to administer a seizure rescue medication in accordance with this section.

(d) (i) "Seizure rescue medication" means a medication, prescribed by a prescribing health care professional, to be administered as described in a student's seizure rescue authorization, while the student experiences seizure activity.

(ii) A seizure rescue medication does not include a medication administered intravenously or intramuscularly.

(e) "Trained school employee volunteer" means an individual who:

(i) is an employee of a public school where at least one student has a seizure rescue authorization;

(ii) is at least 18 years old; and

(iii) as described in this section:

(A) volunteers to receive training in the administration of a seizure rescue medication;

(B) completes a training program described in this section;

(C) demonstrates competency on an assessment; and

(D) completes annual refresher training each year that the individual intends to remain a trained school employee volunteer.

(2) (a) The Department of Health shall, with input from the State Board of Education and a children's hospital, develop a training program for trained school employee volunteers in the administration of seizure rescue medications that includes:

(i) techniques to recognize symptoms that warrant the administration of a seizure rescue medication;

(ii) standards and procedures for the storage of a seizure rescue medication;

(iii) procedures, in addition to administering a seizure rescue medication, in the event that a student requires administration of the seizure rescue medication, including:

(A) calling 911; and

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- (B) contacting the student's parent or legal guardian;
 - (iv) an assessment to determine if an individual is competent to administer a seizure rescue medication;
 - (v) an annual refresher training component; and
 - (vi) written materials describing the information required under this Subsection (2)(a).
- (b) A public school shall retain for reference the written materials described in Subsection (2)(a)(vi).
- (c) The following individuals may provide the training described in Subsection (2)(a):
- (i) a school nurse; or
 - (ii) a licensed health care professional.
- (3) (a) A public school shall, after receiving a seizure rescue authorization:
- (i) inform school employees of the opportunity to be a school employee volunteer; and
 - (ii) subject to Subsection (3)(b)(ii), provide training, to each school employee who volunteers, using the training program described in Subsection (2)(a).
- (b) A public school may not:
- (i) obstruct the identification or training of a trained school employee volunteer; or
 - (ii) compel a school employee to become a trained school employee volunteer.
- (4) A trained school employee volunteer may possess or store a prescribed rescue seizure medication, in accordance with this section.
- (5) A trained school employee volunteer may administer a seizure rescue medication to a student with a seizure rescue authorization if:
- (a) the student is exhibiting a symptom, described on the student's seizure rescue authorization, that warrants the administration of a seizure rescue medication; and
 - (b) a licensed health care professional is not immediately available to administer the seizure rescue medication.
- (6) A trained school employee volunteer who administers a seizure rescue medication shall direct an individual to call 911 and take other appropriate actions in accordance with the training described in Subsection (2).
- (7) A trained school employee volunteer who administers a seizure rescue medication in accordance with this section in good faith is not liable in a civil or criminal action for an act taken or not taken under this section.

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(8) Section 53G-9-502 does not apply to the administration of a seizure rescue medication.

(9) Section 53G-8-205 does not apply to the possession of a seizure rescue medication in accordance with this section.

(10) (a) The unlawful or unprofessional conduct provisions of Title 58, Occupations and Professions, do not apply to a person licensed as a health care professional under Title 58, Occupations and Professions, including a nurse, physician, physician assistant, or pharmacist for, in good faith, training a nonlicensed school employee who volunteers to administer a seizure rescue medication in accordance with this section.

(b) Allowing a trained school employee volunteer to administer a seizure rescue medication in accordance with this section does not constitute unlawful or inappropriate delegation under Title 58, Occupations and Professions.

Section ~~(48)~~47. Section **54-8b-10** is amended to read:

54-8b-10. Imposing a surcharge to provide deaf, hard of hearing, and speech impaired individuals with telecommunication devices -- Definitions -- Procedures for establishing program -- Surcharge -- Administration and disposition of surcharge money.

(1) As used in this section:

(a) "Certified deaf, hard of hearing, or severely speech impaired individual" means any state resident who:

(i) is so certified by:

(A) a licensed physician;

(B) a licensed physician assistant;

~~[(B)] (C)~~ an otolaryngologist;

~~[(C)] (D)~~ a speech language pathologist;

~~[(D)] (E)~~ an audiologist; or

~~[(E)] (F)~~ a qualified state agency; and

(ii) qualifies for assistance under any low income public assistance program administered by a state agency.

(b) "Certified interpreter" means a person who is a certified interpreter under Title 35A, Chapter 13, Part 6, Interpreter Services for the Deaf and Hard of Hearing Act.

(c) (i) "Telecommunication device" means any mechanical adaptation device that

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enables a deaf, hard of hearing, or severely speech impaired individual to use the telephone.

(ii) "Telecommunication device" includes:

- (A) telecommunication devices for the deaf (TDD);
- (B) telephone amplifiers;
- (C) telephone signal devices;
- (D) artificial larynxes; and
- (E) adaptive equipment for TDD keyboard access.

(2) The commission shall establish a program whereby a certified deaf, hard of hearing, or severely speech impaired customer of a telecommunications corporation that provides service through a local exchange or of a wireless telecommunications provider may obtain a telecommunication device capable of serving the customer at no charge to the customer beyond the rate for basic service.

(3) (a) The program described in Subsection (2) shall provide a dual party relay system using third party intervention to connect a certified deaf, hard of hearing, or severely speech impaired individual with a normal hearing individual by way of telecommunication devices designed for that purpose.

(b) The commission may, by rule, establish the type of telecommunications device to be provided to ensure functional equivalence.

(4) The commission shall cover the costs of the program described in this section from the Universal Public Telecommunications Service Support Fund created in Section 54-8b-15.

(5) In administering the program described in this section, the commission may use funds from the Universal Public Telecommunications Service Support Fund:

- (a) for the purchase, maintenance, repair, and distribution of telecommunication devices;
- (b) for the acquisition, operation, maintenance, and repair of a dual party relay system;
- (c) for the general administration of the program;
- (d) to train individuals in the use of telecommunications devices; and
- (e) to contract, in compliance with Title 63G, Chapter 6a, Utah Procurement Code,

with:

(i) an institution within the state system of higher education listed in Section 53B-1-102 for a program approved by the Board of Regents that trains persons to qualify as

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certified interpreters; or

(ii) the Utah State Office of Rehabilitation created in Section 35A-1-202 for a program that trains persons to qualify as certified interpreters.

(6) The commission may create disbursement criteria and procedures by rule made under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for administering funds under Subsection (5).

(7) The commission shall solicit advice, counsel, and physical assistance from deaf, hard of hearing, or severely speech impaired individuals and the organizations serving deaf, hard of hearing, or severely speech impaired individuals in the design and implementation of the program.

Section ~~{49}~~48. Section **58-1-307** is amended to read:

58-1-307. Exemptions from licensure.

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

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

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

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

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

(e) an individual who is invited by a recognized school, association, society, or other

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body approved by the division to conduct a lecture, clinic, or demonstration of the practice of a regulated occupation or profession if the individual does not establish a place of business or regularly engage in the practice of the regulated occupation or profession in this state;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) exempt or modify the requirement for licensure of an individual who is activated as

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a member of a medical reserve corps during a time of emergency as provided in Section 26A-1-126; and

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

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

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

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

(c) must be employed by or volunteering for:

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

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

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

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

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

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

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

(A) a pharmacy;

(B) a prescribing practitioner;

(C) a licensed health care facility;

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(D) a federally qualified community health clinic; or

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

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

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

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

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

(a) coordinate the distribution of:

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

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

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

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

(i) is working in a triage situation;

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

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

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plan;

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

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

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

Section ~~{50}~~49. Section ~~{58-1-501.5}~~58-41-4 is amended to read:

~~{~~ ~~58-1-501.5. Anatomic pathology services -- Billing violations.~~

~~—— (1) As used in this section, the following definitions apply:~~

~~—— (a) (i) "Anatomic pathology services" including "technical or professional component of anatomic pathology services" means:~~

~~—— (A) histopathology or surgical pathology, meaning the gross examination of, histologic processing of, or microscopic examination of human organ tissue performed by a physician or physician assistant, or under the supervision of a physician;~~

~~—— (B) cytopathology, meaning the examination of human cells, from fluids, aspirates, washings, brushings, or smears, including the pap test examination performed by a physician, or physician assistant, or under the supervision of a physician;~~

~~—— (C) hematology, meaning the microscopic evaluation of human bone marrow aspirates and biopsies performed by a physician or physician assistant, or under the supervision of a physician, and peripheral human blood smears when the attending or treating physician, or physician assistant, or other practitioner of the healing arts or a technologist requests that a blood smear be reviewed by a pathologist;~~

~~—— (D) subcellular pathology and molecular pathology; and~~

~~—— (E) blood bank services performed by a pathologist;~~

~~—— (ii) "Anatomic pathology services" including "technical or professional component of anatomic pathology services" does not include the initial collection or packaging of a sample for transport.~~

~~—— (b) "Clinical laboratory" or "laboratory" means a facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease~~

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~~or impairment of human beings or the assessment of the health of human beings.~~

~~—— (c) "Health care facility" has the meaning provided in Section 26-21-2.~~

~~—— (d) "Health care provider" includes:~~

~~—— (i) an advanced practice registered nurse licensed under Chapter 31b, Nurse Practice Act;~~

~~—— (ii) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act;~~

~~—— (iii) a dentist licensed under Chapter 69, Dentist and Dental Hygienist Practice Act;~~

~~—— (iv) a nurse midwife licensed under Chapter 44a, Nurse Midwife Practice Act;~~

~~—— (v) an optometrist licensed under Chapter 16a, Utah Optometry Practice Act;~~

~~—— (vi) an osteopathic physician and surgeon licensed under Chapter 68, Utah Osteopathic Medical Practice Act;~~

~~—— (vii) a podiatric physician licensed under Chapter 5a, Podiatric Physician Licensing Act;~~

~~—— (viii) a physician and surgeon licensed under Chapter 67, Utah Medical Practice Act; and~~

~~—— (ix) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act.~~

~~—— (c) "Insurer" includes:~~

~~—— (i) any entity offering accident and health insurance as defined in Section 31A-1-301;~~

~~—— (ii) workers' compensation benefits;~~

~~—— (iii) a health maintenance organization; or~~

~~—— (iv) any self-insurance, as defined in Section 31A-1-301, that offers health care insurance or benefits.~~

~~—— (2) (a) A health care provider who orders anatomic pathology services for a patient from an independent physician or laboratory may not directly or indirectly mark up, charge a commission, or make a profit on the anatomic pathology service provided by the independent physician or laboratory.~~

~~—— (b) Nothing in Subsection (2)(a):~~

~~—— (i) restricts the ability of a health care provider, who has not performed or supervised either the technical or professional component of the anatomic pathology service, to obtain payment for services related solely to the collection and packaging of a sample and~~

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~~administrative billing costs; or~~

~~—— (ii) restricts the ability of the lab function in the Department of Health to bill for services;~~

~~—— (3) A health care provider when billing a patient directly for anatomic pathology services provided by an independent physician or laboratory shall furnish an itemized bill which conforms with the billing practices of the American Medical Association that conspicuously discloses the charge for each anatomic pathology service, physician or laboratory name, and address for each anatomic pathology service rendered to the patient by the physician or laboratory that performed the anatomic pathology service.~~

~~} { —— (4) The disclosure to be made under Subsection (3) shall not be required when the anatomic pathology service is being ordered by a hospital, a laboratory performing either the professional or technical component of the service, or a physician or physician assistant performing either the professional or technical component of the service, a public health clinic, or a state or federal agency.~~

~~—— (5) Failure to comply with the requirements of this section shall be considered to be unprofessional conduct.~~

~~—— Section 51. Section 58-41-4 is amended to read:~~

~~‡~~ **58-41-4. Exemptions from chapter.**

(1) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in the practice of speech-language pathology and audiology subject to the stated circumstances and limitations without being licensed under this chapter:

(a) a qualified person licensed in this state under any law existing in this state prior to May 13, 1975, [from] engaging in the profession for which he is licensed;

(b) a medical doctor, physician, physician assistant, or surgeon licensed in this state, [from] engaging in his or her specialty in the practice of medicine;

(c) a hearing aid dealer or salesman from selling, fitting, adjusting, and repairing hearing aids, and conducting hearing tests solely for that purpose. However, a hearing aid dealer may not conduct audiologic testing on persons under the age of 18 years except under the direct supervision of an audiologist licensed under this chapter;

(d) a person who has obtained a valid and current credential issued by the State Board of Education while performing specifically the functions of a speech-language pathologist or

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audiologist, in no way in his own interest, solely within the confines of and under the direction and jurisdiction of and only in the academic interest of the schools by which employed in this state;

(e) a person employed as a speech-language pathologist or audiologist by federal government agencies or subdivisions or, prior to July 1, 1989, by state or local government agencies or subdivisions, while specifically performing speech-language pathology or audiology services in no way in his own interest, solely within the confines of and under the direction and jurisdiction of and in the specific interest of that agency or subdivision;

(f) a person identified in Subsections (1)(d) and (e) may offer lectures for a fee, or monetary or other compensation, without being licensed; however, such person may elect to be subject to the requirements of this chapter;

(g) a person employed by accredited colleges or universities as a speech-language pathologist or audiologist from performing the services or functions described in this chapter when they are:

(i) performed solely as an assigned teaching function of employment;

(ii) solely in academic interest and pursuit as a function of that employment;

(iii) in no way for their own interest; and

(iv) provided for no fee, monetary or otherwise, other than their agreed institutional salary;

(h) a person pursuing a course of study leading to a degree in speech-language pathology or audiology while enrolled in an accredited college or university, provided those activities constitute an assigned, directed, and supervised part of his curricular study, and in no other interest, and that all examinations, tests, histories, charts, progress notes, reports, correspondence, and all documents and records which he produces be identified clearly as having been conducted and prepared by a student in training and that such a person is obviously identified and designated by appropriate title clearly indicating the training status and provided that he does not hold himself out directly or indirectly as being qualified to practice independently;

(i) a person trained in elementary audiometry and qualified to perform basic audiometric tests while employed by a licensed medical doctor to perform solely for him while under his direct supervision, the elementary conventional audiometric tests of air conduction

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screening, air conduction threshold testing, and tympanometry;

(j) a person while performing as a speech-language pathologist or audiologist for the purpose of obtaining required professional experience under the provisions of this chapter, if he meets all training requirements and is professionally responsible to and under the supervision of a speech-language pathologist or audiologist who holds the CCC or a state license in speech-language pathology or audiology. This provision is applicable only during the time that person is obtaining the required professional experience;

(k) a corporation, partnership, trust, association, group practice, or like organization engaging in speech-language pathology or audiology services without certification or license, if it acts only through employees or consists only of persons who are licensed under this chapter;

(l) performance of speech-language pathology or audiology services in this state by a speech-language pathologist or audiologist who is not a resident of this state and is not licensed under this chapter if those services are performed for no more than one month in any calendar year in association with a speech-language pathologist or audiologist licensed under this chapter, and if that person meets the qualifications and requirements for application for licensure described in Section 58-41-5; and

(m) a person certified under Title 53E, Public Education System -- State Administration, as a teacher of the deaf, from providing the services or performing the functions he is certified to perform.

(2) No person is exempt from the requirements of this chapter who performs or provides any services as a speech-language pathologist or audiologist for which a fee, salary, bonus, gratuity, or compensation of any kind paid by the recipient of the service; or who engages any part of his professional work for a fee practicing in conjunction with, by permission of, or apart from his position of employment as speech-language pathologist or audiologist in any branch or subdivision of local, state, or federal government or as otherwise identified in this section.

Section ~~52~~50. Section **58-46a-305** is amended to read:

58-46a-305. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in acts and practices included within the definition of practice as a hearing instrument specialist or hearing instrument intern, subject to their professional licensure

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authorization and restrictions, without being licensed under this chapter:

- (1) an audiologist licensed under the provisions of [~~Title 58;~~] Chapter 41, Speech-Language Pathology and Audiology Licensing Act; [~~and~~]
- (2) a physician and surgeon licensed under the provisions of [~~Title 58;~~] Chapter 67, Utah Medical Practice Act, or osteopathic physician licensed under the provisions of [~~Title 58;~~] Chapter 68, Utah Osteopathic Medical Practice Act[~~;~~]; and
- (3) a physician assistant licensed under the provisions of Chapter 70a, Utah Physician Assistant Act.

Section ~~{53}~~51. Section **58-46a-502** is amended to read:

58-46a-502. Additional requirements for practicing as a hearing instrument specialist.

A person engaging in the practice of a hearing instrument specialist shall:

- (1) have a regular place or places of business from which the person conducts business as a hearing instrument specialist and the place or places of business shall be represented to a patient and others with whom business is conducted by the street address at which the place of business is located;
- (2) include in all advertising or other representation the street address at which the business is located and the telephone number of the business at that street address;
- (3) provide as part of each transaction between a licensee and a patient related to testing for hearing loss and selling of a hearing instrument written documentation provided to the patient that includes:
 - (a) identification of all services and products provided to the patient by the hearing instrument specialist and the charges for each service or product;
 - (b) a statement whether any hearing instrument provided to a patient is "new," "used," or "reconditioned" and the terms and conditions of any warranty or guarantee that applies to each instrument; and
 - (c) the identity and license number of each hearing instrument specialist or hearing instrument intern who provided services or products to the patient;
- (4) before providing services or products to a patient:
 - (a) advise the patient regarding services and products offered to the patient, including the expected results of the services and products;

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(b) inform each patient who is being offered a hearing instrument about hearing instruments that work with assistive listening systems that are compliant with the ADA Standards for Accessible Design adopted by the United States Department of Justice in accordance with the Americans with Disabilities Act, 42 U.S.C. Sec. 12101 et seq.; and

(c) obtain written informed consent from the patient regarding offered services, products, and the expected results of the services and products in a form approved by the division in collaboration with the board;

(5) refer all individuals under the age of 18 who seek testing of hearing to a physician or surgeon, osteopathic physician, physician assistant, or audiologist, licensed under the provisions of [~~Title 58, Occupations and Professions~~] this title, and shall dispense a hearing aid to that individual only on prescription of a physician or surgeon, osteopathic physician, physician assistant, or audiologist;

(6) obtain the patient's informed consent and agreement to purchase the hearing instrument based on that informed consent either by the hearing instrument specialist or the hearing instrument intern, before designating an appropriate hearing instrument; and

(7) if a hearing instrument does not substantially enhance the patient's hearing consistent with the representations of the hearing instrument specialist at the time informed consent was given prior to the sale and fitting of the hearing instrument, provide:

(a) necessary intervention to produce satisfactory hearing recovery results consistent with representations made; or

(b) for the refund of fees paid by the patient for the hearing instrument to the hearing instrument specialist within a reasonable time after finding that the hearing instrument does not substantially enhance the patient's hearing.

Section ~~{54}~~52. Section **58-47b-304** is amended to read:

58-47b-304. Exemptions from licensure.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the practice of massage therapy as defined under this chapter, subject to the stated circumstances and limitations, without being licensed, but may not represent themselves as a massage therapist or massage apprentice:

(a) a physician or surgeon licensed under [~~Title 58;~~] Chapter 67, Utah Medical Practice Act;

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(b) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act;

~~(b)~~ (c) a nurse licensed under ~~[Title 58,]~~ Chapter 31b, Nurse Practice Act, or under ~~[Title 58,]~~ Chapter 44a, Nurse Midwife Practice Act;

~~(c)~~ (d) a physical therapist licensed under ~~[Title 58,]~~ Chapter 24b, Physical Therapy Practice Act;

~~(d)~~ (e) a physical therapist assistant licensed under ~~[Title 58,]~~ Chapter 24b, Physical Therapy Practice Act, while under the general supervision of a physical therapist;

~~(e)~~ (f) an osteopathic physician or surgeon licensed under ~~[Title 58,]~~ Chapter 68, Utah Osteopathic Medical Practice Act;

~~(f)~~ (g) a chiropractic physician licensed under ~~[Title 58,]~~ Chapter 73, Chiropractic Physician Practice Act;

~~(g)~~ (h) a hospital staff member employed by a hospital, who practices massage as part of the staff member's responsibilities;

~~(h)~~ (i) an athletic trainer licensed under ~~[Title 58,]~~ Chapter 40a, Athletic Trainer Licensing Act;

~~(i)~~ (j) a student in training enrolled in a massage therapy school approved by the division;

~~(j)~~ (k) a naturopathic physician licensed under ~~[Title 58,]~~ Chapter 71, Naturopathic Physician Practice Act;

~~(k)~~ (l) an occupational therapist licensed under ~~[Title 58,]~~ Chapter 42a, Occupational Therapy Practice Act;

~~(l)~~ (m) an individual performing gratuitous massage; and

~~(m)~~ (n) an individual:

(i) certified by or through, and in good standing with, an industry organization that is recognized by the division, and that represents a profession with established standards and ethics;

(ii) (A) who limits the manipulation of the soft tissues of the body to the hands, feet, and outer ears only, including the practice of reflexology and foot zone therapy; or

(B) who is certified to practice ortho-bionomy and whose practice is limited to the scope of practice of ortho-bionomy;

(iii) whose clients remain fully clothed from the shoulders to the knees; and

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(iv) whose clients do not receive gratuitous massage from the individual.

(2) This chapter may not be construed to authorize any individual licensed under this chapter to engage in any manner in the practice of medicine as defined by the laws of this state.

(3) This chapter may not be construed to:

(a) require insurance coverage or reimbursement for massage therapy from third party payors; or

(b) prevent an insurance carrier from offering coverage for massage therapy.

Section ~~{55}~~53. Section **58-70a-101** is amended to read:

CHAPTER 70a. UTAH PHYSICIAN ASSISTANT ACT

58-70a-101. Title.

This chapter is known as the "Utah Physician Assistant Act."

Section ~~{56}~~54. Section **58-70a-305** is amended to read:

58-70a-305. Exemptions from licensure.

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

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

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

(b) that are conducted at an affiliated medical facility under the direct supervision of a:

(i) physician associated with the program; or

(ii) licensed physician assistant~~[, at the request of the supervising physician and on a temporary basis, as defined by rule]~~ associated with the medical faculty;

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

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

(a) does not diagnose, advise, independently treat, or prescribe to or on behalf of any person; and

(b) for whom the supervising physician accepts responsibility.

Section ~~{57}~~55. Section **58-75-304** is amended to read:

58-75-304. Exemptions from licensure.

In addition to the exemptions from licensure set forth in Section 58-1-307, the

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following persons may engage in the practice of genetic counseling subject to the stated circumstances and limitations without being licensed under this chapter:

(1) an individual licensed as a physician and surgeon or osteopathic physician and surgeon under Chapter 67, Utah Medical Practice Act, and Chapter 68, Utah Osteopathic Medical Practice Act; [~~and~~]

(2) a commissioned physician or surgeon serving in the armed forces of the United States or other federal agency[~~;~~]; and

(3) an individual licensed as a physician assistant under Chapter 70a, Utah Physician Assistant Act.

Section ~~{58}~~56. Section **62A-4a-406** is amended to read:

62A-4a-406. Photographs.

(1) Any physician, surgeon, physician assistant, medical examiner, peace officer, law enforcement official, or public health officer or official may take photographs of the areas of trauma visible on a child and, if medically indicated, perform radiological examinations.

(2) Photographs may be taken of the premises or of objects relevant to a reported circumstance of abuse or neglect.

(3) Photographs or X-rays, and all other medical records pertinent to an investigation for abuse or neglect shall be made available to the division, law enforcement officials, and the court.

Section ~~{59}~~57. Section **63G-2-202** is amended to read:

63G-2-202. Access to private, controlled, and protected documents.

(1) Except as provided in Subsection (11)(a), a governmental entity:

(a) shall, upon request, disclose a private record to:

(i) the subject of the record;

(ii) the parent or legal guardian of an unemancipated minor who is the subject of the record;

(iii) the legal guardian of a legally incapacitated individual who is the subject of the record;

(iv) any other individual who:

(A) has a power of attorney from the subject of the record;

(B) submits a notarized release from the subject of the record or the individual's legal

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representative dated no more than 90 days before the date the request is made; or

(C) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a health care provider, as defined in Section 26-33a-102, if releasing the record or information in the record is consistent with normal professional practice and medical ethics; or

(v) any person to whom the record must be provided pursuant to:

(A) court order as provided in Subsection (7); or

(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena

Powers; and

(b) may disclose a private record described in Subsection 63G-2-302(1)(j) or (k), without complying with Section 63G-2-206, to another governmental entity for a purpose related to:

(i) voter registration; or

(ii) the administration of an election.

(2) (a) Upon request, a governmental entity shall disclose a controlled record to:

(i) a physician, physician assistant, psychologist, certified social worker, insurance provider or producer, or a government public health agency upon submission of:

(A) a release from the subject of the record that is dated no more than 90 days prior to the date the request is made; and

(B) a signed acknowledgment of the terms of disclosure of controlled information as provided by Subsection (2)(b); and

(ii) any person to whom the record must be disclosed pursuant to:

(A) a court order as provided in Subsection (7); or

(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena

Powers.

(b) A person who receives a record from a governmental entity in accordance with Subsection (2)(a)(i) may not disclose controlled information from that record to any person, including the subject of the record.

(3) If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

(4) Upon request, and except as provided in Subsection (10) or (11)(b), a governmental

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entity shall disclose a protected record to:

(a) the person that submitted the record;

(b) any other individual who:

(i) has a power of attorney from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification; or

(ii) submits a notarized release from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification or from their legal representatives dated no more than 90 days prior to the date the request is made;

(c) any person to whom the record must be provided pursuant to:

(i) a court order as provided in Subsection (7); or

(ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; or

(d) the owner of a mobile home park, subject to the conditions of Subsection 41-1a-116(5).

(5) Except as provided in Subsection (1)(b), a governmental entity may disclose a private, controlled, or protected record to another governmental entity, political subdivision, state, the United States, or a foreign government only as provided by Section 63G-2-206.

(6) Before releasing a private, controlled, or protected record, the governmental entity shall obtain evidence of the requester's identity.

(7) A governmental entity shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that:

(a) the record deals with a matter in controversy over which the court has jurisdiction;

(b) the court has considered the merits of the request for access to the record;

(c) the court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect:

(i) privacy interests in the case of private or controlled records;

(ii) business confidentiality interests in the case of records protected under Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

(iii) privacy interests or the public interest in the case of other protected records;

(d) to the extent the record is properly classified private, controlled, or protected, the interests favoring access, considering limitations thereon, are greater than or equal to the

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interests favoring restriction of access; and

(e) where access is restricted by a rule, statute, or regulation referred to in Subsection 63G-2-201(3)(b), the court has authority independent of this chapter to order disclosure.

(8) (a) Except as provided in Subsection (8)(d), a governmental entity may disclose or authorize disclosure of private or controlled records for research purposes if the governmental entity:

(i) determines that the research purpose cannot reasonably be accomplished without use or disclosure of the information to the researcher in individually identifiable form;

(ii) determines that:

(A) the proposed research is bona fide; and

(B) the value of the research is greater than or equal to the infringement upon personal privacy;

(iii) (A) requires the researcher to assure the integrity, confidentiality, and security of the records; and

(B) requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;

(iv) prohibits the researcher from:

(A) disclosing the record in individually identifiable form, except as provided in Subsection (8)(b); or

(B) using the record for purposes other than the research approved by the governmental entity; and

(v) secures from the researcher a written statement of the researcher's understanding of and agreement to the conditions of this Subsection (8) and the researcher's understanding that violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution under Section 63G-2-801.

(b) A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.

(c) A governmental entity may require indemnification as a condition of permitting research under this Subsection (8).

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(d) A governmental entity may not disclose or authorize disclosure of a private record for research purposes as described in this Subsection (8) if the private record is a record described in Subsection 63G-2-302(1)(u).

(9) (a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity may disclose to persons other than those specified in this section records that are:

(i) private under Section 63G-2-302; or

(ii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(b) Under Subsection 63G-2-403(11)(b), the records committee may require the disclosure to persons other than those specified in this section of records that are:

(i) private under Section 63G-2-302;

(ii) controlled under Section 63G-2-304; or

(iii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(c) Under Subsection 63G-2-404(7), the court may require the disclosure of records that are private under Section 63G-2-302, controlled under Section 63G-2-304, or protected under Section 63G-2-305 to persons other than those specified in this section.

(10) A record contained in the Management Information System, created in Section 62A-4a-1003, that is found to be unsubstantiated, unsupported, or without merit may not be disclosed to any person except the person who is alleged in the report to be a perpetrator of abuse, neglect, or dependency.

(11) (a) A private record described in Subsection 63G-2-302(2)(f) may only be disclosed as provided in Subsection (1)(e).

(b) A protected record described in Subsection 63G-2-305(43) may only be disclosed as provided in Subsection (4)(c) or Section 62A-3-312.

(12) (a) A private, protected, or controlled record described in Section 62A-16-301 shall be disclosed as required under:

(i) Subsections 62A-16-301(1)(b), (2), and (4)(c); and

(ii) Subsections 62A-16-302(1) and (6).

(b) A record disclosed under Subsection (12)(a) shall retain its character as private, protected, or controlled.

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Section ~~60~~58. Section 63N-10-102 is amended to read:

63N-10-102. Definitions.

As used in this chapter:

(1) "Bodily injury" has the same meaning as defined in Section 76-1-601.

(2) "Boxing" means the sport of attack and defense using the fist, which is covered by an approved boxing glove.

(3) (a) "Club fighting" means any contest of unarmed combat, whether admission is charged or not, where:

(i) the rules of the contest are not approved by the commission;

(ii) a licensed physician [or], osteopath, or physician assistant approved by the commission is not in attendance;

(iii) a correct HIV negative test regarding each contestant has not been provided to the commission;

(iv) the contest is not conducted in accordance with commission rules; or

(v) the contestants are not matched by the weight standards established in accordance with Section 63N-10-316.

(b) "Club fighting" does not include sparring if:

(i) it is conducted for training purposes;

(ii) no tickets are sold to spectators;

(iii) no concessions are available for spectators;

(iv) protective clothing, including protective headgear, a mouthguard, and a protective cup, is worn; and

(v) for boxing, 16 ounce boxing gloves are worn.

(4) "Commission" means the Pete Suazo Utah Athletic Commission created by this chapter.

(5) "Contest" means a live match, performance, or exhibition involving two or more persons engaged in unarmed combat.

(6) "Contestant" means an individual who participates in a contest.

(7) "Designated commission member" means a member of the commission designated to:

(a) attend and supervise a particular contest; and

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- (b) act on the behalf of the commission at a contest venue.
- (8) "Director" means the director appointed by the commission.
- (9) "Elimination unarmed combat contest" means a contest where:
 - (a) a number of contestants participate in a tournament;
 - (b) the duration is not more than 48 hours; and
 - (c) the loser of each contest is eliminated from further competition.
- (10) "Exhibition" means an engagement in which the participants show or display their skills without necessarily striving to win.
 - (11) "Judge" means an individual qualified by training or experience to:
 - (a) rate the performance of contestants;
 - (b) score a contest; and
 - (c) determine with other judges whether there is a winner of the contest or whether the contestants performed equally, resulting in a draw.
 - (12) "Licensee" means an individual licensed by the commission to act as a:
 - (a) contestant;
 - (b) judge;
 - (c) manager;
 - (d) promoter;
 - (e) referee;
 - (f) second; or
 - (g) other official established by the commission by rule.
 - (13) "Manager" means an individual who represents a contestant for the purpose of:
 - (a) obtaining a contest for a contestant;
 - (b) negotiating terms and conditions of the contract under which the contestant will engage in a contest; or
 - (c) arranging for a second for the contestant at a contest.
 - (14) "Promoter" means a person who engages in producing or staging contests and promotions.
 - (15) "Promotion" means a single contest or a combination of contests that:
 - (a) occur during the same time and at the same location; and
 - (b) is produced or staged by a promoter.

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(16) "Purse" means any money, prize, remuneration, or any other valuable consideration a contestant receives or may receive for participation in a contest.

(17) "Referee" means an individual qualified by training or experience to act as the official attending a contest at the point of contact between contestants for the purpose of:

(a) enforcing the rules relating to the contest;

(b) stopping the contest in the event the health, safety, and welfare of a contestant or any other person in attendance at the contest is in jeopardy; and

(c) acting as a judge if so designated by the commission.

(18) "Round" means one of a number of individual time periods that, taken together, constitute a contest during which contestants are engaged in a form of unarmed combat.

(19) "Second" means an individual who attends a contestant at the site of the contest before, during, and after the contest in accordance with contest rules.

(20) "Serious bodily injury" has the same meaning as defined in Section 76-1-601.

(21) "Total gross receipts" means the amount of the face value of all tickets sold to a particular contest plus any sums received as consideration for holding the contest at a particular location.

(22) "Ultimate fighting" means a live contest, whether or not an admission fee is charged, in which:

(a) contest rules permit contestants to use a combination of boxing, kicking, wrestling, hitting, punching, or other combative contact techniques;

(b) contest rules incorporate a formalized system of combative techniques against which a contestant's performance is judged to determine the prevailing contestant;

(c) contest rules divide nonchampionship contests into three equal and specified rounds of no more than five minutes per round with a rest period of one minute between each round;

(d) contest rules divide championship contests into five equal and specified rounds of no more than five minutes per round with a rest period of one minute between each round; and

(e) contest rules prohibit contestants from:

(i) using anything that is not part of the human body, except for boxing gloves, to intentionally inflict serious bodily injury upon an opponent through direct contact or the expulsion of a projectile;

(ii) striking a person who demonstrates an inability to protect himself from the

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advances of an opponent;

(iii) biting; or

(iv) direct, intentional, and forceful strikes to the eyes, groin area, Adam's apple area of the neck, and the rear area of the head and neck.

(23) (a) "Unarmed combat" means boxing or any other form of competition in which a blow is usually struck which may reasonably be expected to inflict bodily injury.

(b) "Unarmed combat" does not include a competition or exhibition between participants in which the participants engage in simulated combat for entertainment purposes.

(24) "Unlawful conduct" means organizing, promoting, or participating in a contest which involves contestants that are not licensed under this chapter.

(25) "Unprofessional conduct" means:

(a) entering into a contract for a contest in bad faith;

(b) participating in any sham or fake contest;

(c) participating in a contest pursuant to a collusive understanding or agreement in which the contestant competes in or terminates the contest in a manner that is not based upon honest competition or the honest exhibition of the skill of the contestant;

(d) engaging in an act or conduct that is detrimental to a contest, including any foul or unsportsmanlike conduct in connection with a contest;

(e) failing to comply with any limitation, restriction, or condition placed on a license;

(f) striking of a downed opponent by a contestant while the contestant remains on the contestant's feet, unless the designated commission member or director has exempted the contest and each contestant from the prohibition on striking a downed opponent before the start of the contest;

(g) after entering the ring or contest area, penetrating an area within four feet of an opponent by a contestant, manager, or second before the commencement of the contest; or

(h) as further defined by rules made by the commission under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(26) "White-collar contest" means a contest conducted at a training facility where no alcohol is served in which:

(a) for boxing:

(i) neither contestant is or has been a licensed contestant in any state or an amateur

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registered with USA Boxing, Inc.;

(ii) no cash prize, or other prize valued at greater than \$35, is awarded;

(iii) protective clothing, including protective headgear, a mouthguard, a protective cup,

and for a female contestant a chestguard, is worn;

(iv) 16 ounce boxing gloves are worn;

(v) the contest is no longer than three rounds of no longer than three minutes each;

(vi) no winner or loser is declared or recorded; and

(vii) the contestants do not compete in a cage; and

(b) for ultimate fighting:

(i) neither contestant is or has been a licensed contestant in any state or an amateur registered with USA Boxing, Inc.;

(ii) no cash prize, or other prize valued at greater than \$35, is awarded;

(iii) protective clothing, including a protective mouthguard and a protective cup, is worn;

(iv) downward elbow strikes are not allowed;

(v) a contestant is not allowed to stand and strike a downed opponent;

(vi) a closed-hand blow to the head is not allowed while either contestant is on the ground;

(vii) the contest is no longer than three rounds of no longer than three minutes each;

and

(viii) no winner or loser is declared or recorded.

Section ~~{61}~~59. Section **63N-10-301** is amended to read:

63N-10-301. Licensing.

(1) A license is required for a person to act as or to represent that the person is:

(a) a promoter;

(b) a manager;

(c) a contestant;

(d) a second;

(e) a referee;

(f) a judge; or

(g) another official established by the commission by rule.

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(2) The commission shall issue to a person who qualifies under this chapter a license in the classifications of:

- (a) promoter;
- (b) manager;
- (c) contestant;
- (d) second;
- (e) referee;
- (f) judge; or

(g) another official who meets the requirements established by rule under Subsection (1)(g).

(3) All money collected under this section and Sections 63N-10-304, 63N-10-307, 63N-10-310, and 63N-10-313 shall be retained as dedicated credits to pay for commission expenses.

(4) Each applicant for licensure as a promoter shall:

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

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

(c) provide to the commission evidence of financial responsibility, which shall include financial statements and other information that the commission may reasonably require to determine that the applicant or licensee is able to competently perform as and meet the obligations of a promoter in this state;

(d) make assurances that the applicant:

(i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to the promotions the applicant is promoting;

(ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to engage in any fraud or misrepresentation in connection with a contest or any other sporting event; and

(iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;

(e) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter; and

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(f) if requested by the commission or the director, meet with the commission or the director to examine the applicant's qualifications for licensure.

(5) Each applicant for licensure as a contestant shall:

(a) be not less than 18 years of age at the time the application is submitted to the commission;

(b) submit an application in a form prescribed by the commission;

(c) pay the fee established by the commission under Section 63J-1-504;

(d) provide a certificate of physical examination, dated not more than 60 days prior to the date of application for licensure, in a form provided by the commission, completed by a licensed physician and surgeon or physician assistant certifying that the applicant is free from any physical or mental condition that indicates the applicant should not engage in activity as a contestant;

(e) make assurances that the applicant:

(i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to a contest in which the applicant will participate;

(ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to have engaged in any fraud or misrepresentation in connection with a contest or any other sporting event; and

(iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;

(f) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter; and

(g) if requested by the commission or the director, meet with the commission or the director to examine the applicant's qualifications for licensure.

(6) Each applicant for licensure as a manager or second shall:

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

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

(c) make assurances that the applicant:

(i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to a contest in which the applicant is participating;

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(ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to have engaged in any fraud or misrepresentation in connection with a contest or any other sporting event; and

(iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;

(d) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter; and

(e) if requested by the commission or director, meet with the commission or the director to examine the applicant's qualifications for licensure.

(7) Each applicant for licensure as a referee or judge shall:

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

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

(c) make assurances that the applicant:

(i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to a contest in which the applicant is participating;

(ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to have engaged in any fraud or misrepresentation in connection with a contest or any other sporting event; and

(iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;

(d) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter;

(e) provide evidence satisfactory to the commission that the applicant is qualified by training and experience to competently act as a referee or judge in a contest; and

(f) if requested by the commission or the director, meet with the commission or the director to examine the applicant's qualifications for licensure.

(8) The commission may make rules concerning the requirements for a license under this chapter, that deny a license to an applicant for the violation of a crime that, in the commission's determination, would have a material affect on the integrity of a contest held

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under this chapter.

(9) (a) A licensee serves at the pleasure, and under the direction, of the commission while participating in any way at a contest.

(b) A licensee's license may be suspended, or a fine imposed, if the licensee does not follow the commission's direction at an event or contest.

Section ~~62~~60. Section **67-5b-105** is amended to read:

67-5b-105. Local advisory boards -- Membership.

(1) The cooperating public agencies and other persons shall make up each center's local advisory board, which shall be composed of the following people from the county or area:

- (a) the local center director or the director's designee;
- (b) a district attorney or county attorney having criminal jurisdiction or any designee;
- (c) a representative of the attorney general's office, designated by the attorney general;
- (d) at least one official from a local law enforcement agency or the local law

enforcement agency's designee;

- (e) the county executive or the county executive's designee;
- (f) a licensed nurse practitioner, physician assistant, or physician;
- (g) a licensed mental health professional;
- (h) a criminal defense attorney;
- (i) at least four members of the community at large provided, however, that the

Advisory Board on Children's Justice may authorize fewer members, although not less than two, if the local advisory board so requests;

(j) a guardian ad litem or representative of the Office of Guardian Ad Litem, designated by the director;

(k) a representative of the Division of Child and Family Services within the Department of Human Services, designated by the employee of the division who has supervisory responsibility for the county served by the center;

(l) if a center serves more than one county, one representative from each county served, appointed by the county executive; and

- (m) additional members appointed as needed by the county executive.

(2) The members on each local advisory board who serve due to public office as provided in Subsections (1)(b) through (e) shall select the remaining members. The members

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on each local advisory board shall select a chair of the local advisory board.

(3) The local advisory board may not supersede the authority of the contracting county as designated in Section 67-5b-104.

(4) Appointees and designees shall serve a term or terms as designated in the bylaws of the local advisory board.

Section ~~63~~61. Section **67-5b-106** is amended to read:

67-5b-106. Advisory Board on Children's Justice -- Membership -- Terms --

Duties -- Authority.

(1) The attorney general shall create an Advisory Board on Children's Justice to advise him about the Children's Justice Center Program.

(2) The board shall be composed of:

(a) the director of each Children's Justice Center;

(b) the attorney general or the attorney general's designee;

(c) a representative of the Utah Sheriffs Association, appointed by the attorney general;

(d) a chief of police, appointed by the attorney general;

(e) one juvenile court judge and one district court judge, appointed by the chief justice of the Supreme Court;

(f) one representative of the Office of Guardian Ad Litem and one representative of the Court Appointed Special Advocates, appointed by the chief justice of the Supreme Court;

(g) a designated representative of the Division of Child and Family Services within the Department of Human Services, appointed by the director of that division;

(h) a licensed mental health professional, appointed by the attorney general;

(i) a person experienced in working with children with disabilities, appointed by the attorney general;

(j) one criminal defense attorney, licensed by the Utah State Bar and in good standing, appointed by the Utah Bar Commission;

(k) one criminal prosecutor, licensed by the Utah State Bar and in good standing, appointed by the Utah Prosecution Council;

(l) a member of the governor's staff, appointed by the governor;

(m) a member from the public, appointed by the attorney general, who exhibits sensitivity to the concerns of parents;

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(n) a licensed nurse practitioner, physician assistant, or physician, appointed by the attorney general;

(o) one senator, appointed by the president of the Senate;

(p) one representative, appointed by the speaker of the House; and

(q) additional members appointed as needed by the attorney general.

(3) (a) Except as required by Subsection (3)(b), as terms of current board members expire, the appointing authority shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the appointing authority shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) The Advisory Board on Children's Justice shall:

(a) coordinate and support the statewide purpose of the program;

(b) recommend statewide guidelines for the administration of the program;

(c) recommend training and improvements in training;

(d) review, evaluate, and make recommendations concerning state investigative, administrative, and judicial handling in child abuse cases;

(e) recommend programs to improve the prompt and fair resolution of civil and criminal court proceedings; and

(f) recommend changes to state laws and procedures to provide comprehensive protection for children from abuse, child sexual abuse, neglect, and other crimes involving children where the child is a primary victim or a critical witness, such as in drug-related child endangerment cases.

(5) The Advisory Board on Children's Justice may not supersede the authority of contracting counties regarding operation of the centers, including the budget, costs, personnel, and management pursuant to Section 67-5b-104 and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

~~Section 64. Section 76-5-110 is amended to read:~~

~~**76-5-110. Abuse or neglect of a child with a disability.**~~

~~(1) As used in this section:~~

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~~—— (a) "Abuse" means:~~

~~—— (i) inflicting physical injury, as that term is defined in Section 76-5-109;~~

~~—— (ii) having the care or custody of a child with a disability, causing or permitting another to inflict physical injury, as that term is defined in Section 76-5-109; or~~

~~—— (iii) unreasonable confinement.~~

~~—— (b) "Caretaker" means:~~

~~—— (i) any parent, legal guardian, or other person having under that person's care and custody a child with a disability; or~~

~~—— (ii) any person, corporation, or public institution that has assumed by contract or court order the responsibility to provide food, shelter, clothing, medical, and other necessities to a child with a disability.~~

~~—— (c) "Child with a disability" means any person under 18 years of age who is impaired because of mental illness, mental deficiency, physical illness or disability, or other cause, to the extent that the person is unable to care for the person's own personal safety or to provide necessities such as food, shelter, clothing, and medical care.~~

~~—— (d) "Neglect" means failure by a caretaker to provide care, nutrition, clothing, shelter, supervision, or medical care.~~

~~—— (2) Any caretaker who intentionally, knowingly, or recklessly abuses or neglects a child with a disability is guilty of a third degree felony.~~

~~—— (3) (a) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent shall not, for that reason alone, be considered to be in violation under this section.~~

~~—— (b) Subject to Subsection 78A-6-117(2)(n)(iii), the exception under Subsection (3)(a) does not preclude a court from ordering medical services from a physician or physician assistant licensed to engage in the practice of medicine to be provided to the child where there is substantial risk of harm to the child's health or welfare if the treatment is not provided.~~

~~—— (c) A caretaker of a child with a disability does not violate this section by selecting a treatment option for a medical condition of a child with a disability, if the treatment option is one that a reasonable caretaker would believe to be in the best interest of the child with a~~

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~~disability.~~

~~Section 65}~~62. Section 76-5-406 is amended to read:

76-5-406. Sexual offenses against the victim without consent of victim --

Circumstances.

An act of sexual intercourse, rape, attempted rape, rape of a child, attempted rape of a child, object rape, attempted object rape, object rape of a child, attempted object rape of a child, sodomy, attempted sodomy, forcible sodomy, attempted forcible sodomy, sodomy on a child, attempted sodomy on a child, forcible sexual abuse, attempted forcible sexual abuse, sexual abuse of a child, attempted sexual abuse of a child, aggravated sexual abuse of a child, attempted aggravated sexual abuse of a child, or simple sexual abuse is without consent of the victim under any of the following circumstances:

- (1) the victim expresses lack of consent through words or conduct;
- (2) the actor overcomes the victim through the actual application of physical force or violence;
- (3) the actor is able to overcome the victim through concealment or by the element of surprise;
- (4) (a) (i) the actor coerces the victim to submit by threatening to retaliate in the immediate future against the victim or any other person, and the victim perceives at the time that the actor has the ability to execute this threat; or
(ii) the actor coerces the victim to submit by threatening to retaliate in the future against the victim or any other person, and the victim believes at the time that the actor has the ability to execute this threat;
- (b) as used in this Subsection (4), "to retaliate" includes threats of physical force, kidnapping, or extortion;
- (5) the actor knows the victim is unconscious, unaware that the act is occurring, or physically unable to resist;
- (6) the actor knows or reasonably should know that the victim has a mental disease or defect, which renders the victim unable to:
 - (a) appraise the nature of the act;
 - (b) resist the act;
 - (c) understand the possible consequences to the victim's health or safety; or

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(d) appraise the nature of the relationship between the actor and the victim.

(7) the actor knows that the victim submits or participates because the victim erroneously believes that the actor is the victim's spouse;

(8) the actor intentionally impaired the power of the victim to appraise or control his or her conduct by administering any substance without the victim's knowledge;

(9) the victim is younger than 14 years of age;

(10) the victim is younger than 18 years of age and at the time of the offense the actor was the victim's parent, stepparent, adoptive parent, or legal guardian or occupied a position of special trust in relation to the victim as defined in Section 76-5-404.1;

(11) the victim is 14 years of age or older, but younger than 18 years of age, and the actor is more than three years older than the victim and entices or coerces the victim to submit or participate, under circumstances not amounting to the force or threat required under Subsection (2) or (4); or

(12) the actor is a health professional or religious counselor, as those terms are defined in this Subsection (12), the act is committed under the guise of providing professional diagnosis, counseling, or treatment, and at the time of the act the victim reasonably believed that the act was for medically or professionally appropriate diagnosis, counseling, or treatment to the extent that resistance by the victim could not reasonably be expected to have been manifested; for purposes of this Subsection (12):

(a) "health professional" means an individual who is licensed or who holds himself or herself out to be licensed, or who otherwise provides professional physical or mental health services, diagnosis, treatment, or counseling including, but not limited to, a physician, osteopathic physician, physician assistant, nurse, dentist, physical therapist, chiropractor, mental health therapist, social service worker, clinical social worker, certified social worker, marriage and family therapist, professional counselor, psychiatrist, psychologist, psychiatric mental health nurse specialist, or substance abuse counselor; and

(b) "religious counselor" means a minister, priest, rabbi, bishop, or other recognized member of the clergy.

Section ~~66~~63. Section 77-23-213 is amended to read:

77-23-213. Blood testing.

(1) As used in this section:

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(a) "Law enforcement purpose" means duties that consist primarily of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of this state's political subdivisions.

(b) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace Officer Classification.

(2) A peace officer may require an individual to submit to a blood test for a law enforcement purpose only if:

(a) the individual or legal representative of the individual with authority to give consent gives oral or written consent to the blood test;

(b) the peace officer obtains a warrant to administer the blood test; or

(c) a judicially recognized exception to obtaining a warrant exists as established by the Utah Court of Appeals, Utah Supreme Court, Court of Appeals of the Tenth Circuit, or the Supreme Court of the United States.

(3) (a) Only the following, acting at the request of a peace officer, may draw blood to determine the blood's alcohol or drug content:

(i) a physician;

(ii) a physician assistant;

~~[(ii)]~~ (iii) a registered nurse;

~~[(iii)]~~ (iv) a licensed practical nurse;

~~[(iv)]~~ (v) a paramedic;

~~[(v)]~~ (vi) as provided in Subsection (3)(b), emergency medical service personnel other than a paramedic; or

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

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

(c) The following are immune from civil or criminal liability arising from drawing a blood sample from a person who a peace officer requests, for law enforcement purposes, if the sample is drawn in accordance with standard medical practice:

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- (i) a person authorized to draw blood under Subsection (3)(a); and
- (ii) if the blood is drawn at a hospital or other medical facility, the medical facility.

Section ~~67~~64. Section 78B-1-137 is amended to read:

78B-1-137. Witnesses -- Privileged communications.

There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate. Therefore, a person cannot be examined as a witness in the following cases:

(1) (a) Neither a wife nor a husband may either during the marriage or afterwards be, without the consent of the other, examined as to any communication made by one to the other during the marriage.

(b) This exception does not apply:

(i) to a civil action or proceeding by one spouse against the other;

(ii) to a criminal action or proceeding for a crime committed by one spouse against the other;

(iii) to the crime of deserting or neglecting to support a spouse or child;

(iv) to any civil or criminal proceeding for abuse or neglect committed against the child of either spouse; or

(v) if otherwise specifically provided by law.

(2) An attorney cannot, without the consent of the client, be examined as to any communication made by the client to the attorney or any advice given regarding the communication in the course of the professional employment. An attorney's secretary, stenographer, or clerk cannot be examined, without the consent of the attorney, concerning any fact, the knowledge of which has been acquired as an employee.

(3) A member of the clergy or priest cannot, without the consent of the person making the confession, be examined as to any confession made to either of them in their professional character in the course of discipline enjoined by the church to which they belong.

(4) A physician [or], surgeon, or physician assistant cannot, without the consent of the patient, be examined in a civil action as to any information acquired in attending the patient which was necessary to enable the physician [or], surgeon, or physician assistant to prescribe or act for the patient. However, this privilege shall be waived by the patient in an action in which the patient places the patient's medical condition at issue as an element or factor of the claim or

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defense. Under those circumstances, a physician [~~or~~], surgeon, or physician assistant who has prescribed for or treated that patient for the medical condition at issue may provide information, interviews, reports, records, statements, memoranda, or other data relating to the patient's medical condition and treatment which are placed at issue.

(5) A public officer cannot be examined as to communications made in official confidence when the public interests would suffer by the disclosure.

(6) A sexual assault counselor as defined in Section 77-38-203 cannot, without the consent of the victim, be examined in a civil or criminal proceeding as to any confidential communication as defined in Section 77-38-203 made by the victim.

Section ~~68~~65. Section **78B-2-114** is amended to read:

78B-2-114. Separate trial of statute of limitations issue in malpractice actions.

(1) An issue raised by the defense regarding the statute of limitations in a case may be tried separately if the action is for professional negligence or for rendering professional services without consent, and against:

(a) a physician;

(b) a surgeon;

(c) a physician assistant;

~~(c)~~ (d) a dentist;

~~(d)~~ (e) an osteopathic physician;

~~(e)~~ (f) a chiropractor;

~~(f)~~ (g) a physical therapist;

~~(g)~~ (h) a registered nurse;

~~(h)~~ (i) a clinical laboratory bioanalyst;

~~(i)~~ (j) a clinical laboratory technologist; or

~~(j)~~ (k) a licensed hospital, person, firm, or corporation as the employer of any of the persons in Subsection (1)(a) through ~~(j)~~ (j).

(2) The issue raised may be tried before any other issues in the case are tried. If the issue raised by the defense of the statute of limitations is finally determined in favor of the plaintiff, the remaining issues shall then be tried.

Section ~~69~~66. Section **78B-3-403** is amended to read:

78B-3-403. Definitions.

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As used in this part:

- (1) "Audiologist" means a person licensed to practice audiology under Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act.
- (2) "Certified social worker" means a person licensed to practice as a certified social worker under Section 58-60-205.
- (3) "Chiropractic physician" means a person licensed to practice chiropractic under Title 58, Chapter 73, Chiropractic Physician Practice Act.
- (4) "Clinical social worker" means a person licensed to practice as a clinical social worker under Section 58-60-205.
- (5) "Commissioner" means the commissioner of insurance as provided in Section 31A-2-102.
- (6) "Dental hygienist" means a person licensed to engage in the practice of dental hygiene as defined in Section 58-69-102.
- (7) "Dentist" means a person licensed to engage in the practice of dentistry as defined in Section 58-69-102.
- (8) "Division" means the Division of Occupational and Professional Licensing created in Section 58-1-103.
- (9) "Future damages" includes a judgment creditor's damages for future medical treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and suffering.
- (10) "Health care" means any act or treatment performed or furnished, or which should have been performed or furnished, by any health care provider for, to, or on behalf of a patient during the patient's medical care, treatment, or confinement.
- (11) "Health care facility" means general acute hospitals, specialty hospitals, home health agencies, hospices, nursing care facilities, assisted living facilities, birthing centers, ambulatory surgical facilities, small health care facilities, health care facilities owned or operated by health maintenance organizations, and end stage renal disease facilities.
- (12) "Health care provider" includes any person, partnership, association, corporation, or other facility or institution who causes to be rendered or who renders health care or professional services as a hospital, health care facility, physician, physician assistant, registered nurse, licensed practical nurse, nurse-midwife, licensed direct-entry midwife, dentist, dental

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hygienist, optometrist, clinical laboratory technologist, pharmacist, physical therapist, physical therapist assistant, podiatric physician, psychologist, chiropractic physician, naturopathic physician, osteopathic physician, osteopathic physician and surgeon, audiologist, speech-language pathologist, clinical social worker, certified social worker, social service worker, marriage and family counselor, practitioner of obstetrics, licensed athletic trainer, or others rendering similar care and services relating to or arising out of the health needs of persons or groups of persons and officers, employees, or agents of any of the above acting in the course and scope of their employment.

(13) "Hospital" means a public or private institution licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(14) "Licensed athletic trainer" means a person licensed under Title 58, Chapter 40a, Athletic Trainer Licensing Act.

(15) "Licensed direct-entry midwife" means a person licensed under the Direct-entry Midwife Act to engage in the practice of direct-entry midwifery as defined in Section 58-77-102.

(16) "Licensed practical nurse" means a person licensed to practice as a licensed practical nurse as provided in Section 58-31b-301.

(17) "Malpractice action against a health care provider" means any action against a health care provider, whether in contract, tort, breach of warranty, wrongful death, or otherwise, based upon alleged personal injuries relating to or arising out of health care rendered or which should have been rendered by the health care provider.

(18) "Marriage and family therapist" means a person licensed to practice as a marriage therapist or family therapist under Sections 58-60-305 and 58-60-405.

(19) "Naturopathic physician" means a person licensed to engage in the practice of naturopathic medicine as defined in Section 58-71-102.

(20) "Nurse-midwife" means a person licensed to engage in practice as a nurse midwife under Section 58-44a-301.

(21) "Optometrist" means a person licensed to practice optometry under Title 58, Chapter 16a, Utah Optometry Practice Act.

(22) "Osteopathic physician" means a person licensed to practice osteopathy under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

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(23) "Patient" means a person who is under the care of a health care provider, under a contract, express or implied.

(24) "Periodic payments" means the payment of money or delivery of other property to a judgment creditor at intervals ordered by the court.

(25) "Pharmacist" means a person licensed to practice pharmacy as provided in Section 58-17b-301.

(26) "Physical therapist" means a person licensed to practice physical therapy under Title 58, Chapter 24b, Physical Therapy Practice Act.

(27) "Physical therapist assistant" means a person licensed to practice physical therapy, within the scope of a physical therapist assistant license, under Title 58, Chapter 24b, Physical Therapy Practice Act.

(28) "Physician" means a person licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act.

(29) "Physician assistant" means a person licensed to practice as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

~~[(29)]~~ (30) "Podiatric physician" means a person licensed to practice podiatry under Title 58, Chapter 5a, Podiatric Physician Licensing Act.

~~[(30)]~~ (31) "Practitioner of obstetrics" means a person licensed to practice as a physician in this state under Title 58, Chapter 67, Utah Medical Practice Act, or under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

~~[(31)]~~ (32) "Psychologist" means a person licensed under Title 58, Chapter 61, Psychologist Licensing Act, to engage in the practice of psychology as defined in Section 58-61-102.

~~[(32)]~~ (33) "Registered nurse" means a person licensed to practice professional nursing as provided in Section 58-31b-301.

~~[(33)]~~ (34) "Relative" means a patient's spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, half sister, or spouse's parents. The term includes relationships that are created as a result of adoption.

~~[(34)]~~ (35) "Representative" means the spouse, parent, guardian, trustee, attorney-in-fact, person designated to make decisions on behalf of a patient under a medical power of attorney, or other legal agent of the patient.

SB0203S02 compared with SB0203S01

~~[(35)]~~ (36) "Social service worker" means a person licensed to practice as a social service worker under Section 58-60-205.

~~[(36)]~~ (37) "Speech-language pathologist" means a person licensed to practice speech-language pathology under Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act.

~~[(37)]~~ (38) "Tort" means any legal wrong, breach of duty, or negligent or unlawful act or omission proximately causing injury or damage to another.

~~[(38)]~~ (39) "Unanticipated outcome" means the outcome of a medical treatment or procedure that differs from an expected result.