

**DIVISION OF OCCUPATIONAL AND PROFESSIONAL  
LICENSING AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: James A. Dunnigan

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to the Division of Occupational and Professional Licensing (the division).

**Highlighted Provisions:**

This bill:

- ▶ modifies the division's administrative fine authority;
- ▶ modifies the division's authority to grant a license by endorsement;
- ▶ modifies the responsibilities of the Uniform Building Code Commission;
- ▶ modifies the division's licensing fees for active duty personnel;
- ▶ modifies licensing regulations during disasters;
- ▶ removes good moral character provisions for many licensed professions;
- ▶ modifies provisions concerning the licensing requirements for certain cosmetology related professions;
- ▶ modifies the division's required uses of surcharges for certain professions;
- ▶ modifies background check provisions for certain medical professions and for licensed security guards;
- ▶ modifies the membership of the Plumbers Licensing Board and the Electricians Licensing Board;
- ▶ modifies provisions related to the health facility administrator license;
- ▶ modifies the citation authority of the division;
- ▶ modifies pharmacy notification requirements;

- 30           ▶ modifies provisions related to prelitigation panels under the Utah Health Care
- 31 Malpractice Act;
- 32           ▶ modifies provisions related to disclosing information from the controlled substance
- 33 database in criminal proceedings;
- 34           ▶ modifies provisions related to unprofessional and unlawful conduct for professions
- 35 regulated by the division; and
- 36           ▶ makes technical and conforming changes.

**37 Money Appropriated in this Bill:**

38           None

**39 Other Special Clauses:**

40           None

**41 Utah Code Sections Affected:**

42 AMENDS:

- 43           **15A-1-203**, as last amended by Laws of Utah 2019, Chapters 20 and 119
- 44           **38-11-102**, as last amended by Laws of Utah 2018, Chapter 229
- 45           **58-1-301.3**, as enacted by Laws of Utah 2018, Chapter 331
- 46           **58-1-301.5**, as last amended by Laws of Utah 2018, Chapter 318
- 47           **58-1-301.7**, as last amended by Laws of Utah 2013, Chapter 262
- 48           **58-1-302**, as last amended by Laws of Utah 2019, Chapter 215
- 49           **58-1-307**, as last amended by Laws of Utah 2019, Chapters 136 and 349
- 50           **58-1-501**, as last amended by Laws of Utah 2019, Chapter 198
- 51           **58-1-502**, as last amended by Laws of Utah 2018, Chapter 318
- 52           **58-3a-105**, as enacted by Laws of Utah 2019, Chapter 215
- 53           **58-3a-302**, as last amended by Laws of Utah 2009, Chapter 183
- 54           **58-3a-304**, as last amended by Laws of Utah 2016, Chapter 268
- 55           **58-3a-502**, as last amended by Laws of Utah 2018, Chapter 318
- 56           **58-5a-302**, as last amended by Laws of Utah 2017, Chapter 244
- 57           **58-11a-102**, as last amended by Laws of Utah 2017, Chapters 215 and 342

- 58 **58-11a-302**, as last amended by Laws of Utah 2018, Chapters 415 and 445
- 59 **58-11a-304**, as last amended by Laws of Utah 2018, Chapter 318
- 60 **58-11a-306**, as last amended by Laws of Utah 2018, Chapter 318
- 61 **58-11a-502**, as last amended by Laws of Utah 2016, Chapters 249 and 274
- 62 **58-11a-503**, as last amended by Laws of Utah 2018, Chapter 318
- 63 **58-15-11**, as last amended by Laws of Utah 1993, Chapter 297
- 64 **58-16a-102**, as last amended by Laws of Utah 2012, Chapters 256 and 362
- 65 **58-16a-302**, as last amended by Laws of Utah 2016, Chapter 238
- 66 **58-16a-501**, as last amended by Laws of Utah 2012, Chapter 256
- 67 **58-16a-503**, as last amended by Laws of Utah 2000, Chapter 160
- 68 **58-17b-303**, as last amended by Laws of Utah 2012, Chapter 93
- 69 **58-17b-304**, as last amended by Laws of Utah 2013, Chapter 166
- 70 **58-17b-305**, as last amended by Laws of Utah 2013, Chapter 166
- 71 **58-17b-305.1**, as enacted by Laws of Utah 2014, Chapter 385
- 72 **58-17b-308**, as last amended by Laws of Utah 2017, Chapter 384
- 73 **58-17b-504**, as last amended by Laws of Utah 2018, Chapter 318
- 74 **58-17b-614**, as last amended by Laws of Utah 2007, Chapter 279
- 75 **58-20b-302**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
- 76 **58-22-102**, as last amended by Laws of Utah 2017, Chapter 218
- 77 **58-22-104**, as enacted by Laws of Utah 2019, Chapter 215
- 78 **58-22-302**, as last amended by Laws of Utah 2017, Chapter 382
- 79 **58-22-305**, as last amended by Laws of Utah 2013, Chapter 262
- 80 **58-22-503**, as last amended by Laws of Utah 2018, Chapter 318
- 81 **58-24b-302**, as last amended by Laws of Utah 2019, Chapter 101
- 82 **58-26a-302**, as last amended by Laws of Utah 2017, Chapter 229
- 83 **58-26a-305**, as last amended by Laws of Utah 2008, Chapter 265
- 84 **58-26a-306**, as last amended by Laws of Utah 2019, Chapter 122
- 85 **58-28-301**, as enacted by Laws of Utah 2006, Chapter 109

- 86 **58-28-302**, as last amended by Laws of Utah 2009, Chapter 183
- 87 **58-28-304**, as renumbered and amended by Laws of Utah 2006, Chapter 109
- 88 **58-31b-503**, as last amended by Laws of Utah 2018, Chapter 318
- 89 **58-31b-803**, as last amended by Laws of Utah 2019, Chapter 233
- 90 **58-37f-203**, as last amended by Laws of Utah 2019, Chapter 59
- 91 **58-37f-301**, as last amended by Laws of Utah 2018, Chapter 123
- 92 **58-37f-302**, as enacted by Laws of Utah 2010, Chapter 287
- 93 **58-37f-303**, as enacted by Laws of Utah 2016, Chapter 112
- 94 **58-40-302**, as last amended by Laws of Utah 2015, Chapter 77
- 95 **58-40-501**, as enacted by Laws of Utah 2012, Chapter 82
- 96 **58-41-5**, as last amended by Laws of Utah 2010, Chapter 397
- 97 **58-42a-302**, as last amended by Laws of Utah 2015, Chapters 28, 432 and last amended
- 98 by Coordination Clause, Laws of Utah 2015, Chapter 28
- 99 **58-42a-501**, as repealed and reenacted by Laws of Utah 2015, Chapter 432
- 100 **58-46a-302**, as last amended by Laws of Utah 2013, Chapter 87
- 101 **58-47b-302**, as last amended by Laws of Utah 2009, Chapter 183
- 102 **58-49-4**, as last amended by Laws of Utah 1989, Chapter 225
- 103 **58-49-5**, as enacted by Laws of Utah 1986, Chapter 192
- 104 **58-49-9**, as enacted by Laws of Utah 1986, Chapter 192
- 105 **58-53-502**, as last amended by Laws of Utah 2018, Chapter 318
- 106 **58-54-302**, as last amended by Laws of Utah 2012, Chapter 369
- 107 **58-55-103**, as last amended by Laws of Utah 2016, Chapter 25
- 108 **58-55-106**, as enacted by Laws of Utah 2019, Chapter 215
- 109 **58-55-201**, as last amended by Laws of Utah 2019, Chapter 215
- 110 **58-55-302**, as last amended by Laws of Utah 2019, Chapter 215
- 111 **58-55-305**, as last amended by Laws of Utah 2019, Chapters 136 and 215
- 112 **58-55-308**, as last amended by Laws of Utah 2019, Chapter 340
- 113 **58-55-401**, as last amended by Laws of Utah 2011, Chapter 413

- 114 **58-55-501**, as last amended by Laws of Utah 2018, Chapter 318
- 115 **58-55-503**, as last amended by Laws of Utah 2018, Chapter 318
- 116 **58-56-9.5**, as last amended by Laws of Utah 2018, Chapters 229 and 318
- 117 **58-57-4**, as last amended by Laws of Utah 2009, Chapter 183
- 118 **58-60-109**, as last amended by Laws of Utah 2015, Chapter 323
- 119 **58-60-115**, as last amended by Laws of Utah 2012, Chapter 179
- 120 **58-60-117**, as last amended by Laws of Utah 2018, Chapter 318
- 121 **58-60-205**, as last amended by Laws of Utah 2019, Chapter 393
- 122 **58-60-207**, as last amended by Laws of Utah 2019, Chapter 393
- 123 **58-60-305.5**, as last amended by Laws of Utah 2009, Chapter 183
- 124 **58-60-305**, as last amended by Laws of Utah 2019, Chapter 393
- 125 **58-60-308**, as last amended by Laws of Utah 2019, Chapter 393
- 126 **58-60-405**, as last amended by Laws of Utah 2015, Chapter 77
- 127 **58-60-407**, as last amended by Laws of Utah 2019, Chapter 393
- 128 **58-60-506**, as last amended by Laws of Utah 2015, Chapter 77
- 129 **58-61-304**, as last amended by Laws of Utah 2013, Chapters 16 and 262
- 130 **58-61-501**, as last amended by Laws of Utah 2001, Chapter 281
- 131 **58-61-704**, as enacted by Laws of Utah 2015, Chapter 367
- 132 **58-61-705**, as enacted by Laws of Utah 2015, Chapter 367
- 133 **58-63-302**, as last amended by Laws of Utah 2018, Chapter 177
- 134 **58-63-306**, as last amended by Laws of Utah 2008, Chapter 246
- 135 **58-63-503**, as last amended by Laws of Utah 2018, Chapter 318
- 136 **58-64-302**, as last amended by Laws of Utah 2016, Chapter 201
- 137 **58-67-503**, as last amended by Laws of Utah 2018, Chapter 318
- 138 **58-67-302**, as last amended by Laws of Utah 2019, Chapter 445
- 139 **58-67-302.5**, as last amended by Laws of Utah 2019, Chapter 445
- 140 **58-67-302.7**, as last amended by Laws of Utah 2018, Chapter 318
- 141 **58-67-302.8**, as last amended by Laws of Utah 2018, Chapter 318

- 142            **58-67-304**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 143            **58-67-403**, as last amended by Laws of Utah 2018, Chapter 318
- 144            **58-68-302**, as last amended by Laws of Utah 2019, Chapter 445
- 145            **58-68-302.5**, as last amended by Laws of Utah 2018, Chapter 318
- 146            **58-68-304**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 147            **58-68-403**, as last amended by Laws of Utah 2018, Chapter 318
- 148            **58-68-503**, as last amended by Laws of Utah 2018, Chapter 318
- 149            **58-69-302**, as last amended by Laws of Utah 2018, Chapter 66
- 150            **58-70a-302**, as last amended by Laws of Utah 2017, Chapter 309
- 151            **58-70a-306**, as last amended by Laws of Utah 2010, Chapter 37
- 152            **58-71-302**, as last amended by Laws of Utah 2009, Chapter 183
- 153            **58-72-302**, as last amended by Laws of Utah 2019, Chapter 485
- 154            **58-73-302**, as last amended by Laws of Utah 2009, Chapter 183
- 155            **58-74-102**, as last amended by Laws of Utah 2019, Chapter 379
- 156            **58-74-302**, as last amended by Laws of Utah 2019, Chapter 379
- 157            **58-75-302**, as last amended by Laws of Utah 2009, Chapter 183
- 158            **58-76-302**, as last amended by Laws of Utah 2009, Chapter 183
- 159            **58-76-502**, as last amended by Laws of Utah 2018, Chapter 318
- 160            **58-77-302**, as last amended by Laws of Utah 2009, Chapter 183
- 161            **58-78-302**, as last amended by Laws of Utah 2011, Chapter 367
- 162            **58-79-302**, as enacted by Laws of Utah 2009, Chapter 52
- 163            **58-84-201**, as enacted by Laws of Utah 2014, Chapter 340
- 164            **58-86-202**, as enacted by Laws of Utah 2016, Chapter 294
- 165            **58-86-302**, as enacted by Laws of Utah 2016, Chapter 294
- 166            **63G-2-305**, as last amended by Laws of Utah 2019, Chapters 128, 193, 244, and 277
- 167            **78B-3-416**, as last amended by Laws of Utah 2018, Chapter 318
- 168    ENACTS:
- 169            **58-61-304.1**, Utah Code Annotated 1953

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

172 Section 1. Section **15A-1-203** is amended to read:

173 **15A-1-203. Uniform Building Code Commission -- Unified Code Analysis**

174 **Council.**

175 (1) There is created a Uniform Building Code Commission to advise the division with  
176 respect to the division's responsibilities in administering the codes.

177 (2) The commission shall consist of 11 members as follows:

178 (a) one member shall be from among candidates nominated by the Utah League of  
179 Cities and Towns and the Utah Association of Counties;

180 (b) one member shall be a licensed building inspector employed by a political  
181 subdivision of the state;

182 (c) one member shall be a licensed professional engineer;

183 (d) one member shall be a licensed architect;

184 (e) one member shall be a fire official;

185 (f) three members shall be contractors licensed by the state, of which one shall be a  
186 general contractor, one an electrical contractor, and one a plumbing contractor;

187 (g) two members shall be from the general public and have no affiliation with the  
188 construction industry or real estate development industry; and

189 (h) one member shall be from the Division of Facilities Construction and Management  
190 of the Department of Administrative Services.

191 (3) (a) The executive director shall appoint each commission member after submitting  
192 a nomination to the governor for confirmation or rejection.

193 (b) If the governor rejects a nominee, the executive director shall submit an alternative  
194 nominee until the governor confirms the nomination. An appointment is effective after the  
195 governor confirms the nomination.

196 (4) (a) Except as required by Subsection (4)(b), as terms of commission members  
197 expire, the executive director shall appoint each new commission member or reappointed

198 commission member to a four-year term.

199 (b) Notwithstanding the requirements of Subsection (4)(a), the executive director shall,  
200 at the time of appointment or reappointment, adjust the length of terms to ensure that the terms  
201 of commission members are staggered so that approximately half of the commission is  
202 appointed every two years.

203 (5) When a vacancy occurs in the commission membership for any reason, the  
204 executive director shall appoint a replacement for the unexpired term.

205 (6) (a) A commission member may not serve more than two full terms.

206 (b) A commission member who ceases to serve may not again serve on the commission  
207 until after the expiration of two years after the day on which service ceased.

208 (7) A majority of the commission members constitute a quorum and may act on behalf  
209 of the commission.

210 (8) A commission member may not receive compensation or benefits for the  
211 commission member's service, but may receive per diem and travel expenses in accordance  
212 with:

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

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

215 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
216 63A-3-107.

217 (9) (a) The commission shall annually designate one of the commission's members to  
218 serve as chair of the commission.

219 (b) The division shall provide a secretary to facilitate the function of the commission  
220 and to record the commission's actions and recommendations.

221 (10) The commission shall:

222 (a) in accordance with Section 15A-1-204, report to the Business and Labor Interim  
223 Committee;

224 [~~(b) offer an opinion regarding the interpretation of or the application of a code if a~~  
225 ~~person submits a request for an opinion;]~~



226           ~~[(e)]~~ (b) act as an appeals board as provided in Section 15A-1-207;  
 227           ~~[(d)]~~ (c) establish advisory peer committees on either a standing or ad hoc basis to  
 228 advise the commission with respect to matters related to a code, including a committee to  
 229 advise the commission regarding health matters related to a plumbing code; and  
 230           ~~[(e)]~~ (d) assist the division in overseeing code-related training in accordance with  
 231 Section 15A-1-209.

232           ~~[(11) A person requesting an opinion under Subsection (10)(b) shall submit a formal~~  
 233 ~~request clearly stating:]~~

234           ~~[(a) the facts in question;]~~

235           ~~[(b) the specific citation at issue in a code; and]~~

236           ~~[(c) the position taken by the persons involved in the facts in question.]~~

237           ~~[(12)]~~ (11) (a) In a manner consistent with Subsection ~~[(10)(d)]~~ (10)(c), the  
 238 commission shall jointly create with the Utah Fire Prevention Board an advisory peer  
 239 committee known as the "Unified Code Analysis Council" to review fire prevention and  
 240 construction code issues that require definitive and specific analysis.

241           (b) The commission and Utah Fire Prevention Board shall jointly, by rule made in  
 242 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for:

- 243           (i) the appointment of members to the Unified Code Analysis Council; and
- 244           (ii) procedures followed by the Unified Code Analysis Council.

245           Section 2. Section 38-11-102 is amended to read:

246           **38-11-102. Definitions.**

247           (1) "Board" means the Residence Lien Recovery Fund Advisory Board established  
 248 under Section 38-11-104.

249           (2) "Certificate of compliance" means an order issued by the director to the owner  
 250 finding that the owner is in compliance with the requirements of Subsections 38-11-204(4)(a)  
 251 and (4)(b) and is entitled to protection under Section 38-11-107.

252           (3) "Construction on an owner-occupied residence" means designing, engineering,  
 253 constructing, altering, remodeling, improving, repairing, or maintaining a new or existing

254 residence.

255 (4) "Department" means the Department of Commerce.

256 (5) "Director" means the director of the Division of Occupational and Professional  
257 Licensing or the director's designee.

258 (6) "Division" means the Division of Occupational and Professional Licensing.

259 (7) "Duplex" means a single building having two separate living units.

260 (8) "Encumbered fund balance" means the aggregate amount of outstanding claims  
261 against the fund. The remainder of the money in the fund is unencumbered funds.

262 (9) "Executive director" means the executive director of the Department of Commerce.

263 (10) "Factory built housing" is as defined in Section [15A-1-302](#).

264 (11) "Factory built housing retailer" means a person that sells factory built housing to  
265 consumers.

266 (12) "Fund" means the Residence Lien Recovery Fund established under Section  
267 [38-11-201](#).

268 (13) "Laborer" means a person who provides services at the site of the construction on  
269 an owner-occupied residence as an employee of an original contractor or other qualified  
270 beneficiary performing qualified services on the residence.

271 (14) "Licensee" means any holder of a license issued under Title 58, Chapter 3a,  
272 Architects Licensing Act; Chapter 22, Professional Engineers and Professional Land Surveyors  
273 Licensing Act; Chapter 53, Landscape Architects Licensing Act; and Chapter 55, Utah  
274 Construction Trades Licensing Act.

275 (15) "Nonpaying party" means the original contractor, subcontractor, or real estate  
276 developer who has failed to pay the qualified beneficiary making a claim against the fund.

277 (16) "Original contractor" means a person who contracts with the owner of real  
278 property or the owner's agent to provide services, labor, or material for the construction of an  
279 owner-occupied residence.

280 (17) "Owner" means a person who:

281 (a) contracts with a person who is licensed as a contractor or is exempt from licensure

282 under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction on an  
283 owner-occupied residence upon real property that the person:

- 284 (i) owns; or
- 285 (ii) purchases after the person enters into a contract described in this Subsection (17)(a)  
286 and before completion of the owner-occupied residence;
- 287 (b) contracts with a real estate developer to buy a residence upon completion of the  
288 construction on the owner-occupied residence; or
- 289 (c) purchases a residence from a real estate developer after completion of the  
290 construction on the owner-occupied residence.

291 (18) "Owner-occupied residence" means a residence that is, or after completion of the  
292 construction on the residence will be, occupied by the owner or the owner's tenant or lessee as a  
293 primary or secondary residence within 180 days after the day on which the construction on the  
294 residence is complete.

295 (19) "Qualified beneficiary" means a person who:

- 296 (a) provides qualified services;
- 297 (b) pays necessary fees required under this chapter; and
- 298 (c) registers with the division:
  - 299 (i) as a licensed contractor under Subsection 38-11-301(1) or (2), if that person seeks  
300 recovery from the fund as a licensed contractor; or
  - 301 (ii) as a person providing qualified services other than as a licensed contractor under  
302 Subsection 38-11-301(3) if the person seeks recovery from the fund in a capacity other than as  
303 a licensed contractor.

304 (20) (a) "Qualified services" means the following performed in construction on an  
305 owner-occupied residence:

- 306 (i) contractor services provided by a contractor licensed or exempt from licensure  
307 under Title 58, Chapter 55, Utah Construction Trades Licensing Act;
- 308 (ii) architectural services provided by an architect licensed under Title 58, Chapter 3a,  
309 Architects Licensing Act;

310 (iii) engineering and land surveying services provided by a professional engineer or  
311 land surveyor licensed or exempt from licensure under Title 58, Chapter 22, Professional  
312 Engineers and Professional Land Surveyors Licensing Act;

313 (iv) landscape architectural services by a landscape architect licensed or exempt from  
314 licensure under Title 58, Chapter 53, Landscape Architects Licensing Act;

315 (v) design and specification services of mechanical or other systems;

316 (vi) other services related to the design, drawing, surveying, specification, cost  
317 estimation, or other like professional services;

318 (vii) providing materials, supplies, components, or similar products;

319 (viii) renting equipment or materials;

320 (ix) labor at the site of the construction on the owner-occupied residence; and

321 (x) site preparation, set up, and installation of factory built housing.

322 (b) "Qualified services" does not include the construction of factory built housing in  
323 the factory.

324 (21) "Real estate developer" means a person having an ownership interest in real  
325 property who:

326 (a) contracts with a person who is licensed as a contractor or is exempt from licensure  
327 under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction of a  
328 residence that is offered for sale to the public; or

329 (b) is a licensed contractor under Title 58, Chapter 55, Utah Construction Trades  
330 Licensing Act, who engages in the construction of a residence that is offered for sale to the  
331 public.

332 (22) (a) "Residence" means an improvement to real property used or occupied, to be  
333 used or occupied as, or in conjunction with:

334 (i) a primary or secondary detached single-family dwelling; or

335 (ii) a multifamily dwelling up to and including duplexes.

336 (b) "Residence" includes factory built housing.

337 (23) "Subsequent owner" means a person who purchases a residence from an owner

338 within 180 days after the day on which the construction on the residence is completed.

339 Section 3. Section **58-1-301.3** is amended to read:

340 **58-1-301.3. Waiver of licensing fees.**

341 An individual applying for initial licensure or licensure renewal under this title may  
342 apply for initial licensure or licensure renewal without paying the fees described in Subsection  
343 **58-1-301(1)** if the applicant provides evidence to the division in a form prescribed by the  
344 division that at the time of the application the applicant is:

345 (1) on full-time active service with a branch of the armed forces of the United States,  
346 including an applicant who is on full-time active duty orders with the National Guard or  
347 reserve component of the armed forces; or

348 (2) receiving public assistance through one of the following programs administered by  
349 the Department of Workforce Services:

350 (a) the Family Employment Program described in Section **35A-3-302**; or

351 (b) General Assistance described in Section **35A-3-401**.

352 Section 4. Section **58-1-301.5** is amended to read:

353 **58-1-301.5. Division access to Bureau of Criminal Identification records.**

354 (1) The division shall have direct access to [~~criminal background information~~] local  
355 files maintained by the Bureau of Criminal Identification under Title 53, Chapter 10, Part 2,  
356 Bureau of Criminal Identification, for background screening of persons who are applying for  
357 licensure, licensure renewal, licensure reinstatement, or relicensure, as required in:

358 (a) Section **58-17b-307** of Title 58, Chapter 17b, Pharmacy Practice Act;

359 (b) Sections **58-24b-302** and **58-24b-302.1** of Title 58, Chapter 24b, Physical Therapy  
360 Practice Act;

361 (c) Section **58-31b-302** of Title 58, Chapter 31b, Nurse Practice Act;

362 (d) Section **58-47b-302** of Title 58, Chapter 47b, Massage Therapy Practice Act;

363 (e) Section **58-55-302** of Title 58, Chapter 55, Utah Construction Trades Licensing  
364 Act, as it applies to alarm companies and alarm company agents;

365 (f) Sections **58-61-304** and **58-61-304.1** of Title 58, Chapter 61, Psychologist

366 Licensing Act;

367 [~~(f)~~] (g) Section 58-63-302 of Title 58, Chapter 63, Security Personnel Licensing Act;

368 [~~(g)~~] (h) Section 58-64-302 of Title 58, Chapter 64, Deception Detection Examiners

369 Licensing Act;

370 [~~(h)~~] (i) Sections 58-67-302 and 58-67-302.1 of Title 58, Chapter 67, Utah Medical

371 Practice Act; and

372 [~~(i)~~] (j) Sections 58-68-302 and 58-68-302.1 of Title 58, Chapter 68, Utah Osteopathic

373 Medical Practice Act.

374 (2) The division's access to criminal background information under this section:

375 (a) shall meet the requirements of Section 53-10-108; and

376 (b) includes convictions, pleas of nolo contendere, pleas of guilty or nolo contendere  
377 held in abeyance, dismissed charges, and charges without a known disposition.

378 (3) The division may not disseminate outside of the division any criminal history  
379 record information that the division obtains from the Bureau of Criminal Identification or the  
380 Federal Bureau of Investigation under the criminal background check requirements of this  
381 section.

382 Section 5. Section 58-1-301.7 is amended to read:

383 **58-1-301.7. Change of information.**

384 (1) (a) An applicant, licensee, or certificate holder shall [~~send the division a signed~~  
385 ~~statement, in a form required by the division, notifying~~] notify the division within 10 business  
386 days of a change in mailing address or email address.

387 (b) When providing a mailing address, the individual may provide a post office box or  
388 other mail drop location.

389 (c) In addition to providing a mailing address, an applicant, licensee, or certificate  
390 holder [~~may~~] shall provide to the division, in a form [~~required~~] approved by the division, an  
391 email address [~~and may designate email as the preferred method of receiving notifications from~~  
392 ~~the division~~].

393 (2) An applicant, licensee, or certificate holder is considered to have received a

394 notification that has been sent to the most recent:

395 (a) mailing address provided to the division by the applicant, licensee, or certificate  
396 holder; or

397 (b) email address furnished to the division by the applicant, licensee, or certificate  
398 holder~~[, if email has been designated by the applicant, licensee, or certificate holder as the~~  
399 ~~preferred method of receiving notifications from the division].~~

400 Section 6. Section **58-1-302** is amended to read:

401 **58-1-302. License by endorsement.**

402 (1) Subject to Subsections (2), (3), ~~[and] (4), and (5)~~, the division ~~[may]~~ shall issue a  
403 license without examination to a person who has been licensed in a state, district, or territory of  
404 the United States ~~[or in a foreign country]~~ if:

405 ~~[(a) the division determines the education, experience, and examination requirements~~  
406 ~~of the state, district, or territory of the United States or the foreign country, at the time the~~  
407 ~~license was issued, were substantially equal to the current requirements of this state; or]~~

408 ~~[(b) after being licensed outside of this state, the person has at least one year of~~  
409 ~~experience in the state, district, or territory of the United States where the license was issued,~~  
410 ~~and the division determines the person has the education, experience, and skills necessary to~~  
411 ~~demonstrate competency in the occupation or profession for which licensure is sought.]~~

412 (a) after being licensed outside of this state, the person has at least one year of  
413 experience in the state, district, or territory of the United States where the license was issued;

414 (b) the person's license is in good standing in the state, district, or territory of the  
415 United States where the license was issued; and

416 (c) the division determines that the license issued by the state, district, or territory of  
417 the United States encompasses a similar scope of practice as the license sought in this state.

418 (2) The division, in consultation with the applicable licensing board, may make rules in  
419 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the  
420 ~~[requirements of Subsection (1)]~~ administration and requirements of this section.

421 (3) Notwithstanding the provisions of Subsection (1), the division may refuse to issue a

422 license to a person under the provisions of this section if:

423 (a) the division determines that there is reasonable cause to believe that the person is  
424 not qualified to receive a license in this state; or

425 (b) the person has a previous or pending disciplinary action related to the person's  
426 license.

427 [~~3~~] (4) Before a [~~resident~~] person may be issued a license under this section, the  
428 [~~resident~~] person shall:

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

430 (b) produce satisfactory evidence of the [~~resident's~~] person's identity, qualifications,  
431 and good standing in the occupation or profession for which licensure is sought.

432 [~~4~~] (5) In accordance with Section 58-1-107, licensure endorsement provisions in this  
433 section are subject to and may be supplemented or altered by licensure endorsement provisions  
434 or multistate licensure compacts in specific chapters of this title.

435 (6) On or before October 1, 2022, the division shall provide a written report to the  
436 Business and Labor Interim Committee regarding the effectiveness and sufficiency of the  
437 provisions of this section at ensuring that persons receiving a license without examination  
438 under the provisions of this section are qualified to receive a license in this state.

439 Section 7. Section 58-1-307 is amended to read:

440 **58-1-307. Exemptions from licensure.**

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

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

449 (b) a student engaged in activities constituting the practice of a regulated occupation or



450 profession while in training in a recognized school approved by the division to the extent the  
451 activities are supervised by qualified faculty, staff, or designee and the activities are a defined  
452 part of the training program;

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

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

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

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

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

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

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

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

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

478 and

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

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

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

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

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

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

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

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

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

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

505 (i) a physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah

506 Osteopathic Medical Practice Act;

507 (ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter 31e, Nurse Licensure

508 Compact - Revised;

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

510 (iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17b,

511 Pharmacy Practice Act;

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

513 (vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist

514 Practice Act; and

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

516 (c) suspend the requirements for licensure under this title and modify the scope of

517 practice in the circumstances described in this Subsection (4) and Subsection (5) for medical

518 services personnel or paramedics required to be licensed under Section [26-8a-302](#);

519 (d) suspend requirements in Subsections [58-17b-620](#)(3) through (6) which require

520 certain prescriptive procedures;

521 (e) exempt or modify the requirement for licensure of an individual who is activated as

522 a member of a medical reserve corps during a time of emergency as provided in Section

523 [26A-1-126](#); ~~and~~

524 (f) exempt or modify the requirement for licensure of an individual who is registered as

525 a volunteer health practitioner as provided in Title 26, Chapter 49, Uniform Emergency

526 Volunteer Health Practitioners Act~~[-];~~ and

527 (g) in accordance with rules made by the division in accordance with Title 63G,

528 Chapter 3, Utah Administrative Rulemaking Act, exempt or modify the requirements for

529 licensure of an individual engaged in one or more of the construction trades described in

530 Chapter 55, Utah Construction Trades Licensing Act.

531 (5) Individuals exempt under Subsection (4)(c) and individuals operating under

532 modified scope of practice provisions under Subsection (4)(b):

533 (a) are exempt from licensure or subject to modified scope of practice for the duration

534 of the emergency;

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

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

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

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

540 (6) In accordance with the protocols established under Subsection (8), upon the  
541 declaration of a national, state, or local emergency, the Department of Health or a local health  
542 department shall coordinate with public safety authorities as defined in Subsection  
543 26-23b-110(1) and may:

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

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

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

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

554 (A) a pharmacy;

555 (B) a prescribing practitioner;

556 (C) a licensed health care facility;

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

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

560 (7) In accordance with protocols established under Subsection (8), upon the declaration  
561 of a national, state, or local emergency, the Department of Health shall coordinate the

562 distribution of medications:

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

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

566 (8) The Department of Health shall establish by rule, made in accordance with Title  
567 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for administering, dispensing,  
568 and distributing a vaccine, an antiviral, an antibiotic, or other prescription medication that is  
569 not a controlled substance in the event of a declaration of a national, state, or local emergency.

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

572 (a) coordinate the distribution of:

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

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

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

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

585 (i) is working in a triage situation;

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

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

589 (iv) is involved in the delivery of medical or other emergency services in response to

590 the declared national, state, or local emergency; or

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

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

594 Section 8. Section **58-1-501** is amended to read:

595 **58-1-501. Unlawful and unprofessional conduct.**

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

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

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

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

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

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

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

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

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

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

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

622 (B) with prescriptive authority conferred by an exception issued under this title or a  
623 multistate practice privilege recognized under this title, if the prescription was issued without  
624 first obtaining information, in the usual course of professional practice, that is sufficient to  
625 establish a diagnosis, to identify underlying conditions, and to identify contraindications to the  
626 proposed treatment; and

627 (ii) Subsection (1)(f)(i) does not apply to treatment rendered in an emergency, on-call  
628 or cross coverage situation, provided that the person who issues the prescription has  
629 prescriptive authority conferred by a license under this title, or is exempt from licensure under  
630 this title~~[-]; or~~

631 (g) aiding or abetting any other person to violate any statute, rule, or order regulating  
632 an occupation or profession under this title.

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

636 (a) ~~violating[, or aiding or abetting any other person to violate,]~~ any statute, rule, or  
637 order regulating an occupation or profession under this title;

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

641 (c) engaging in conduct that results in conviction, a plea of nolo contendere, or a plea  
642 of guilty or nolo contendere which is held in abeyance pending the successful completion of  
643 probation with respect to a crime of moral turpitude or any other crime that, when considered  
644 with the functions and duties of the occupation or profession for which the license was issued  
645 or is to be issued, bears a substantial relationship to the licensee's or applicant's ability to safely

646 or competently practice the occupation or profession;

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

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

655 (f) practicing or attempting to practice an occupation or profession regulated under this  
656 title despite being physically or mentally unfit to do so;

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

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

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

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

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

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

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

673 (i) without first obtaining information in the usual course of professional practice, that



674 is sufficient to establish a diagnosis, to identify conditions, and to identify contraindications to  
675 the proposed treatment; or

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

681 (n) violating a provision of Section 58-1-501.5; or

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

683 (3) Unless otherwise specified by statute or administrative rule, in a civil or  
684 administrative proceeding commenced by the division under this title, a person subject to any  
685 of the unlawful and unprofessional conduct provisions of this title is strictly liable for each  
686 violation.

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

688 **58-1-502. Unlawful and unprofessional conduct -- Penalties.**

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

691 (b) Unless a specific fine amount is specified elsewhere in this title, the director or the  
692 director's designee may assess an administrative fine of up to \$1,000 for each instance of  
693 unprofessional or unlawful conduct defined in this title.

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

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

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

701 (iii) notify the person to appear before an adjudicative proceeding conducted under

702 Title 63G, Chapter 4, Administrative Procedures Act.

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

- 706 (A) an uncontested citation;
- 707 (B) a stipulated settlement; or
- 708 (C) a finding of a violation in an adjudicative proceeding.

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

712 (c) Except for a cease and desist order, the division may not assess the licensure  
713 sanctions cited in Section 58-1-401 through a citation.

714 (d) A citation shall:

- 715 (i) be in writing;
- 716 (ii) describe with particularity the nature of the violation, including a reference to the  
717 provision of the chapter, rule, or order alleged to have been violated;

718 (iii) clearly state that the recipient must notify the division in writing within 20  
719 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing  
720 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

721 (iv) clearly explain the consequences of failure to timely contest the citation or to make  
722 payment of a fine assessed by the citation within the time specified in the citation.

723 (e) The division may issue a notice in lieu of a citation.

724 (f) (i) If within 20 calendar days from the service of the citation, the person to whom  
725 the citation was issued fails to request a hearing to contest the citation, the citation becomes the  
726 final order of the division and is not subject to further agency review.

727 (ii) The period to contest a citation may be extended by the division for cause.

728 (g) The division may refuse to issue or renew, suspend, revoke, or place on probation  
729 the license of a licensee who fails to comply with a citation after it becomes final.

730 (h) The failure of an applicant for licensure to comply with a citation after it becomes  
731 final is a ground for denial of license.

732 (i) ~~[The]~~ Subject to the time limitations described in Subsection 58-1-401(6), the  
733 division may not issue a citation under this section after the expiration of one year following  
734 the ~~[occurrence of a violation]~~ date on which the violation that is the subject of the citation is  
735 reported to the division.

736 (j) The director or the director's designee shall assess fines according to the following:

737 (i) for the first offense handled pursuant to Subsection (2)(a), a fine of up to \$1,000;

738 (ii) for a second offense handled pursuant to Subsection (2)(a), a fine of up to \$2,000;

739 and

740 (iii) for each subsequent offense handled pursuant to Subsection (2)(a), a fine of up to  
741 \$2,000 for each day of continued offense.

742 (3) (a) An action for a first or second offense that has not yet resulted in a final order of  
743 the division may not preclude initiation of a subsequent action for a second or subsequent  
744 offense during the pendency of a preceding action.

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

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

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

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

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

754 (c) A court may award reasonable attorney fees and costs to the prevailing party in an  
755 action brought by the division to collect a penalty.

756 Section 10. Section **58-3a-105** is amended to read:

757 **58-3a-105. Surcharge fee.**

758 (1) In addition to any other fees authorized by this chapter or by the division in  
759 accordance with Section 63J-1-504, the division shall require each applicant for an initial  
760 license, renewal of a license, or reinstatement of a license under this chapter to pay a \$1  
761 surcharge fee.

762 (2) The surcharge fee shall be deposited in the General Fund as a dedicated credit to be  
763 used by the division to provide each licensee under this chapter with access to an electronic  
764 reference library that provides web-based access to national, state, and local building codes and  
765 standards.

766 Section 11. Section 58-3a-302 is amended to read:

767 **58-3a-302. Qualifications for licensure.**

768 (1) Except as provided in Subsection (2), each applicant for licensure as an architect  
769 shall:

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

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

772 [~~(c) provide satisfactory evidence of good moral character;~~]

773 [~~(d)~~] (c) have graduated and received an earned bachelors or masters degree from an  
774 architecture program meeting criteria established by rule by the division in collaboration with  
775 the board;

776 [~~(e)~~] (d) have successfully completed a program of diversified practical experience  
777 established by rule by the division in collaboration with the board;

778 [~~(f)~~] (e) have successfully passed examinations established by rule by the division in  
779 collaboration with the board; and

780 [~~(g)~~] (f) meet with the board or representative of the division upon request for the  
781 purpose of evaluating the applicant's qualifications for license.

782 (2) Each applicant for licensure as an architect by endorsement shall:

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

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

785 [~~(c) provide satisfactory evidence of good moral character;~~]

- 786            [~~(c)~~] (c) submit satisfactory evidence of:
- 787            (i) current licensure in good standing in a jurisdiction recognized by rule by the
- 788 division in collaboration with the board; and
- 789            (ii) current certification from the National Council of Architectural Registration
- 790 Boards; or
- 791            (iii) current license in good standing in a jurisdiction recognized by rule by the division
- 792 in collaboration with the board; and
- 793            (iv) full-time employment as a licensed architect as a principal for at least five of the
- 794 last seven years immediately preceding the date of the application;
- 795            [~~(d)~~] (d) have successfully passed any examination established by rule by the division
- 796 in collaboration with the board; and
- 797            [~~(e)~~] (e) meet with the board or representative of the division upon request for the
- 798 purpose of evaluating the applicant's qualifications for license.

799            Section 12. Section **58-3a-304** is amended to read:

800            **58-3a-304. Exemptions from licensure.**

- 801            (1) In addition to the exemptions from licensure in Section **58-1-307**, the following
- 802 may engage in the stated limited acts or practices without being licensed under this chapter:
- 803            (a) a person offering to render architectural services in this state when not licensed
- 804 under this chapter if the person:
- 805            (i) holds a current and valid architect license issued by a licensing authority recognized
- 806 by rule by the division in collaboration with the board;
- 807            (ii) discloses in writing to the potential client the fact that the architect:
- 808            (A) is not licensed in the state;
- 809            (B) may not provide architectural services in the state until the architect is licensed in
- 810 the state; and
- 811            (C) that such condition may cause a delay in the ability of the architect to provide
- 812 architectural services in the state;
- 813            (iii) notifies the division in writing of his intent to offer to render architectural services

814 in the state; and

815 (iv) does not provide architectural services or engage in the practice of architecture in  
816 this state until licensed to do so;

817 (b) a person preparing a plan and specification for one or two-family dwellings,  
818 including townhouses;

819 (c) a person licensed to practice professional engineering under Title 58, Chapter 22,  
820 Professional Engineers and Professional Land Surveyors Licensing Act, performing  
821 engineering or incidental architectural acts or practices that do not exceed the scope of the  
822 education and training of the person performing architecture;

823 (d) unlicensed employees, subordinates, associates, or drafters of a person licensed  
824 under this chapter while preparing plans and specifications under the supervision of an  
825 architect;

826 (e) a person preparing a plan or specification for, or supervising the alteration of or  
827 repair to, an existing building affecting an area not exceeding 3,000 square feet when structural  
828 elements of a building are not changed, such as foundations, beams, columns, and structural  
829 slabs, joists, bearing walls, and trusses; and

830 (f) an organization engaged in the practice of architecture, provided that:

831 (i) the organization employs a principal; and

832 (ii) all individuals employed by the organization, who are engaged in the practice of  
833 architecture, are licensed or exempt from licensure under this chapter.

834 (2) Nothing in this section shall be construed to restrict a ~~[draftsman]~~ person from  
835 preparing plans for a client under the exemption provided in Subsection (1)(b) or taking those  
836 plans to a licensed architect for ~~[his]~~ review, approval, and subsequent fixing of the architect's  
837 seal to that set of plans ~~[if they meet the building code standards]~~.

838 Section 13. Section **58-3a-502** is amended to read:

839 **58-3a-502. Penalty for unlawful conduct.**

840 (1) (a) If upon inspection or investigation, the division concludes that a person has  
841 violated Subsections **58-1-501**(1)(a) through (d) or Section **58-3a-501** or any rule or order

842 issued with respect to Section 58-3a-501, and that disciplinary action is appropriate, the  
843 director or the director's designee from within the division for each alternative respectively,  
844 shall promptly issue a citation to the person according to this chapter and any pertinent rules,  
845 attempt to negotiate a stipulated settlement, or notify the person to appear before an  
846 adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

847 (i) A person who violates Subsections 58-1-501(1)(a) through (d) or Section 58-3a-501  
848 or any rule or order issued with respect to Section 58-3a-501, as evidenced by an uncontested  
849 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may  
850 be assessed a fine pursuant to this Subsection (1) and may, in addition to or in lieu of, be  
851 ordered to cease and desist from violating Subsections 58-1-501(1)(a) through (d) or Section  
852 58-3a-501 or any rule or order issued with respect to this section.

853 (ii) Except for a cease and desist order, the licensure sanctions cited in Section  
854 58-3a-401 may not be assessed through a citation.

855 (b) A citation shall:

856 (i) be in writing;

857 (ii) describe with particularity the nature of the violation, including a reference to the  
858 provision of the chapter, rule, or order alleged to have been violated;

859 (iii) clearly state that the recipient must notify the division in writing within 20  
860 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing  
861 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

862 (iv) clearly explain the consequences of failure to timely contest the citation or to make  
863 payment of any fines assessed by the citation within the time specified in the citation.

864 (c) The division may issue a notice in lieu of a citation.

865 (d) Each citation issued under this section, or a copy of each citation, may be served  
866 upon a person upon whom a summons may be served in accordance with the Utah Rules of  
867 Civil Procedure and may be made personally or upon the person's agent by a division  
868 investigator or by any person specially designated by the director or by mail.

869 (e) If within 20 calendar days from the service of the citation, the person to whom the

870 citation was issued fails to request a hearing to contest the citation, the citation becomes the  
871 final order of the division and is not subject to further agency review. The period to contest a  
872 citation may be extended by the division for cause.

873 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation  
874 the license of a licensee who fails to comply with a citation after it becomes final.

875 (g) The failure of an applicant for licensure to comply with a citation after it becomes  
876 final is a ground for denial of license.

877 (h) No citation may be issued under this section after the expiration of [~~six months~~  
878 ~~following the occurrence of any violation~~] one year following the date on which the violation  
879 that is the subject of the citation is reported to the division.

880 (i) The director or the director's designee shall assess fines according to the following:

881 (i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to \$1,000;

882 (ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000;

883 and

884 (iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to  
885 \$2,000 for each day of continued offense.

886 (2) An action initiated for a first or second offense which has not yet resulted in a final  
887 order of the division shall not preclude initiation of any subsequent action for a second or  
888 subsequent offense during the pendency of any preceding action. The final order on a  
889 subsequent action shall be considered a second or subsequent offense, respectively, provided  
890 the preceding action resulted in a first or second offense, respectively.

891 (3) (a) The director may collect a penalty that is not paid by:

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

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

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

897 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an



898 action brought by the division to collect a penalty.

899 Section 14. Section **58-5a-302** is amended to read:

900 **58-5a-302. Qualifications to practice podiatry.**

901 An applicant for licensure to practice podiatry shall:

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

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

904 [~~(3)~~ be of good moral character;]

905 [~~(4)~~ (3) provide satisfactory documentation of having successfully completed a

906 program of professional education preparing an individual as a podiatric physician, as

907 evidenced by having received an earned degree of doctor of podiatric medicine from a podiatry

908 school or college accredited by the Council on Podiatric Medical Education;

909 [~~(5)~~ (4) if licensed on or after July 1, 2015, satisfy the division and board that the

910 applicant:

911 (a) has successfully completed 24 months of resident training in a program approved

912 by the Council on Podiatric Medical Education; or

913 (b) (i) has successfully completed 12 months of resident training in a program

914 approved by the Council on Podiatric Medical Education after receiving a degree of doctor of

915 podiatric medicine as required under Subsection [~~(4)~~ (3);

916 (ii) has been accepted in, and is successfully participating in, progressive resident

917 training in a Council on Podiatric Medical Education approved program within Utah, in the

918 applicant's second or third year of postgraduate training; and

919 (iii) has agreed to surrender to the division the applicant's license as a podiatric

920 physician without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act,

921 and has agreed the applicant's license as a podiatric physician will be automatically revoked by

922 the division if the applicant fails to continue in good standing in a Council on Podiatric

923 Medical Education approved progressive resident training program within the state; and

924 [~~(6)~~ (5) pass examinations required by rule.

925 Section 15. Section **58-11a-102** is amended to read:

926 **58-11a-102. Definitions.**

927 As used in this chapter:

928 (1) "Approved barber or cosmetologist/barber apprenticeship" means an apprenticeship  
929 that meets the requirements of Subsection 58-11a-306(1) for barbers or Subsection  
930 58-11a-306(2) for cosmetologist/barbers and the requirements established by rule by the  
931 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah  
932 Administrative Rulemaking Act.

933 (2) "Approved esthetician apprenticeship" means an apprenticeship that meets the  
934 requirements of Subsection 58-11a-306~~(3)~~(4) and the requirements established by rule by the  
935 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah  
936 Administrative Rulemaking Act.

937 (3) "Approved hair designer apprenticeship" means an apprenticeship that meets the  
938 requirements of Subsection 58-11a-306(3) and the requirements established by rule by the  
939 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah  
940 Administrative Rulemaking Act.

941 ~~(3)~~ (4) "Approved master esthetician apprenticeship" means an apprenticeship that  
942 meets the requirements of Subsection 58-11a-306~~(4)~~(5) and the requirements established by  
943 rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3,  
944 Utah Administrative Rulemaking Act.

945 ~~(4)~~ (5) "Approved nail technician apprenticeship" means an apprenticeship that meets  
946 the requirements of Subsection 58-11a-306~~(5)~~(6) and the requirements established by rule by  
947 the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah  
948 Administrative Rulemaking Act.

949 ~~(5)~~ (6) "Barber" means a person who is licensed under this chapter to engage in the  
950 practice of barbering.

951 ~~(6)~~ (7) "Barber instructor" means a barber who is licensed under this chapter to  
952 engage in the practice of barbering instruction.

953 ~~(7)~~ (8) "Board" means the Cosmetology and Associated Professions Licensing Board

954 created in Section 58-11a-201.

955 ~~[(8)]~~ (9) "Cosmetic laser procedure" includes a nonablative procedure as defined in  
956 Section 58-67-102.

957 ~~[(9)]~~ (10) "Cosmetic supervisor" means a supervisor as defined in Section 58-1-505.

958 ~~[(10)]~~ (11) "Cosmetologist/barber" means a person who is licensed under this chapter  
959 to engage in the practice of cosmetology/barbering.

960 ~~[(11)]~~ (12) "Cosmetologist/barber instructor" means a cosmetologist/barber who is  
961 licensed under this chapter to engage in the practice of cosmetology/barbering instruction.

962 ~~[(12)]~~ (13) "Direct supervision" means that the supervisor of an apprentice or the  
963 instructor of a student is immediately available for consultation, advice, instruction, and  
964 evaluation.

965 ~~[(13)]~~ (14) "Electrologist" means a person who is licensed under this chapter to engage  
966 in the practice of electrology.

967 ~~[(14)]~~ (15) "Electrologist instructor" means an electrologist who is licensed under this  
968 chapter to engage in the practice of electrology instruction.

969 ~~[(15)]~~ (16) "Esthetician" means a person who is licensed under this chapter to engage  
970 in the practice of esthetics.

971 ~~[(16)]~~ (17) "Esthetician instructor" means a master esthetician who is licensed under  
972 this chapter to engage in the practice of esthetics instruction.

973 ~~[(17)]~~ (18) "Fund" means the Cosmetology and Associated Professions Education and  
974 Enforcement Fund created in Section 58-11a-103.

975 ~~[(18)]~~ (19) (a) "Hair braiding" means the twisting, weaving, or interweaving of a  
976 person's natural human hair.

977 (b) "Hair braiding" includes the following methods or styles:

978 (i) African-style braiding;

979 (ii) box braids;

980 (iii) cornrows;

981 (iv) dreadlocks;

- 982 (v) french braids;
- 983 (vi) invisible braids;
- 984 (vii) micro braids;
- 985 (viii) single braids;
- 986 (ix) single plaits;
- 987 (x) twists;
- 988 (xi) visible braids;
- 989 (xii) the use of lock braids; and
- 990 (xiii) the use of decorative beads, accessories, and nonhair extensions.
- 991 (c) "Hair braiding" does not include:
- 992 (i) the use of:
- 993 (A) wefts;
- 994 (B) synthetic tape;
- 995 (C) synthetic glue;
- 996 (D) keratin bonds;
- 997 (E) fusion bonds; or
- 998 (F) heat tools;
- 999 (ii) the cutting of human hair; or
- 1000 (iii) the application of heat, dye, a reactive chemical, or other preparation to:
- 1001 (A) alter the color of the hair; or
- 1002 (B) straighten, curl, or alter the structure of the hair.
- 1003 [~~(19)~~] (20) "Hair designer" means a person who is licensed under this chapter to
- 1004 engage in the practice of hair design.
- 1005 [~~(20)~~] (21) "Hair designer instructor" means a hair designer who is licensed under this
- 1006 chapter to engage in the practice of hair design instruction.
- 1007 [~~(21)~~] (22) "Licensed barber or cosmetology/barber school" means a barber or
- 1008 cosmetology/barber school licensed under this chapter.
- 1009 [~~(22)~~] (23) "Licensed electrology school" means an electrology school licensed under

1010 this chapter.

1011           ~~[(23)]~~ (24) "Licensed esthetics school" means an esthetics school licensed under this  
1012 chapter.

1013           ~~[(24)]~~ (25) "Licensed hair design school" means a hair design school licensed under  
1014 this chapter.

1015           ~~[(25)]~~ (26) "Licensed nail technology school" means a nail technology school licensed  
1016 under this chapter.

1017           ~~[(26)]~~ (27) "Master esthetician" means an individual who is licensed under this chapter  
1018 to engage in the practice of master-level esthetics.

1019           ~~[(27)]~~ (28) "Nail technician" means an individual who is licensed under this chapter to  
1020 engage in the practice of nail technology.

1021           ~~[(28)]~~ (29) "Nail technician instructor" means a nail technician licensed under this  
1022 chapter to engage in the practice of nail technology instruction.

1023           ~~[(29)]~~ (30) "Practice of barbering" means:

1024           (a) cutting, clipping, or trimming the hair of the head of any person by the use of  
1025 scissors, shears, clippers, or other appliances;

1026           (b) draping, shampooing, scalp treatments, basic wet styling, and blow drying;

1027           (c) removing hair from the face or neck of a person by the use of shaving equipment;

1028 and

1029           (d) when providing other services described in this Subsection ~~[(29)]~~ (30), gently  
1030 massaging the head, back of the neck, and shoulders by manual or mechanical means.

1031           ~~[(30)]~~ (31) "Practice of barbering instruction" means teaching the practice of barbering  
1032 at a licensed barber school, at a licensed cosmetology/barber school, or for an approved barber  
1033 apprenticeship.

1034           ~~[(31)]~~ (32) "Practice of basic esthetics" means any one of the following skin care  
1035 procedures done on the body for cosmetic purposes and not for the treatment of medical,  
1036 physical, or mental ailments:

1037           (a) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays, or

1038 masks, manual extraction, including a comedone extractor, depilatories, waxes, tweezing, the  
1039 application of eyelash or eyebrow extensions, natural nail manicures or pedicures, or callous  
1040 removal by buffing or filing;

1041 (b) limited chemical exfoliation as defined by rule;

1042 (c) removing superfluous hair by means other than electrolysis, except that an  
1043 individual is not required to be licensed as an esthetician to engage in the practice of threading;

1044 (d) other esthetic preparations or procedures with the use of the hands, a  
1045 high-frequency or galvanic electrical apparatus, or a heat lamp for cosmetic purposes and not  
1046 for the treatment of medical, physical, or mental ailments;

1047 (e) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes, or applying  
1048 eyelash or eyebrow extensions; or

1049 (f) except as provided in Subsection [~~(31)(f)(i)~~] (32)(f)(i), cosmetic laser procedures  
1050 under the direct cosmetic medical procedure supervision of a cosmetic supervisor limited to the  
1051 following:

1052 (i) superfluous hair removal which shall be under indirect supervision;

1053 (ii) anti-aging resurfacing enhancements;

1054 (iii) photo rejuvenation; or

1055 (iv) tattoo removal.

1056 [~~(32)~~] (33) (a) "Practice of cosmetology/barbering" means:

1057 (i) styling, arranging, dressing, curling, waving, permanent waving, cleansing,  
1058 singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a  
1059 person;

1060 (ii) cutting, clipping, or trimming the hair by the use of scissors, shears, clippers, or  
1061 other appliances;

1062 (iii) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes, applying  
1063 eyelash or eyebrow extensions;

1064 (iv) removing hair from the body of a person by the use of depilatories, waxing, or  
1065 shaving equipment;

1066 (v) cutting, curling, styling, fitting, measuring, or forming caps for wigs or hairpieces  
1067 or both on the human head; or

1068 (vi) practicing hair weaving or hair fusing or servicing previously medically implanted  
1069 hair.

1070 (b) The term "practice of cosmetology/barbering" includes:

1071 (i) the practice of barbering;

1072 (ii) the practice of basic esthetics; and

1073 (iii) the practice of nail technology.

1074 (c) An individual is not required to be licensed as a cosmetologist/barber to engage in  
1075 the practice of threading.

1076 [~~33~~] (34) "Practice of cosmetology/barbering instruction" means teaching the practice  
1077 of cosmetology/barbering:

1078 (a) at a licensed cosmetology/barber school, a licensed barber school, or a licensed nail  
1079 technology school; or

1080 (b) for an approved cosmetologist/barber apprenticeship.

1081 [~~34~~] (35) "Practice of electrology" means:

1082 (a) the removal of superfluous hair from the body of a person by the use of electricity,  
1083 waxing, shaving, or tweezing; or

1084 (b) cosmetic laser procedures under the supervision of a cosmetic supervisor limited to  
1085 superfluous hair removal.

1086 [~~35~~] (36) "Practice of electrology instruction" means teaching the practice of  
1087 electrology at a licensed electrology school.

1088 [~~36~~] (37) "Practice of esthetics instruction" means teaching the practice of basic  
1089 esthetics or the practice of master-level esthetics:

1090 (a) at a licensed esthetics school or a licensed cosmetology/barber school; or

1091 (b) for an approved esthetician apprenticeship or an approved master esthetician  
1092 apprenticeship.

1093 [~~37~~] (38) "Practice of hair design" means:

1094 (a) styling, arranging, dressing, curling, waving, permanent waving, cleansing,  
1095 singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a  
1096 person;

1097 (b) barbering, cutting, clipping, shaving, or trimming the hair by the use of scissors,  
1098 shears, clippers, or other appliances;

1099 (c) cutting, curling, styling, fitting, measuring, or forming caps for wigs, hairpieces, or  
1100 both on the human head; or

1101 (d) practicing hair weaving, hair fusing, or servicing previously medically implanted  
1102 hair.

1103 [~~(38)~~] (39) "Practice of hair design instruction" means teaching the practice of hair  
1104 design at a licensed cosmetology/barber school, a licensed hair design school, or a licensed  
1105 barber school.

1106 [~~(39)~~] (40) (a) "Practice of master-level esthetics" means:

1107 (i) any of the following when done for cosmetic purposes on the body and not for the  
1108 treatment of medical, physical, or mental ailments:

1109 (A) body wraps as defined by rule;

1110 (B) hydrotherapy as defined by rule;

1111 (C) chemical exfoliation as defined by rule;

1112 (D) advanced pedicures as defined by rule;

1113 (E) sanding, including microdermabrasion;

1114 (F) advanced extraction;

1115 (G) other esthetic preparations or procedures with the use of:

1116 (I) the hands; or

1117 (II) a mechanical or electrical apparatus which is approved for use by division rule for  
1118 beautifying or similar work performed on the body for cosmetic purposes and not for the  
1119 treatment of a medical, physical, or mental ailment; or

1120 (H) cosmetic laser procedures under the supervision of a cosmetic supervisor with a  
1121 physician's evaluation before the procedure, as needed, unless specifically required under



1122 Section 58-1-506, and limited to the following:

1123 (I) superfluous hair removal;

1124 (II) anti-aging resurfacing enhancements;

1125 (III) photo rejuvenation; or

1126 (IV) tattoo removal with a physician's, advanced practice nurse's, or physician

1127 assistant's evaluation before the tattoo removal procedure, as required by Subsection

1128 58-1-506(3)(a); and

1129 (ii) lymphatic massage by manual or other means as defined by rule.

1130 (b) Notwithstanding the provisions of Subsection [~~(39)(a)~~] (40)(a), a master-level

1131 esthetician may perform procedures listed in Subsection [~~(39)(a)(i)(H)~~] (40)(a)(i)(H) if done

1132 under the supervision of a cosmetic supervisor acting within the scope of the cosmetic

1133 supervisor license.

1134 (c) The term "practice of master-level esthetics" includes the practice of esthetics, but

1135 an individual is not required to be licensed as an esthetician or master-level esthetician to

1136 engage in the practice of threading.

1137 [~~(40)~~] (41) "Practice of nail technology" means to trim, cut, clean, manicure, shape,

1138 massage, or enhance the appearance of the hands, feet, and nails of an individual by the use of

1139 hands, mechanical, or electrical preparation, antiseptic, lotions, or creams, including the

1140 application and removal of sculptured or artificial nails.

1141 [~~(41)~~] (42) "Practice of nail technology instruction" means teaching the practice of nail

1142 technology at a licensed nail technician school, at a licensed cosmetology/barber school, or for

1143 an approved nail technician apprenticeship.

1144 [~~(42)~~] (43) "Recognized barber school" means a barber school located in a state other

1145 than Utah, whose students, upon graduation, are recognized as having completed the

1146 educational requirements for licensure in that state.

1147 [~~(43)~~] (44) "Recognized cosmetology/barber school" means a cosmetology/barber

1148 school located in a state other than Utah, whose students, upon graduation, are recognized as

1149 having completed the educational requirements for licensure in that state.

1150           ~~[(44)]~~ (45) "Recognized electrology school" means an electrology school located in a  
1151 state other than Utah, whose students, upon graduation, are recognized as having completed the  
1152 educational requirements for licensure in that state.

1153           ~~[(45)]~~ (46) "Recognized esthetics school" means an esthetics school located in a state  
1154 other than Utah, whose students, upon graduation, are recognized as having completed the  
1155 educational requirements for licensure in that state.

1156           ~~[(46)]~~ (47) "Recognized hair design school" means a hair design school located in a  
1157 state other than Utah, whose students, upon graduation, are recognized as having completed the  
1158 educational requirements for licensure in that state.

1159           ~~[(47)]~~ (48) "Recognized nail technology school" means a nail technology school  
1160 located in a state other than Utah, whose students, upon graduation, are recognized as having  
1161 completed the educational requirements for licensure in that state.

1162           ~~[(48)]~~ (49) "Salon" means a place, shop, or establishment in which  
1163 cosmetology/barbering, esthetics, electrology, or nail technology is practiced.

1164           ~~[(49)]~~ (50) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-11a-502.

1165           ~~[(50)]~~ (51) "Unprofessional conduct" is as defined in Sections 58-1-501 and  
1166 58-11a-501 and as may be further defined by rule by the division in collaboration with the  
1167 board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1168           Section 16. Section 58-11a-302 is amended to read:

1169           **58-11a-302. Qualifications for licensure.**

1170           (1) Each applicant for licensure as a barber shall:

1171           (a) submit an application in a form prescribed by the division;

1172           (b) pay a fee determined by the department under Section 63J-1-504;

1173           ~~[(c) be of good moral character;]~~

1174           ~~[(d)]~~ (c) provide satisfactory documentation of:

1175           (i) graduation from a licensed or recognized barber school, or a licensed or recognized  
1176 cosmetology/barber school, whose curriculum consists of a minimum of 1,000 hours of  
1177 instruction, or the equivalent number of credit hours, over a period of not less than 25 weeks;

1178 (ii) (A) graduation from a recognized barber school located in a state other than Utah  
1179 whose curriculum consists of less than 1,000 hours of instruction or the equivalent number of  
1180 credit hours; and

1181 (B) practice as a licensed barber in a state other than Utah for not less than the number  
1182 of hours required to equal 1,000 total hours when added to the hours of instruction described in  
1183 Subsection ~~[(1)(d)(ii)(A)]~~ (1)(c)(ii)(A); or

1184 (iii) completion of an approved barber apprenticeship; and  
1185 ~~[(e)]~~ (d) meet the examination requirement established by rule.

1186 (2) Each applicant for licensure as a barber instructor shall:

1187 (a) submit an application in a form prescribed by the division;

1188 (b) subject to Subsection (24), pay a fee determined by the department under Section  
1189 [63J-1-504](#);

1190 (c) provide satisfactory documentation that the applicant is currently licensed as a  
1191 barber;

1192 ~~[(d) be of good moral character;]~~

1193 ~~[(e)]~~ (d) provide satisfactory documentation of completion of:

1194 (i) an instructor training program conducted by a licensed or recognized school, as  
1195 defined by rule, consisting of a minimum of 250 hours or the equivalent number of credit  
1196 hours;

1197 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or  
1198 recognized school, as defined by rule, consisting of a minimum of 250 hours or the equivalent  
1199 number of credit hours; or

1200 (iii) a minimum of 2,000 hours of experience as a barber; and

1201 ~~[(f)]~~ (e) meet the examination requirement established by rule.

1202 (3) Each applicant for licensure as a barber school shall:

1203 (a) submit an application in a form prescribed by the division;

1204 (b) pay a fee determined by the department under Section [63J-1-504](#); and

1205 (c) provide satisfactory documentation:

- 1206 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 1207 (ii) of business licensure from the city, town, or county in which the school is located;
- 1208 (iii) that the applicant's physical facilities comply with the requirements established by
- 1209 rule; and
- 1210 (iv) that the applicant meets:
- 1211 (A) the standards for barber schools, including staff and accreditation requirements,
- 1212 established by rule; and
- 1213 (B) the requirements for recognition as an institution of postsecondary study as
- 1214 described in Subsection (22).
- 1215 (4) Each applicant for licensure as a cosmetologist/barber shall:
- 1216 (a) submit an application in a form prescribed by the division;
- 1217 (b) pay a fee determined by the department under Section [63J-1-504](#);
- 1218 [~~(c) be of good moral character;~~]
- 1219 [~~(d)~~] (c) provide satisfactory documentation of:
- 1220 (i) graduation from a licensed or recognized cosmetology/barber school whose
- 1221 curriculum consists of a minimum of 1,600 hours of instruction, or the equivalent number of
- 1222 credit hours, with full flexibility within those hours;
- 1223 (ii) (A) graduation from a recognized cosmetology/barber school located in a state
- 1224 other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the
- 1225 equivalent number of credit hours, with full flexibility within those hours; and
- 1226 (B) practice as a licensed cosmetologist/barber in a state other than Utah for not less
- 1227 than the number of hours required to equal 1,600 total hours when added to the hours of
- 1228 instruction described in Subsection [~~(4)(d)(ii)(A)~~] (4)(c)(ii)(A); or
- 1229 (iii) completion of an approved cosmetology/barber apprenticeship; and
- 1230 [~~(e)~~] (d) meet the examination requirement established by rule.
- 1231 (5) Each applicant for licensure as a cosmetologist/barber instructor shall:
- 1232 (a) submit an application in a form prescribed by the division;
- 1233 (b) subject to Subsection (24), pay a fee determined by the department under Section

1234 63J-1-504;

1235 (c) provide satisfactory documentation that the applicant is currently licensed as a  
1236 cosmetologist/barber;

1237 [~~(d)~~ be of good moral character;]

1238 [~~(e)~~] (d) provide satisfactory documentation of completion of:

1239 (i) an instructor training program conducted by a licensed or recognized school, as  
1240 defined by rule, consisting of a minimum of 400 hours or the equivalent number of credit  
1241 hours;

1242 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or  
1243 recognized school, as defined by rule, consisting of a minimum of 400 hours or the equivalent  
1244 number of credit hours; or

1245 (iii) a minimum of 3,000 hours of experience as a cosmetologist/barber; and

1246 [~~(f)~~] (e) meet the examination requirement established by rule.

1247 (6) Each applicant for licensure as a cosmetologist/barber school shall:

1248 (a) submit an application in a form prescribed by the division;

1249 (b) pay a fee determined by the department under Section 63J-1-504; and

1250 (c) provide satisfactory documentation:

1251 (i) of appropriate registration with the Division of Corporations and Commercial Code;

1252 (ii) of business licensure from the city, town, or county in which the school is located;

1253 (iii) that the applicant's physical facilities comply with the requirements established by  
1254 rule; and

1255 (iv) that the applicant meets:

1256 (A) the standards for cosmetology schools, including staff and accreditation  
1257 requirements, established by rule; and

1258 (B) the requirements for recognition as an institution of postsecondary study as  
1259 described in Subsection (22).

1260 (7) Each applicant for licensure as an electrologist shall:

1261 (a) submit an application in a form prescribed by the division;

- 1262 (b) pay a fee determined by the department under Section 63J-1-504;
- 1263 [~~(e)~~ be of good moral character;]
- 1264 [~~(d)~~ (c) provide satisfactory documentation of having graduated from a licensed or
- 1265 recognized electrology school after completing a curriculum of 600 hours of instruction or the
- 1266 equivalent number of credit hours; and
- 1267 [~~(e)~~ (d) meet the examination requirement established by rule.
- 1268 (8) Each applicant for licensure as an electrologist instructor shall:
- 1269 (a) submit an application in a form prescribed by the division;
- 1270 (b) subject to Subsection (24), pay a fee determined by the department under Section
- 1271 63J-1-504;
- 1272 (c) provide satisfactory documentation that the applicant is currently licensed as an
- 1273 electrologist;
- 1274 [~~(d)~~ be of good moral character;]
- 1275 [~~(e)~~ (d) provide satisfactory documentation of completion of:
- 1276 (i) an instructor training program conducted by a licensed or recognized school, as
- 1277 defined by rule, consisting of a minimum of 150 hours or the equivalent number of credit
- 1278 hours;
- 1279 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or
- 1280 recognized school, as defined by rule, consisting of a minimum of 150 hours or the equivalent
- 1281 number of credit hours; or
- 1282 (iii) a minimum of 1,000 hours of experience as an electrologist; and
- 1283 [~~(f)~~ (e) meet the examination requirement established by rule.
- 1284 (9) Each applicant for licensure as an electrologist school shall:
- 1285 (a) submit an application in a form prescribed by the division;
- 1286 (b) pay a fee determined by the department under Section 63J-1-504; and
- 1287 (c) provide satisfactory documentation:
- 1288 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 1289 (ii) of business licensure from the city, town, or county in which the school is located;

1290 (iii) that the applicant's facilities comply with the requirements established by rule; and

1291 (iv) that the applicant meets:

1292 (A) the standards for electrologist schools, including staff, curriculum, and  
1293 accreditation requirements, established by rule; and

1294 (B) the requirements for recognition as an institution of postsecondary study as  
1295 described in Subsection (22).

1296 (10) Each applicant for licensure as an esthetician shall:

1297 (a) submit an application in a form prescribed by the division;

1298 (b) pay a fee determined by the department under Section 63J-1-504;

1299 [~~(c) be of good moral character;~~]

1300 [~~(d)~~] (c) provide satisfactory documentation of one of the following:

1301 (i) graduation from a licensed or recognized esthetic school or a licensed or recognized  
1302 cosmetology/barber school whose curriculum consists of not less than 15 weeks of esthetic  
1303 instruction with a minimum of 600 hours or the equivalent number of credit hours;

1304 (ii) completion of an approved esthetician apprenticeship; or

1305 (iii) (A) graduation from a recognized cosmetology/barber school located in a state  
1306 other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the  
1307 equivalent number of credit hours, with full flexibility within those hours; and

1308 (B) practice as a licensed cosmetologist/barber for not less than the number of hours  
1309 required to equal 1,600 total hours when added to the hours of instruction described in  
1310 Subsection [~~(10)(d)(iii)(A)~~] (10)(c)(iii)(A); and

1311 [~~(e)~~] (d) meet the examination requirement established by division rule.

1312 (11) Each applicant for licensure as a master esthetician shall:

1313 (a) submit an application in a form prescribed by the division;

1314 (b) pay a fee determined by the department under Section 63J-1-504;

1315 [~~(c) be of good moral character;~~]

1316 [~~(d)~~] (c) provide satisfactory documentation of:

1317 (i) completion of at least 1,200 hours of training, or the equivalent number of credit

1318 hours, at a licensed or recognized esthetics school, except that up to 600 hours toward the  
1319 1,200 hours may have been completed:

1320 (A) at a licensed or recognized cosmetology/barbering school, if the applicant  
1321 graduated from the school and its curriculum consisted of at least 1,600 hours of instruction, or  
1322 the equivalent number of credit hours, with full flexibility within those hours; or

1323 (B) at a licensed or recognized cosmetology/barber school located in a state other than  
1324 Utah, if the applicant graduated from the school and its curriculum contained full flexibility  
1325 within its hours of instruction; or

1326 (ii) completion of an approved master esthetician apprenticeship;

1327 ~~[(e)]~~ (d) if the applicant will practice lymphatic massage, provide satisfactory  
1328 documentation to show completion of 200 hours of training, or the equivalent number of credit  
1329 hours, in lymphatic massage as defined by division rule; and

1330 ~~[(f)]~~ (e) meet the examination requirement established by division rule.

1331 (12) Each applicant for licensure as an esthetician instructor shall:

1332 (a) submit an application in a form prescribed by the division;

1333 (b) subject to Subsection (24), pay a fee determined by the department under Section  
1334 [63J-1-504](#);

1335 (c) provide satisfactory documentation that the applicant is currently licensed as a  
1336 master esthetician;

1337 ~~[(d) be of good moral character;]~~

1338 ~~[(e)]~~ (d) provide satisfactory documentation of completion of:

1339 (i) an instructor training program conducted by a licensed or recognized school, as  
1340 defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit  
1341 hours;

1342 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or  
1343 recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent  
1344 number of credit hours; or

1345 (iii) a minimum of 1,000 hours of experience in esthetics; and



1346           ~~[(f)]~~ (e) meet the examination requirement established by rule.  
1347           (13) Each applicant for licensure as an esthetics school shall:  
1348           (a) submit an application in a form prescribed by the division;  
1349           (b) pay a fee determined by the department under Section 63J-1-504; and  
1350           (c) provide satisfactory documentation:  
1351           (i) of appropriate registration with the Division of Corporations and Commercial Code;  
1352           (ii) of business licensure from the city, town, or county in which the school is located;  
1353           (iii) that the applicant's physical facilities comply with the requirements established by  
1354 rule; and  
1355           (iv) that the applicant meets:  
1356           (A) the standards for esthetics schools, including staff, curriculum, and accreditation  
1357 requirements, established by division rule made in collaboration with the board; and  
1358           (B) the requirements for recognition as an institution of postsecondary study as  
1359 described in Subsection (22).  
1360           (14) Each applicant for licensure as a hair designer shall:  
1361           (a) submit an application in a form prescribed by the division;  
1362           (b) pay a fee determined by the department under Section 63J-1-504;  
1363           ~~[(c) be of good moral character;]~~  
1364           ~~[(d)]~~ (c) provide satisfactory documentation of:  
1365           (i) graduation from a licensed or recognized cosmetology/barber, hair design, or  
1366 barbering school whose curriculum consists of a minimum of 1,200 hours of instruction, or the  
1367 equivalent number of credit hours, with full flexibility within those hours;  
1368           (ii) (A) graduation from a recognized cosmetology/barber, hair design, or barbering  
1369 school located in a state other than Utah whose curriculum consists of less than 1,200 hours of  
1370 instruction, or the equivalent number of credit hours, with full flexibility within those hours;  
1371 and  
1372           (B) practice as a licensed cosmetologist/barber or hair designer in a state other than  
1373 Utah for not less than the number of hours required to equal 1,200 total hours when added to

1374 the hours of instruction described in Subsection ~~[(14)(d)(ii)(A); or]~~ (14)(c)(ii)(A);

1375 (iii) being a state licensed cosmetologist/barber; ~~[and]~~ or

1376 (iv) completion of an approved hair designer apprenticeship; and

1377 ~~[(e)]~~ (d) meet the examination requirements established by rule.

1378 (15) Each applicant for licensure as a hair designer instructor shall:

1379 (a) submit an application in a form prescribed by the division;

1380 (b) subject to Subsection (24), pay a fee determined by the department under Section

1381 63J-1-504;

1382 (c) provide satisfactory documentation that the applicant is currently licensed as a hair

1383 designer or as a cosmetologist/barber;

1384 ~~[(d) be of good moral character;]~~

1385 ~~[(e)]~~ (d) provide satisfactory documentation of completion of:

1386 (i) an instructor training program conducted by a licensed or recognized school, as

1387 defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit

1388 hours;

1389 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or

1390 recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent

1391 number of credit hours; or

1392 (iii) a minimum of 2,500 hours of experience as a hair designer or as a

1393 cosmetologist/barber; and

1394 ~~[(f)]~~ (e) meet the examination requirement established by rule.

1395 (16) Each applicant for licensure as a hair design school shall:

1396 (a) submit an application in a form prescribed by the division;

1397 (b) pay a fee determined by the department under Section 63J-1-504; and

1398 (c) provide satisfactory documentation:

1399 (i) of appropriate registration with the Division of Corporations and Commercial Code;

1400 (ii) of business licensure from the city, town, or county in which the school is located;

1401 (iii) that the applicant's physical facilities comply with the requirements established by

1402 rule; and

1403 (iv) that the applicant meets:

1404 (A) the standards for a hair design school, including staff and accreditation

1405 requirements, established by rule; and

1406 (B) the requirements for recognition as an institution of postsecondary study as

1407 described in Subsection (22).

1408 (17) Each applicant for licensure as a nail technician shall:

1409 (a) submit an application in a form prescribed by the division;

1410 (b) pay a fee determined by the department under Section 63J-1-504;

1411 [~~(c) be of good moral character;~~]

1412 [~~(c)~~] (c) provide satisfactory documentation of:

1413 (i) graduation from a licensed or recognized nail technology school, or a licensed or

1414 recognized cosmetology/barber school, whose curriculum consists of not less than 300 hours of

1415 instruction, or the equivalent number of credit hours;

1416 (ii) (A) graduation from a recognized nail technology school located in a state other

1417 than Utah whose curriculum consists of less than 300 hours of instruction or the equivalent

1418 number of credit hours; and

1419 (B) practice as a licensed nail technician in a state other than Utah for not less than the

1420 number of hours required to equal 300 total hours when added to the hours of instruction

1421 described in Subsection [~~(17)(c)(ii)(A)~~] (17)(c)(ii)(A); or

1422 (iii) completion of an approved nail technician apprenticeship; and

1423 [~~(d)~~] (d) meet the examination requirement established by division rule.

1424 (18) Each applicant for licensure as a nail technician instructor shall:

1425 (a) submit an application in a form prescribed by the division;

1426 (b) subject to Subsection (24), pay a fee determined by the department under Section

1427 63J-1-504;

1428 (c) provide satisfactory documentation that the applicant is currently licensed as a nail

1429 technician;

- 1430           ~~[(d) be of good moral character;]~~  
1431           ~~[(e)]~~ (d) provide satisfactory documentation of completion of:  
1432           (i) an instructor training program conducted by a licensed or recognized school, as  
1433 defined by rule, consisting of a minimum of 75 hours or the equivalent number of credit hours;  
1434           (ii) an on-the-job instructor training program conducted by a licensed instructor at a  
1435 licensed or recognized school, as defined by rule, consisting of a minimum of 75 hours or the  
1436 equivalent number of credit hours; or  
1437           (iii) a minimum of 600 hours of experience in nail technology; and  
1438           ~~[(f)]~~ (e) meet the examination requirement established by rule.  
1439           (19) Each applicant for licensure as a nail technology school shall:  
1440           (a) submit an application in a form prescribed by the division;  
1441           (b) pay a fee determined by the department under Section [63J-1-504](#); and  
1442           (c) provide satisfactory documentation:  
1443           (i) of appropriate registration with the Division of Corporations and Commercial Code;  
1444           (ii) of business licensure from the city, town, or county in which the school is located;  
1445           (iii) that the applicant's facilities comply with the requirements established by rule; and  
1446           (iv) that the applicant meets:  
1447           (A) the standards for nail technology schools, including staff, curriculum, and  
1448 accreditation requirements, established by rule; and  
1449           (B) the requirements for recognition as an institution of postsecondary study as  
1450 described in Subsection (22).  
1451           (20) Each applicant for licensure under this chapter whose education in the field for  
1452 which a license is sought was completed at a foreign school may satisfy the educational  
1453 requirement for licensure by demonstrating, to the satisfaction of the division, the educational  
1454 equivalency of the foreign school education with a licensed school under this chapter.  
1455           (21) (a) A licensed or recognized school under this section shall accept credit hours  
1456 towards graduation for documented, relevant, and substantially equivalent coursework  
1457 previously completed by:

1458 (i) a student that did not complete the student's education while attending a different  
1459 school; or

1460 (ii) a licensee of any other profession listed in this section, based on the licensee's  
1461 schooling, apprenticeship, or experience.

1462 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and  
1463 consistent with this section, the division may make rules governing the acceptance of credit  
1464 hours under Subsection (21)(a).

1465 (22) A school licensed or applying for licensure under this chapter shall maintain  
1466 recognition as an institution of postsecondary study by meeting the following conditions:

1467 (a) the school shall admit as a regular student only an individual who has earned a  
1468 recognized high school diploma or the equivalent of a recognized high school diploma, or who  
1469 is beyond the age of compulsory high school attendance as prescribed by Title 53G, Chapter 6,  
1470 Part 2, Compulsory Education; and

1471 (b) the school shall be licensed by name, or in the case of an applicant, shall apply for  
1472 licensure by name, under this chapter to offer one or more training programs beyond the  
1473 secondary level.

1474 (23) A person seeking to qualify for licensure under this chapter by apprenticing in an  
1475 approved apprenticeship shall register with the division as described in Section 58-11a-306.

1476 (24) The department may only charge a fee to a person applying for licensure as any  
1477 type of instructor under this chapter if the person is not a licensed instructor in any other  
1478 profession under this chapter.

1479 (25) In order to encourage economic development in the state in accordance with  
1480 Subsection 63G-1-201(4)(e), the department may offer any required examination under this  
1481 section, which is prepared by a national testing organization, in languages in addition to  
1482 English.

1483 Section 17. Section **58-11a-304** is amended to read:

1484 **58-11a-304. Exemptions from licensure.**

1485 In addition to the exemptions from licensure in Section 58-1-307, the following persons

1486 may engage in the practice of barbering, cosmetology/barbering, hair design, esthetics,  
1487 master-level esthetics, electrology, or nail technology without being licensed under this  
1488 chapter:

1489 (1) a person licensed under the laws of this state to engage in the practice of medicine,  
1490 surgery, osteopathy, or chiropractic when engaged in the practice of the profession for which  
1491 they are licensed;

1492 (2) a commissioned physician or surgeon serving in the armed forces of the United  
1493 States or another federal agency;

1494 (3) a registered nurse, undertaker, or mortician licensed under the laws of this state  
1495 when engaged in the practice of the profession for which the person is licensed;

1496 (4) a person who visits the state to engage in instructional seminars, advanced classes,  
1497 trade shows, or competitions of a limited duration;

1498 (5) a person who engages in the practice of barbering, cosmetology/barbering, hair  
1499 design, esthetics, master-level esthetics, electrology, or nail technology without compensation;

1500 (6) a person instructing an adult education class or other educational program directed  
1501 toward persons who are not licensed under this chapter and that is not intended to train persons  
1502 to become licensed under this chapter, provided:

1503 (a) an attendee receives no credit toward educational requirements for licensure under  
1504 this chapter;

1505 (b) the instructor informs each attendee in writing that taking such a class or program  
1506 will not certify or qualify the attendee to perform a service for compensation that requires  
1507 licensure under this chapter; and

1508 (c) (i) the instructor is properly licensed; or

1509 (ii) the instructor receives no compensation;

1510 (7) a person providing instruction in workshops, seminars, training meetings, or other  
1511 educational programs whose purpose is to provide continuing professional development to  
1512 licensed barbers, cosmetologists/barbers, hair designers, estheticians, master estheticians,  
1513 electrologists, or nail technicians;

1514 (8) a person enrolled in a licensed barber [or], cosmetology/barber, or hair design  
1515 school when participating in an on the job training internship under the direct supervision of a  
1516 licensed barber [or], cosmetologist/barber, or hair designer upon completion of a basic program  
1517 under the standards established by rule by the division in collaboration with the board;

1518 (9) a person enrolled in an approved apprenticeship pursuant to Section 58-11a-306;

1519 (10) an employee of a company that is primarily engaged in the business of selling  
1520 products used in the practice of barbering, cosmetology/barbering, hair design, esthetics,  
1521 master-level esthetics, electrology, or nail technology when demonstrating the company's  
1522 products to a potential customer, provided the employee makes no representation to a potential  
1523 customer that attending such a demonstration will certify or qualify the attendee to perform a  
1524 service for compensation that requires licensure under this chapter;

1525 (11) a person who:

1526 (a) is qualified to engage in the practice of barbering, cosmetology/barbering, hair  
1527 design, esthetics, master-level esthetics, electrology, or nail technology in another jurisdiction  
1528 as evidenced by licensure, certification, or lawful practice in the other jurisdiction;

1529 (b) is employed by, or under contract with, a motion picture company; and

1530 (c) engages in the practice of barbering, cosmetology/barbering, hair design, esthetics,  
1531 master-level esthetics, electrology, or nail technology in the state:

1532 (i) solely to assist in the production of a motion picture; and

1533 (ii) for no more than 120 days per calendar year; and

1534 (12) a person who:

1535 (a) engages in hair braiding; and

1536 (b) unless it is expressly exempted under this section or Section 58-1-307, does not  
1537 engage in other activity requiring licensure under this chapter.

1538 Section 18. Section 58-11a-306 is amended to read:

1539 **58-11a-306. Apprenticeship.**

1540 (1) An approved barber apprenticeship shall:

1541 (a) consist of not less than 1,250 hours of training [~~in not less than eight months~~]; and

- 1542 (b) be conducted by a supervisor who:
- 1543 (i) is licensed under this chapter as a barber instructor or a cosmetology/barber  
1544 instructor; and
- 1545 (ii) provides one-on-one direct supervision of the barber apprentice during the  
1546 apprenticeship program.
- 1547 (2) An approved cosmetologist/barber apprenticeship shall:
- 1548 (a) consist of not less than 2,500 hours of training [~~in not less than 15 months~~]; and
- 1549 (b) be conducted by a supervisor who:
- 1550 (i) is licensed under this chapter as a cosmetologist/barber instructor; and
- 1551 (ii) provides one-on-one direct supervision of the cosmetologist/barber apprentice  
1552 during the apprenticeship program.
- 1553 (3) An approved hair designer apprenticeship shall:
- 1554 (a) consist of not less than 1,600 hours of training; and
- 1555 (b) be conducted by a supervisor who:
- 1556 (i) is licensed under this chapter as a hair designer instructor or a cosmetologist/barber  
1557 instructor; and
- 1558 (ii) provides one-on-one direct supervision of the hair designer apprentice during the  
1559 apprenticeship program.
- 1560 [~~3~~] (4) An approved esthetician apprenticeship shall:
- 1561 (a) consist of not less than 800 hours of training [~~in not less than five months~~]; and
- 1562 (b) be conducted by a supervisor who:
- 1563 (i) is licensed under this chapter as an esthetician instructor; and
- 1564 (ii) provides one-on-one direct supervision of the esthetician apprentice during the  
1565 apprenticeship program.
- 1566 [~~4~~] (5) An approved master esthetician apprenticeship shall:
- 1567 (a) consist of not less than 1,500 hours of training [~~in not less than 10 months~~]; and
- 1568 (b) be conducted by a supervisor who:
- 1569 (i) is licensed under this chapter as a master-level esthetician instructor; and



1570 (ii) provides one-on-one direct supervision of the master esthetician apprentice during  
1571 the apprenticeship program.

1572 [~~5~~] (6) An approved nail technician apprenticeship shall:

1573 (a) consist of not less than 375 hours of training [~~in not less than three months~~]; and

1574 (b) be conducted by a supervisor who:

1575 (i) is licensed under this chapter as a nail technician instructor or a cosmetology/barber  
1576 instructor;

1577 (ii) provides direct supervision of the nail technician apprentice during the  
1578 apprenticeship program; and

1579 (iii) provides direct supervision to no more than two nail technician apprentices during  
1580 the apprentice program.

1581 [~~6~~] (7) A person seeking to qualify for licensure by apprenticing in an approved  
1582 apprenticeship under this chapter shall:

1583 (a) register with the division before beginning the training requirements by:

1584 (i) submitting a form prescribed by the division, which includes the name of the  
1585 licensed supervisor; and

1586 (ii) paying a fee determined by the department under Section [63J-1-504](#);

1587 (b) complete the apprenticeship within five years of the date on which the division  
1588 approves the registration; and

1589 (c) notify the division within 30 days if the licensed supervisor changes after the  
1590 registration is approved by the division.

1591 [~~7~~] (8) Notwithstanding Subsection [~~6~~] (7), if a person seeking to qualify for  
1592 licensure by apprenticing in an approved apprenticeship under this chapter registers with the  
1593 division before January 1, 2017, any training requirements completed by the person as an  
1594 apprentice in an approved apprenticeship before registration may be applied to successful  
1595 completion of the approved apprenticeship.

1596 Section 19. Section **58-11a-502** is amended to read:

1597 **58-11a-502. Unlawful conduct.**

1598 Unlawful conduct includes:

1599 (1) practicing or engaging in, or attempting to practice or engage in activity for which a  
1600 license is required under this chapter unless:

1601 (a) the person holds the appropriate license under this chapter; or

1602 (b) an exemption in Section 58-1-307 or 58-11a-304 applies;

1603 [~~(2) aiding or abetting a person engaging in the practice of, or attempting to engage in~~  
1604 ~~the practice of, any occupation or profession licensed under this chapter if the employee is not~~  
1605 ~~licensed to do so under this chapter or exempt from licensure;]~~

1606 [~~(3)~~] (2) touching, or applying an instrument or device to the following areas of a  
1607 client's body:

1608 (a) the genitals or the anus, except in cases where the patron states to a licensee that the  
1609 patron requests a hair removal procedure and signs a written consent form, which must also  
1610 include the witnessed signature of a legal guardian if the patron is a minor, authorizing the  
1611 licensee to perform a hair removal procedure; or

1612 (b) the breast of a female patron, except in cases in which the female patron states to a  
1613 licensee that the patron requests breast skin procedures and signs a written consent form, which  
1614 must also include the witnessed signature of a parent or legal guardian if the patron is a minor,  
1615 authorizing the licensee to perform breast skin procedures;

1616 [~~(4)~~] (3) using or possessing a solution [~~(4)~~] (3) using or possessing a solution composed of at least 10% methyl methacrylate  
1617 on a client;

1618 [~~(5)~~] (4) performing an ablative procedure as defined in Section 58-67-102;

1619 [~~(6)~~] (5) when acting as an instructor regarding a service requiring licensure under this  
1620 chapter, for a class or education program where attendees are not licensed under this chapter,  
1621 failing to inform each attendee in writing that:

1622 (a) taking the class or program without completing the requirements for licensure under  
1623 this chapter is insufficient to certify or qualify the attendee to perform a service for  
1624 compensation that requires licensure under this chapter; and

1625 (b) the attendee is required to obtain licensure under this chapter before performing the

1626 service for compensation; or

1627        [~~(7)~~] (6) failing as a salon or school where nail technology is practiced or taught to  
1628 maintain a source capture system required under Title 15A, State Construction and Fire Codes  
1629 Act, including failing to maintain and clean a source capture system's air filter according to the  
1630 manufacturer's instructions.

1631        Section 20. Section **58-11a-503** is amended to read:

1632        **58-11a-503. Penalties.**

1633        (1) Unless Subsection (2) applies, an individual who commits an act of unlawful  
1634 conduct under Section **58-11a-502** or who fails to comply with a citation issued under this  
1635 section after it is final is guilty of a class A misdemeanor.

1636        (2) Sexual conduct that violates Section **58-11a-502** and Title 76, Utah Criminal Code,  
1637 shall be subject to the applicable penalties in Title 76, Utah Criminal Code.

1638        (3) Grounds for immediate suspension of a licensee's license by the division include  
1639 the issuance of a citation for violation of Subsection **58-11a-502**(1), [~~(2), (4), (5), (6), or (7).~~]  
1640 (3), (4), (5), or (6).

1641        (4) (a) If upon inspection or investigation, the division concludes that a person has  
1642 violated the provisions of Subsection **58-11a-502**(1), [~~(2), (4), (5), (6), or (7)~~] (3), (4), (5), or  
1643 (6), or a rule or order issued with respect to Subsection **58-11a-502**(1), [~~(2), (4), (5), (6), or (7)~~]  
1644 (3), (4), (5), or (6), and that disciplinary action is appropriate, the director or the director's  
1645 designee from within the division shall promptly issue a citation to the person according to this  
1646 chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person  
1647 to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4,  
1648 Administrative Procedures Act.

1649        (i) A person who is in violation of Subsection **58-11a-502**(1), [~~(2), (4), (5), (6), or (7)~~]  
1650 (3), (4), (5), or (6), as evidenced by an uncontested citation, a stipulated settlement, or by a  
1651 finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this  
1652 Subsection (4) and may, in addition to or in lieu of, be ordered to cease and desist from  
1653 violating Subsection **58-11a-502**(1), [~~(2), (4), (5), (6), or (7)~~] (3), (4), (5), or (6).

1654 (ii) Except for a cease and desist order, the licensure sanctions cited in Section  
1655 58-11a-401 may not be assessed through a citation.

1656 (b) (i) Each citation shall be in writing and describe with particularity the nature of the  
1657 violation, including a reference to the provision of the chapter, rule, or order alleged to have  
1658 been violated.

1659 (ii) The citation shall clearly state that the recipient must notify the division in writing  
1660 within 20 calendar days of service of the citation if the recipient wishes to contest the citation  
1661 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

1662 (iii) The citation shall clearly explain the consequences of failure to timely contest the  
1663 citation or to make payment of a fine assessed by the citation within the time specified in the  
1664 citation.

1665 (c) Each citation issued under this section, or a copy of each citation, may be served  
1666 upon a person upon whom a summons may be served in accordance with the Utah Rules of  
1667 Civil Procedure and may be made personally or upon the person's agent by a division  
1668 investigator or by a person specially designated by the director or by mail.

1669 (d) (i) If within 20 calendar days from the service of a citation, the person to whom the  
1670 citation was issued fails to request a hearing to contest the citation, the citation becomes the  
1671 final order of the division and is not subject to further agency review.

1672 (ii) The period to contest a citation may be extended by the division for cause.

1673 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation  
1674 the license of a licensee who fails to comply with a citation after it becomes final.

1675 (f) The failure of an applicant for licensure to comply with a citation after it becomes  
1676 final is a ground for denial of license.

1677 (g) No citation may be issued under this section after the expiration of [~~six months~~  
1678 ~~following the occurrence of a violation~~] one year following the date on which the violation that  
1679 is the subject of the citation is reported to the division.

1680 (h) Fines shall be assessed by the director or the director's designee according to the  
1681 following:

1682 (i) for a first offense under Subsection (4)(a), a fine of up to \$1,000;  
1683 (ii) for a second offense under Subsection (4)(a), a fine of up to \$2,000; and  
1684 (iii) for any subsequent offense under Subsection (4)(a), a fine of up to \$2,000 for each  
1685 day of continued offense.

1686 (i) (i) For purposes of issuing a final order under this section and assessing a fine under  
1687 Subsection (4)(h), an offense constitutes a second or subsequent offense if:

1688 (A) the division previously issued a final order determining that a person committed a  
1689 first or second offense in violation of Subsection 58-11a-502(1), [~~(2), (4), (5), (6), or (7)~~] (3),  
1690 (4), (5), or (6); or

1691 (B) (I) the division initiated an action for a first or second offense;

1692 (II) no final order has been issued by the division in the action initiated under  
1693 Subsection (4)(i)(i)(B)(I);

1694 (III) the division determines during an investigation that occurred after the initiation of  
1695 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent  
1696 violation of Subsection 58-11a-502(1), [~~(2), (4), (5), (6), or (7)~~] (3), (4), (5), or (6); and

1697 (IV) after determining that the person committed a second or subsequent offense under  
1698 Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under  
1699 Subsection (4)(i)(i)(B)(I).

1700 (ii) In issuing a final order for a second or subsequent offense under Subsection  
1701 (4)(i)(i), the division shall comply with the requirements of this section.

1702 (5) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited  
1703 into the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician  
1704 Education and Enforcement Fund.

1705 (b) A penalty which is not paid may be collected by the director by either:

1706 (i) referring the matter to a collection agency; or

1707 (ii) bringing an action in the district court of the county in which the person against  
1708 whom the penalty is imposed resides or in the county where the office of the director is located.

1709 (c) A county attorney or the attorney general of the state shall provide legal assistance

1710 and advice to the director in an action to collect a penalty.

1711 (d) A court shall award reasonable attorney fees and costs to the prevailing party in an  
1712 action brought by the division to collect a penalty.

1713 Section 21. Section **58-15-11** is amended to read:

1714 **58-15-11. Exemptions to chapter.**

1715 (1) In addition to the exemptions described in Section [58-1-307](#), this chapter does not  
1716 apply to [~~facilities of any~~]:

1717 (a) a facility of a recognized church or denomination that cares for the sick and  
1718 suffering by mental or spiritual means if no drug or material remedy is used in the care  
1719 provided[-]; or

1720 (b) the superintendent of the Utah State Developmental Center described in Section  
1721 [62A-5-201](#).

1722 (2) Any [~~facilities~~] facility or person exempted under this section shall comply with  
1723 each statute and rule on sanitation and life safety.

1724 Section 22. Section **58-16a-102** is amended to read:

1725 **58-16a-102. Definitions.**

1726 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

1727 (1) "Board" means the Optometrist Licensing Board created in Section [58-16a-201](#).

1728 (2) "Contact lens" means any lens that:

1729 (a) has a spherical, cylindrical, or prismatic power or curvature;

1730 (b) is made pursuant to a current prescription; and

1731 (c) is intended to be worn on the surface of the eye.

1732 (3) (a) "Contact lens prescription" means a written or verbal order for contact lenses  
1733 that includes:

1734 (i) the commencement date of the prescription;

1735 (ii) the base curve, power, diameter, material or brand name, and expiration date;

1736 (iii) for a written order, the signature of the prescribing optometrist or physician; and

1737 (iv) for a verbal order, a record maintained by the recipient of:

- 1738 (A) the name of the prescribing optometrist or physician; and  
1739 (B) the date when the prescription was issued or ordered.  
1740 (b) A prescription may include:  
1741 (i) a limit on the quantity of lenses that may be ordered under the prescription if  
1742 required for medical reasons documented in the patient's files; and  
1743 (ii) the expiration date of the prescription, which shall be two years from the  
1744 commencement date, unless documented medical reasons require otherwise.  
1745 (c) When a provider prescribes a private label contact lens for a patient the prescription  
1746 shall include:  
1747 (i) the name of the manufacturer;  
1748 (ii) the trade name of the private label brand; and  
1749 (iii) if applicable, the trade name of the equivalent national brand.  
1750 (4) "Contact lens prescription verification" means a written request from a person who  
1751 sells or provides contact lenses that:  
1752 (a) is sent to the prescribing optometrist or physician; and  
1753 (b) seeks the confirmation of the accuracy of a patient's prescription.  
1754 (5) "Eye and its adnexa" means the human eye and all structures situated within the  
1755 orbit, including the conjunctiva, lids, lashes, and lacrimal system.  
1756 (6) "Fitting of a contact lens" means:  
1757 (a) the using of a keratometer to measure the human eye;  
1758 (b) utilizing refractive data provided by a licensed optometrist or ophthalmologist; and  
1759 (c) trial fitting of contact lenses, which includes a period of time for evaluation for fit  
1760 and performance, to determine a tentative contact lens prescription for a patient if the patient:  
1761 (i) has not worn contact lenses before; or  
1762 (ii) has changed to a different type or base curve.  
1763 (7) "Laser surgery" means surgery in which human tissue is cut, burned, or vaporized  
1764 by means of laser or ionizing radiation.  
1765 (8) "Ophthalmic lens" means any lens used to treat the eye and that:

- 1766 (a) has a spherical, cylindrical, or prismatic power;
- 1767 (b) is made pursuant to an unexpired prescription; and
- 1768 (c) is intended to be used in eyeglasses or spectacles.
- 1769 (9) "Optometric assistant" means an unlicensed individual:
- 1770 (a) working under the direct and immediate supervision of a licensed optometrist; and
- 1771 (b) engaged in specific tasks assigned by the licensed optometrist in accordance with
- 1772 the standards and ethics of the profession.
- 1773 (10) "Optometrist" or "optometric physician" means an individual licensed under this
- 1774 chapter.
- 1775 (11) "Optometry" and "practice of optometry" mean any one or any combination of the
- 1776 following practices:
- 1777 (a) examination of the human eye and its adnexa to detect and diagnose defects or
- 1778 abnormal conditions;
- 1779 (b) determination or modification of the accommodative or refractive state of the
- 1780 human eye or its range or power of vision by administration and prescription of pharmaceutical
- 1781 agents or the use of diagnostic instruments;
- 1782 (c) prescription, ordering, administration, or adaptation of ophthalmic lenses, contact
- 1783 lenses, ophthalmic devices, pharmaceutical agents, laboratory tests, or ocular exercises to
- 1784 diagnose and treat diseases, defects, or other abnormal conditions of the human eye and its
- 1785 adnexa;
- 1786 (d) display of any advertisement, circular, sign, or device offering to:
- 1787 (i) examine the eyes;
- 1788 (ii) fit glasses or contact lenses; or
- 1789 (iii) adjust frames;
- 1790 (e) removal of a foreign body from the eye or its adnexa, that is not deeper than the
- 1791 anterior 1/2 of the cornea; and
- 1792 (f) consultation regarding the eye and its adnexa with other appropriate health care
- 1793 providers, including referral to other appropriate health care providers[~~and~~].



1794 [~~(g)~~ a person, not licensed as an optometrist, directing a licensee under this chapter to  
1795 withhold or alter the eye care services the licensee has ordered.]

1796 (12) "Pharmaceutical agent" means any diagnostic or therapeutic drug or combination  
1797 of drugs that has the property of assisting in the diagnosis, prevention, treatment, or mitigation  
1798 of abnormal conditions or symptoms of the eye and its adnexa.

1799 (13) "Physician" has the same meaning as defined in Sections 58-67-102 and  
1800 58-68-102.

1801 (14) "Prescription drug" has the same definition as in Section 58-17b-102.

1802 (15) "Unexpired" means a prescription that was issued:

1803 (a) for ophthalmic lenses which does not expire unless the optometrist or physician  
1804 includes an expiration date on the prescription based on medical reasons that are documented  
1805 in the patient's file; and

1806 (b) in accordance with Subsection (3) for a contact lens.

1807 Section 23. Section 58-16a-302 is amended to read:

1808 **58-16a-302. Qualifications for licensure.**

1809 (1) An applicant for licensure as an optometrist shall:

1810 (a) submit an application in a form prescribed by the division;

1811 (b) pay a fee as determined by the division under Section 63J-1-504;

1812 [~~(c)~~ be of good moral character;]

1813 [~~(d)~~ (c) (i) be a doctoral graduate of a recognized school of optometry accredited by  
1814 the American Optometric Association's Accreditation Council on Optometric Education; or

1815 (ii) be a graduate of a school of optometry located outside the United States that meets  
1816 the criteria that would qualify the school for accreditation under Subsection [~~(1)(d)(i)~~] (1)(c)(i),  
1817 as demonstrated by the applicant for licensure;

1818 [~~(e)~~ (d) if the applicant graduated from a recognized school of optometry prior to July  
1819 1, 1996, have successfully completed a course of study satisfactory to the division, in  
1820 consultation with the board, in general and ocular pharmacology and emergency medical care;

1821 [~~(f)~~ (e) have passed examinations approved by the division in consultation with the

1822 board that include:

1823 (i) a standardized national optometry examination;

1824 (ii) a standardized clinical examination; and

1825 (iii) a standardized national therapeutics examination; and

1826 ~~[(g)]~~ (f) meet with the board and representatives of the division, if requested by either  
1827 party, for the purpose of evaluating the applicant's qualifications for licensure.

1828 (2) Notwithstanding Subsection (1) and Section 58-1-302, the division shall issue a  
1829 license under this chapter by endorsement to an individual who:

1830 (a) submits an application for licensure by endorsement on a form approved by the  
1831 division;

1832 (b) pays a fee established by the division in accordance with Section 63J-1-504;

1833 ~~[(c) provides satisfactory evidence to the division that the individual is of good moral  
1834 character;]~~

1835 ~~[(d)]~~ (c) verifies that the individual is licensed as an optometrist in good standing in  
1836 each state of the United States, or province of Canada, in which the individual is currently  
1837 licensed as an optometrist; and

1838 ~~[(e)]~~ (d) has been actively engaged in the legal practice of optometry for at least 3,200  
1839 hours during the immediately preceding two years in a manner consistent with the legal  
1840 practice of optometry in this state.

1841 Section 24. Section 58-16a-501 is amended to read:

1842 **58-16a-501. Unlawful conduct.**

1843 "Unlawful conduct" includes, in addition to the definition in Section 58-1-501:

1844 (1) buying, selling, or fraudulently obtaining, any optometry diploma, license,  
1845 certificate, or registration;

1846 ~~[(2) aiding or abetting the buying, selling, or fraudulently obtaining, of any optometry  
1847 diploma, license, certificate, or registration;]~~

1848 ~~[(3)]~~ (2) selling or providing contact lenses or ophthalmic lenses in a manner  
1849 inconsistent with Section 58-16a-801 or intentionally altering a prescription unless the person

1850 selling or providing the lenses is a licensed optometrist or ophthalmologist; or  
1851 ~~[(4)]~~ (3) representing oneself as or using the title of "optometrist," "optometric  
1852 physician," "doctor of optometry," or "O.D.," unless currently licensed under this chapter.

1853 Section 25. Section **58-16a-503** is amended to read:

1854 **58-16a-503. Penalty for unlawful conduct.**

1855 (1) Except as provided in Subsection (2), any person who violates the unlawful  
1856 conduct provision defined in Section **58-16a-501** or Subsection **58-1-501**(1)(a) or (1)(c) is  
1857 guilty of a third degree felony.

1858 (2) A person who violates Subsection **58-16a-501**~~[(3)]~~(2) is guilty of a class C  
1859 misdemeanor.

1860 Section 26. Section **58-17b-303** is amended to read:

1861 **58-17b-303. Qualifications for licensure as a pharmacist.**

1862 (1) An applicant for licensure as a pharmacist shall:

1863 (a) submit an application in a form prescribed by the division;

1864 (b) pay a fee as determined by the department under Section **63J-1-504**;

1865 ~~[(c) produce satisfactory evidence of good moral character as it relates to the  
1866 applicant's ability to practice pharmacy;]~~

1867 ~~[(d)]~~ (c) complete a criminal background check and be free from criminal convictions  
1868 as described in Section **58-1-501**;

1869 ~~[(e)]~~ (d) have no physical or mental condition of a nature which prevents the applicant  
1870 from engaging in the practice of pharmacy with reasonable skill, competency, and safety to the  
1871 public;

1872 ~~[(f)]~~ (e) have graduated and received a professional entry degree from a school or  
1873 college of pharmacy which is accredited by the Accreditation Council on Pharmacy Education;

1874 ~~[(g)]~~ (f) have completed an internship meeting standards established by division rule  
1875 made in collaboration with the board; and

1876 ~~[(h)]~~ (g) have successfully passed examinations required by division rule made in  
1877 collaboration with the board.

1878 (2) An applicant for licensure as a pharmacist whose pharmacy education was  
1879 completed at a foreign pharmacy school shall, in addition to the requirements under  
1880 Subsections (1)(a) through ~~[(e), (g), and (h)]~~ (d), (f), and (g), obtain a certification of  
1881 equivalency from a credentialing agency required by division rule made in collaboration with  
1882 the board.

1883 (3) An applicant for a license by endorsement as a pharmacist under this section shall:

1884 (a) submit a written application in the form prescribed by the division;

1885 (b) pay the fee determined by the department under Section 63J-1-504;

1886 ~~[(e) be of good moral character as required of applicants for licensure as pharmacists~~  
1887 ~~under Subsection (1);]~~

1888 ~~[(f)]~~ (c) complete a criminal background check and be free from criminal convictions  
1889 as described in Section 58-1-501;

1890 ~~[(e)]~~ (d) have no physical or mental condition of a nature which prevents the applicant  
1891 from engaging in the practice of pharmacy with reasonable skill, competency, and safety to the  
1892 public;

1893 ~~[(f)]~~ (e) have lawfully practiced as a licensed pharmacist a minimum of 2,000 hours in  
1894 the four years immediately preceding the date of application;

1895 ~~[(g)]~~ (f) produce satisfactory evidence of completing the professional education  
1896 required under Subsection (1);

1897 ~~[(h)]~~ (g) be currently licensed in good standing as a pharmacist in another state,  
1898 territory, or possession of the United States;

1899 ~~[(i)]~~ (h) produce satisfactory evidence that the examination requirements are or were at  
1900 the time the license was issued, equal to those of this state; and

1901 ~~[(j)]~~ (i) pass the jurisprudence examination prescribed by division rule made in  
1902 collaboration with the board.

1903 Section 27. Section 58-17b-304 is amended to read:

1904 **58-17b-304. Qualifications for licensure of pharmacy intern.**

1905 An applicant for licensure as a pharmacy intern shall:

- 1906 (1) submit an application in a form prescribed by the division;
- 1907 (2) pay a fee determined by the department under Section 63J-1-504;
- 1908 [~~(3) produce satisfactory evidence of good moral character as it relates to the~~
- 1909 ~~applicant's ability to practice pharmacy;]~~
- 1910 [~~(4)~~ (3) complete a criminal background check and be free from criminal convictions
- 1911 as described in Section 58-1-501;
- 1912 [~~(5)~~ (4) have no physical or mental condition of a nature which prevents the applicant
- 1913 from engaging in the practice of pharmacy with reasonable skill, competency, and safety to the
- 1914 public;
- 1915 [~~(6)~~ (5) meet the preliminary educational qualifications required by division rule made
- 1916 in collaboration with the board; and
- 1917 [~~(7)~~ (6) meet one of the following educational criteria:
- 1918 (a) be a current pharmacy student, a resident, or fellow in a program approved by
- 1919 division rule made in collaboration with the board; or
- 1920 (b) have graduated from a foreign pharmacy school and received certification of
- 1921 equivalency from a credentialing agency approved by division rule made in collaboration with
- 1922 the board.

Section 28. Section 58-17b-305 is amended to read:

**58-17b-305. Qualifications for licensure of pharmacy technician.**

- 1925 (1) An applicant for licensure as a pharmacy technician shall:
- 1926 (a) submit an application in a form prescribed by the division;
- 1927 (b) pay a fee determined by the department under Section 63J-1-504;
- 1928 [~~(c) produce satisfactory evidence of good moral character as it relates to the~~
- 1929 ~~applicant's ability to practice pharmacy;]~~
- 1930 [~~(d)~~ (c) complete a criminal background check and be free from criminal convictions
- 1931 as described in Section 58-1-501;
- 1932 [~~(e)~~ (d) have no physical or mental condition of a nature which prevents the applicant
- 1933 from engaging in practice as a pharmacy technician with reasonable skill, competency, and

1934 safety to the public;

1935 ~~[(f)]~~ (e) have completed a program and curriculum of education and training, meeting  
1936 standards established by division rule made in collaboration with the board; and

1937 ~~[(g)]~~ (f) successfully complete the examinations requirement within the time periods  
1938 established by division rule made in collaboration with the board.

1939 (2) A pharmacist whose license has been denied, revoked, suspended, or restricted for  
1940 disciplinary purposes is not eligible to be a licensed pharmacy technician while on probation  
1941 with the division.

1942 Section 29. Section **58-17b-305.1** is amended to read:

1943 **58-17b-305.1. Qualifications for licensure of pharmacy technician trainee.**

1944 (1) An applicant for licensure as a pharmacy technician trainee shall:

1945 (a) submit an application to the division on a form created by the division;

1946 (b) pay a fee established by the division in accordance with Section [63J-1-504](#);

1947 ~~[(c) submit satisfactory evidence, as determined by the division, of good moral  
1948 character as it relates to the applicant's ability to practice pharmacy;]~~

1949 ~~[(d)]~~ (c) unless exempted by the division, submit a completed criminal background  
1950 check;

1951 ~~[(e)]~~ (d) demonstrate, as determined by the division, that the applicant does not have a  
1952 physical or mental condition that would prevent the applicant from engaging in practice as a  
1953 pharmacy technician with reasonable skill, competency, and safety to the public; and

1954 ~~[(f)]~~ (e) submit evidence that the applicant is enrolled in a training program approved  
1955 by the division.

1956 (2) A pharmacist whose license has been denied, revoked, suspended, or restricted for  
1957 disciplinary purposes is not eligible to be licensed as a pharmacy technician trainee during  
1958 division probation.

1959 Section 30. Section **58-17b-308** is amended to read:

1960 **58-17b-308. Term of license -- Expiration -- Renewal.**

1961 (1) Except as provided in Subsection (2), each license issued under this chapter shall be

1962 issued in accordance with a two-year renewal cycle established by rule. A renewal period may  
 1963 be extended or shortened by as much as one year to maintain established renewal cycles or to  
 1964 change an established renewal cycle. Each license automatically expires on the expiration date  
 1965 shown on the license unless renewed by the licensee in accordance with Section 58-1-308.

1966 (2) The duration of a pharmacy intern license may be no longer than:

1967 (a) one year for a license issued under Subsection [~~58-17b-304(7)(b)~~]

1968 58-17b-304(6)(b); or

1969 (b) five years for a license issued under Subsection [~~58-17b-304(7)(a)~~]

1970 58-17b-304(6)(a).

1971 (3) A pharmacy intern license issued under this chapter may not be renewed, but may  
 1972 be extended by the division in collaboration with the board.

1973 (4) As a prerequisite for renewal of a class D pharmacy license of a pharmacy that  
 1974 engages in compounding, a licensee shall submit the most recent inspection report:

1975 (a) conducted within two years before the application for renewal; and

1976 (b) (i) conducted as part of the National Association of Boards of Pharmacy Verified  
 1977 Pharmacy Program; or

1978 (ii) performed by the state licensing agency of the state in which the applicant is a  
 1979 resident and in accordance with the National Association of Boards of Pharmacy multistate  
 1980 inspection blueprint program.

1981 Section 31. Section **58-17b-504** is amended to read:

1982 **58-17b-504. Penalty for unlawful or unprofessional conduct -- Fines -- Citations.**

1983 (1) Any person who violates any of the unlawful conduct provisions of Subsection  
 1984 58-1-501(1)(a)(i) and Subsections 58-17b-501(7) and (11) is guilty of a third degree felony.

1985 (2) Any person who violates any of the unlawful conduct provisions of Subsection  
 1986 58-1-501(1)(a)(ii), Subsections 58-1-501(1)(b) through (e), and Section 58-17b-501, except  
 1987 Subsections 58-17b-501(7) and (11), is guilty of a class A misdemeanor.

1988 (3) (a) Subject to Subsection (5) and in accordance with Section 58-17b-401, for acts  
 1989 of unprofessional or unlawful conduct, the division may:

1990 (i) assess administrative penalties; and  
1991 (ii) take any other appropriate administrative action.

1992 (b) An administrative penalty imposed pursuant to this section shall be deposited in the  
1993 General Fund as a dedicated credit to be used by the division for pharmacy licensee education  
1994 and enforcement as provided in Section 58-17b-505.

1995 (4) If a licensee has been convicted of violating Section 58-17b-501 prior to an  
1996 administrative finding of a violation of the same section, the licensee may not be assessed an  
1997 administrative fine under this chapter for the same offense for which the conviction was  
1998 obtained.

1999 (5) (a) If upon inspection or investigation, the division concludes that a person has  
2000 violated the provisions of Section 58-17b-501 or 58-17b-502, Chapter 37, Utah Controlled  
2001 Substances Act, Chapter 37f, Controlled Substance Database Act, Chapter 1, Division of  
2002 Occupational and Professional Licensing Act, or any rule or order issued with respect to these  
2003 provisions, and that disciplinary action is appropriate, the director or the director's designee  
2004 from within the division shall promptly issue a citation to the person according to this chapter  
2005 and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to  
2006 appear before an adjudicative proceeding conducted under Title 63G, Chapter 4,  
2007 Administrative Procedures Act.

2008 (b) Any person who is in violation of the provisions of Section 58-17b-501 or  
2009 58-17b-502, Chapter 37, Utah Controlled Substances Act, Chapter 37f, Controlled Substance  
2010 Database Act, Chapter 1, Division of Occupational and Professional Licensing Act, or any rule  
2011 or order issued with respect to these provisions, as evidenced by an uncontested citation, a  
2012 stipulated settlement, or a finding of violation in an adjudicative proceeding, may be assessed a  
2013 fine pursuant to this Subsection (5) of up to \$10,000 per single violation or up to \$2,000 per  
2014 day of ongoing violation, whichever is greater, in accordance with a fine schedule established  
2015 by rule, and may, in addition to or in lieu of, be ordered to cease and desist from violating the  
2016 provisions of Section 58-17b-501 or 58-17b-502, Chapter 37, Utah Controlled Substances Act,  
2017 Chapter 1, Division of Occupational and Professional Licensing Act, or any rule or order issued



2018 with respect to these provisions.

2019 (c) Except for an administrative fine and a cease and desist order, the licensure  
2020 sanctions cited in Section 58-17b-401 may not be assessed through a citation.

2021 (d) Each citation shall be in writing and specifically describe with particularity the  
2022 nature of the violation, including a reference to the provision of the chapter, rule, or order  
2023 alleged to have been violated. The citation shall clearly state that the recipient must notify the  
2024 division in writing within 20 calendar days of service of the citation in order to contest the  
2025 citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.  
2026 The citation shall clearly explain the consequences of failure to timely contest the citation or to  
2027 make payment of any fines assessed by the citation within the time specified in the citation.

2028 (e) Each citation issued under this section, or a copy of each citation, may be served  
2029 upon any person upon whom a summons may be served:

2030 (i) in accordance with the Utah Rules of Civil Procedure;

2031 (ii) personally or upon the person's agent by a division investigator or by any person  
2032 specially designated by the director; or

2033 (iii) by mail.

2034 (f) If within 20 calendar days from the service of a citation, the person to whom the  
2035 citation was issued fails to request a hearing to contest the citation, the citation becomes the  
2036 final order of the division and is not subject to further agency review. The period to contest the  
2037 citation may be extended by the division for cause.

2038 (g) The division may refuse to issue or renew, suspend, revoke, or place on probation  
2039 the license of a licensee who fails to comply with the citation after it becomes final.

2040 (h) The failure of an applicant for licensure to comply with a citation after it becomes  
2041 final is a ground for denial of license.

2042 (i) No citation may be issued under this section after the expiration of [~~six months~~  
2043 ~~following the occurrence of any violation~~] one year following the date on which the violation  
2044 that is the subject of the citation is reported to the division.

2045 (6) (a) The director may collect a penalty that is not paid by:

2046 (i) referring the matter to a collection agency; or  
2047 (ii) bringing an action in the district court of the county where the person against whom  
2048 the penalty is imposed resides or in the county where the office of the director is located.

2049 (b) A county attorney or the attorney general of the state shall provide legal assistance  
2050 and advice to the director in an action to collect a penalty.

2051 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an  
2052 action brought by the division to collect a penalty.

2053 Section 32. Section **58-17b-614** is amended to read:

2054 **58-17b-614. Notification.**

2055 (1) A pharmacy shall report in writing to the division not later than 10 business days:

2056 (a) before the date of:

2057 ~~(a)~~ (i) a permanent closure of the pharmacy facility;

2058 ~~(b)~~ (ii) a change of name or ownership of the pharmacy facility;

2059 ~~(c)~~ (iii) a change of location of the pharmacy facility;

2060 ~~(d)~~ (iv) a sale or transfer of any controlled substance as a result of the permanent  
2061 closing or change of ownership of the pharmacy facility; or

2062 ~~(e)~~ (v) any matter or occurrence that the ~~board~~ division requires by rule to be  
2063 reported; or

2064 (b) after the day on which:

2065 ~~(f)~~ (i) a final administrative disciplinary order is issued against the pharmacy license  
2066 holder by the regulatory or licensing agency of the state in which the pharmacy is located if the  
2067 pharmacy is a class D pharmacy; ~~[or]~~

2068 ~~(g)~~ (ii) a final order against a pharmacist is issued who is designated as the  
2069 pharmacist-in-charge of the pharmacy by the regulatory or licensing agency of the state in  
2070 which the pharmacy is located if the pharmacy is a class D pharmacy~~[-];~~ or

2071 (iii) any matter or occurrence that the division requires by rule to be reported.

2072 (2) A pharmacy shall report in writing to the division a disaster, accident, or emergency  
2073 that may affect the purity or labeling of a drug, medication, device, or other material used in the

2074 diagnosis or treatment of injury, illness, or disease immediately upon the occurrence of the  
2075 disaster, accident, or emergency as defined by rule.

2076 (3) A reporting pharmacy shall maintain a copy of any notification required by this  
2077 section for two years and make a copy available for inspection.

2078 Section 33. Section **58-20b-302** is amended to read:

2079 **58-20b-302. Qualifications for licensure.**

2080 (1) Except as provided in Subsection (2), an applicant for licensure as an  
2081 environmental health scientist shall:

2082 (a) submit an application in a form prescribed by the division;

2083 (b) pay a fee determined by the department under Section [63J-1-504](#);

2084 [~~(c) be of good moral character;~~]

2085 [~~(d)~~] (c) hold, at a minimum, a bachelor's degree from an accredited program in a  
2086 university or college, which degree includes completion of specific course work as defined by  
2087 rule;

2088 [~~(e)~~] (d) pass an examination as determined by division rule in collaboration with the  
2089 board; and

2090 [~~(f)~~] (e) pass the Utah Law and Rules Examination for Environmental Health Scientists  
2091 administered by the division.

2092 (2) An applicant for licensure as an environmental health scientist-in-training shall:

2093 (a) submit an application in a form prescribed by the division;

2094 (b) pay a fee determined by the department under Section [63J-1-504](#);

2095 [~~(c) be of good moral character;~~]

2096 [~~(d)~~] (c) hold, at a minimum, a bachelor's degree from an accredited program in a  
2097 university or college, which degree includes completion of specific course work as defined by  
2098 rule;

2099 [~~(e)~~] (d) pass the Utah Law and Rules Examination for Environmental Health  
2100 Scientists administered by the division; and

2101 [~~(f)~~] (e) present evidence acceptable to the division and the board that the applicant,

2102 when licensed, will practice as an environmental health scientist-in-training only under the  
2103 general supervision of a supervising environmental health scientist licensed under this chapter.

2104 Section 34. Section **58-22-102** is amended to read:

2105 **58-22-102. Definitions.**

2106 In addition to the definitions in Section **58-1-102**, as used in this chapter:

2107 (1) "Board" means the Professional Engineers and Professional Land Surveyors  
2108 Licensing Board created in Section **58-22-201**.

2109 (2) "Building" means a structure which has human occupancy or habitation as its  
2110 principal purpose, and includes the structural, mechanical, and electrical systems, utility  
2111 services, and other facilities required for the building, and is otherwise governed by the State  
2112 Construction Code or an approved code under Title 15A, State Construction and Fire Codes  
2113 Act.

2114 (3) "Complete construction plans" means a final set of plans, specifications, and reports  
2115 for a building or structure that normally includes:

- 2116 (a) floor plans;
- 2117 (b) elevations;
- 2118 (c) site plans;
- 2119 (d) foundation, structural, and framing detail;
- 2120 (e) electrical, mechanical, and plumbing design;
- 2121 (f) information required by the energy code;
- 2122 (g) specifications and related calculations as appropriate; and
- 2123 (h) all other documents required to obtain a building permit.

2124 (4) "EAC/ABET" means the Engineering Accreditation Commission/Accreditation  
2125 Board for Engineering and Technology.

2126 (5) "Fund" means the Professional Engineer, Professional Structural Engineer, and  
2127 Professional Land Surveyor Education and Enforcement Fund created in Section **58-22-103**.

2128 (6) "NCEES" means the National Council of Examiners for Engineering and  
2129 Surveying.

2130 (7) "Principal" means a licensed professional engineer, professional structural engineer,  
2131 or professional land surveyor having responsible charge of an organization's professional  
2132 engineering, professional structural engineering, or professional land surveying practice.

2133 (8) "Professional engineer" means a person licensed under this chapter as a  
2134 professional engineer.

2135 (9) (a) "Professional engineering," "the practice of engineering," or "the practice of  
2136 professional engineering" means a service or creative work, the adequate performance of which  
2137 requires engineering education, training, and experience in the application of special  
2138 knowledge of the mathematical, physical, and engineering sciences to the service or creative  
2139 work as consultation, investigation, evaluation, planning, design, and design coordination of  
2140 engineering works and systems, planning the use of land and water, facility programming,  
2141 performing engineering surveys and studies, and the review of construction for the purpose of  
2142 monitoring compliance with drawings and specifications; any of which embraces these services  
2143 or work, either public or private, in connection with any utilities, structures, buildings,  
2144 machines, equipment, processes, work systems, projects, and industrial or consumer products  
2145 or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, and  
2146 including other professional services as may be necessary to the planning, progress, and  
2147 completion of any engineering services.

2148 (b) "The practice of professional engineering" does not include the practice of  
2149 architecture as defined in Section [58-3a-102](#), but a licensed professional engineer may perform  
2150 architecture work as is incidental to the practice of engineering.

2151 (10) "Professional engineering intern" means a person who:

2152 (a) has completed the education requirements to become a professional engineer;

2153 (b) has passed the fundamentals of engineering examination; and

2154 (c) is engaged in obtaining the four years of qualifying experience for licensure under  
2155 the direct supervision of a licensed professional engineer.

2156 (11) "Professional land surveying" or "the practice of land surveying" means a service  
2157 or work, the adequate performance of which requires the application of special knowledge of

2158 the principles of mathematics, the related physical and applied sciences, and the relevant  
2159 requirements of law for adequate evidence to the act of measuring and locating lines, angles,  
2160 elevations, natural and man-made features in the air, on the surface of the earth, within  
2161 underground workings, and on the beds of bodies of water for the purpose of determining areas  
2162 and volumes, for the monumenting or locating of property boundaries or points controlling  
2163 boundaries, and for the platting and layout of lands and subdivisions of lands, including the  
2164 topography, alignment and grades of streets, and for the preparation and perpetuation of maps,  
2165 record plats, field notes records, and property descriptions that represent these surveys and  
2166 other duties as sound surveying practices could direct.

2167 (12) "Professional land surveyor" means an individual licensed under this chapter as a  
2168 professional land surveyor.

2169 (13) "Professional structural engineer" means a person licensed under this chapter as a  
2170 professional structural engineer.

2171 (14) (a) "Professional structural engineering" or "the practice of structural engineering"  
2172 means a service or creative work providing structural engineering services for significant  
2173 structures, including:

2174 (i) buildings and other structures representing a substantial hazard to human life, which  
2175 include:

2176 (A) buildings and other structures whose primary occupancy is public assembly with an  
2177 occupant load greater than 300;

2178 (B) buildings and other structures with elementary school, secondary school, or day  
2179 care facilities with an occupant load greater than 250;

2180 (C) buildings and other structures with an occupant load greater than 500 for colleges  
2181 or adult education facilities;

2182 (D) health care facilities with an occupant load of 50 or more resident patients, but not  
2183 having surgery or emergency treatment facilities;

2184 (E) jails and detention facilities with a gross area greater than 3,000 square feet; and

2185 (F) buildings and other structures with an occupant load greater than 5,000;

- 2186 (ii) buildings and other structures designated as essential facilities, including:
- 2187 (A) hospitals and other health care facilities having surgery or emergency treatment
- 2188 facilities with a gross area greater than 3,000 square feet;
- 2189 (B) fire, rescue, and police stations and emergency vehicle garages with a mean height
- 2190 greater than 24 feet or a gross area greater than 5,000 square feet;
- 2191 (C) designated earthquake, hurricane, or other emergency shelters with a gross area
- 2192 greater than 3,000 square feet;
- 2193 (D) designated emergency preparedness, communication, and operation centers and
- 2194 other buildings required for emergency response with a mean height more than 24 feet or a
- 2195 gross area greater than 5,000 square feet;
- 2196 (E) power-generating stations and other public utility facilities required as emergency
- 2197 backup facilities with a gross area greater than 3,000 square feet;
- 2198 (F) structures with a mean height more than 24 feet or a gross area greater than 5,000
- 2199 square feet containing highly toxic materials as defined by the division by rule, where the
- 2200 quantity of the material exceeds the maximum allowable quantities set by the division by rule;
- 2201 and
- 2202 (G) aviation control towers, air traffic control centers, and emergency aircraft hangars
- 2203 at commercial service and cargo air services airports as defined by the Federal Aviation
- 2204 Administration with a mean height greater than 35 feet or a gross area greater than 20,000
- 2205 square feet; and
- 2206 (iii) buildings and other structures requiring special consideration, including:
- 2207 (A) structures or buildings that are normally occupied by human beings and are five
- 2208 stories or more in height;
- 2209 (B) structures or buildings that are normally occupied by human beings and have an
- 2210 average roof height more than 60 feet above the average ground level measured at the
- 2211 perimeter of the structure; and
- 2212 (C) buildings that are over 200,000 aggregate gross square feet in area.
- 2213 (b) "Professional structural engineering" or "the practice of structural engineering":

2214 (i) includes the definition of professional engineering or the practice of professional  
2215 engineering as provided in Subsection (9); and

2216 (ii) may be further defined by rules made by the division in collaboration with the  
2217 board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2218 (15) "Structure" means that which is built or constructed, an edifice or building of any  
2219 kind, or a piece of work artificially built up or composed of parts joined together in a definite  
2220 manner, and as otherwise governed by the State Construction Code or an approved code under  
2221 Title 15A, State Construction and Fire Codes Act.

2222 (16) "Supervision of an employee, subordinate, associate, or drafter of a licensee"  
2223 means that a licensed professional engineer, professional structural engineer, or professional  
2224 land surveyor is responsible for and personally reviews, corrects when necessary, and approves  
2225 work performed by an employee, subordinate, associate, or drafter under the direction of the  
2226 licensee, and may be further defined by rule by the division in collaboration with the board.

2227 (17) "TAC/ABET" means the Technology Accreditation Commission/Accreditation  
2228 Board for Engineering and Technology.

2229 (18) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501  
2230 and 58-22-501.

2231 (19) "Unprofessional conduct" means the same as that term is defined in Sections  
2232 58-1-501 and 58-22-502.5.

2233 Section 35. Section 58-22-104 is amended to read:

2234 **58-22-104. Surcharge fee.**

2235 (1) In addition to any other fees authorized by this chapter or by the division in  
2236 accordance with Section 63J-1-504, the division shall require each applicant for an initial  
2237 license, renewal of a license, or reinstatement of a license under this chapter to pay a \$1  
2238 surcharge fee.

2239 (2) The surcharge fee shall be deposited in the General Fund as a dedicated credit to be  
2240 used by the division to provide each licensee under this chapter with access to an electronic  
2241 reference library that provides web-based access to national, state, and local building codes and



2242 standards.

2243 Section 36. Section **58-22-302** is amended to read:

2244 **58-22-302. Qualifications for licensure.**

2245 (1) Each applicant for licensure as a professional engineer shall:

2246 (a) submit an application in a form prescribed by the division;

2247 (b) pay a fee determined by the department under Section [63J-1-504](#);

2248 [~~(c) provide satisfactory evidence of good moral character;~~]

2249 [~~(d)~~] (c) (i) have graduated and received a bachelors or masters degree from an  
2250 engineering program meeting criteria established by rule by the division in collaboration with  
2251 the board; or

2252 (ii) have completed the Transportation Engineering Technology and Fundamental  
2253 Engineering College Program before July 1, 1998, under the direction of the Utah Department  
2254 of Transportation and as certified by the Utah Department of Transportation;

2255 [~~(e)~~] (d) have successfully completed a program of qualifying experience established  
2256 by rule by the division in collaboration with the board;

2257 [~~(f)~~] (e) have successfully passed examinations established by rule by the division in  
2258 collaboration with the board; and

2259 [~~(g)~~] (f) meet with the board or representative of the division upon request for the  
2260 purpose of evaluating the applicant's qualification for licensure.

2261 (2) Each applicant for licensure as a professional structural engineer shall:

2262 (a) submit an application in a form prescribed by the division;

2263 (b) pay a fee determined by the department under Section [63J-1-504](#);

2264 [~~(c) provide satisfactory evidence of good moral character;~~]

2265 [~~(d)~~] (c) have graduated and received an earned bachelors or masters degree from an  
2266 engineering program meeting criteria established by rule by the division in collaboration with  
2267 the board;

2268 [~~(e)~~] (d) have successfully completed three years of licensed professional engineering  
2269 experience established by rule by the division in collaboration with the board, except that prior

2270 to January 1, 2009, an applicant for licensure may submit a signed affidavit in a form  
2271 prescribed by the division stating that the applicant is currently engaged in the practice of  
2272 structural engineering;

2273 ~~[(f)]~~ (e) have successfully passed examinations established by rule by the division in  
2274 collaboration with the board, except that prior to January 1, 2009, an applicant for licensure  
2275 may submit a signed affidavit in a form prescribed by the division stating that the applicant is  
2276 currently engaged in the practice of structural engineering; and

2277 ~~[(g)]~~ (f) meet with the board or representative of the division upon request for the  
2278 purpose of evaluating the applicant's qualification for licensure.

2279 (3) Each applicant for licensure as a professional land surveyor shall:

2280 (a) submit an application in a form prescribed by the division;

2281 (b) pay a fee determined by the department under Section [63J-1-504](#);

2282 ~~[(c) provide satisfactory evidence of good moral character;]~~

2283 ~~[(d)]~~ (c) (i) have graduated and received an associates, bachelors, or masters degree  
2284 from a land surveying program, or an equivalent land surveying program, such as a program  
2285 offered by a technical college described in Section [53B-2a-105](#), as approved by the State Board  
2286 of Regents, established by rule by the division in collaboration with the board, and have  
2287 successfully completed a program of qualifying experience in land surveying established by  
2288 rule by the division in collaboration with the board; or

2289 (ii) have successfully completed a program of qualifying experience in land surveying  
2290 prior to January 1, 2007, in accordance with rules established by the division in collaboration  
2291 with the board;

2292 ~~[(e)]~~ (d) have successfully passed examinations established by rule by the division in  
2293 collaboration with the board; and

2294 ~~[(f)]~~ (e) meet with the board or representative of the division upon request for the  
2295 purpose of evaluating the applicant's qualification for licensure.

2296 (4) Each applicant for licensure by endorsement shall:

2297 (a) submit an application in a form prescribed by the division;

- 2298 (b) pay a fee determined by the department under Section 63J-1-504;
- 2299 [~~(c) provide satisfactory evidence of good moral character;~~]
- 2300 [~~(d)~~] (c) submit satisfactory evidence of:
- 2301 (i) current licensure in good standing in a jurisdiction recognized by rule by the
- 2302 division in collaboration with the board;
- 2303 (ii) having successfully passed an examination established by rule by the division in
- 2304 collaboration with the board; and
- 2305 (iii) full-time employment as a principal for at least five of the last seven years
- 2306 immediately preceding the date of the application as a:
- 2307 (A) licensed professional engineer for licensure as a professional engineer;
- 2308 (B) licensed professional structural engineer for licensure as a structural engineer; or
- 2309 (C) licensed professional land surveyor for licensure as a professional land surveyor;
- 2310 and
- 2311 [~~(e)~~] (d) meet with the board or representative of the division upon request for the
- 2312 purpose of evaluating the applicant's qualifications for license.
- 2313 (5) The rules made to implement this section shall be in accordance with Title 63G,
- 2314 Chapter 3, Utah Administrative Rulemaking Act.
- 2315 Section 37. Section **58-22-305** is amended to read:
- 2316 **58-22-305. Exemption from licensure.**
- 2317 (1) In addition to the exemptions from licensure in Section 58-1-307, the following
- 2318 may engage in the following acts or practices without being licensed under this chapter:
- 2319 (a) a person offering to render professional engineering, professional structural
- 2320 engineering, or professional land surveying services in this state when not licensed under this
- 2321 chapter if the person:
- 2322 (i) holds a current and valid professional engineer, professional structural engineer, or
- 2323 professional land surveyor license issued by a licensing authority recognized by rule by the
- 2324 division in collaboration with the board;
- 2325 (ii) discloses in writing to the potential client the fact that the professional engineer,

2326 professional structural engineer, or professional land surveyor:

2327 (A) is not licensed in the state;

2328 (B) may not provide professional engineering, professional structural engineering, or  
2329 professional land surveying services in the state until licensed in the state; and

2330 (C) that such condition may cause a delay in the ability of the professional engineer,  
2331 professional structural engineer, or professional land surveyor to provide licensed services in  
2332 the state;

2333 (iii) notifies the division in writing of the person's intent to offer to render professional  
2334 engineering, professional structural engineering, or professional land surveying services in the  
2335 state; and

2336 (iv) does not provide professional engineering, professional structural engineering, or  
2337 professional land surveying services, or engage in the practice of professional engineering,  
2338 professional structural engineering, or professional land surveying in this state until licensed to  
2339 do so;

2340 (b) a person preparing a plan and specification for a one or two-family residence not  
2341 exceeding two stories in height;

2342 (c) a person licensed to practice architecture under Title 58, Chapter 3a, Architects  
2343 Licensing Act, performing architecture acts or incidental engineering or structural engineering  
2344 practices that do not exceed the scope of the education and training of the person performing  
2345 engineering or structural engineering;

2346 (d) unlicensed employees, subordinates, associates, or drafters of a person licensed  
2347 under this chapter while preparing plans, maps, sketches, drawings, documents, specifications,  
2348 plats, and reports under the supervision of a professional engineer, professional structural  
2349 engineer, or professional land surveyor;

2350 (e) a person preparing a plan or specification for, or supervising the alteration of or  
2351 repair to, an existing building affecting an area not exceeding 3,000 square feet when structural  
2352 elements of a building are not changed, such as foundations, beams, columns, and structural  
2353 slabs, joists, bearing walls, and trusses;

2354 (f) an employee of a communications, utility, railroad, mining, petroleum, or  
2355 manufacturing company, or an affiliate of such a company, if the professional engineering or  
2356 professional structural engineering work is performed solely in connection with the products or  
2357 systems of the company and is not offered directly to the public;

2358 (g) an organization engaged in the practice of professional engineering, structural  
2359 engineering, or professional land surveying, provided that:

2360 (i) the organization employs a principal; and

2361 (ii) all individuals employed by the organization, who are engaged in the practice of  
2362 professional engineering, structural engineering, or land surveying, are licensed or exempt from  
2363 licensure under this chapter; and

2364 (h) a person licensed as a professional engineer, a professional structural engineer, or a  
2365 professional land surveyor in a state other than Utah serving as an expert witness, provided the  
2366 expert testimony meets one of the following:

2367 (i) oral testimony as an expert witness in an administrative, civil, or criminal  
2368 proceeding; or

2369 (ii) written documentation included as part of the testimony in a proceeding, including  
2370 designs, studies, plans, specifications, or similar documentation, provided that the purpose of  
2371 the written documentation is not to establish specifications, plans, designs, processes, or  
2372 standards to be used in the future in an industrial process, system, construction, design, or  
2373 repair.

2374 (2) Nothing in this section shall be construed to restrict a ~~[draftsman]~~ person from  
2375 preparing plans for a client under the exemption provided in Subsection (1)(b), or taking those  
2376 plans to a professional engineer for the engineer's review, approval, and subsequent fixing of  
2377 the engineer's seal to that set of plans~~[-if the plans meet the building code standards].~~

2378 Section 38. Section **58-22-503** is amended to read:

2379 **58-22-503. Penalties and administrative actions for unlawful or unprofessional**  
2380 **conduct.**

2381 (1) (a) If upon inspection or investigation, the division concludes that a person has

2382 violated Section 58-1-501, 58-22-501, or 58-22-502.5, or any rule or order issued with respect  
2383 to Section 58-22-501 or 58-22-502.5, and that disciplinary action is appropriate, the director or  
2384 the director's designee from within the division for each alternative respectively, shall promptly  
2385 issue a citation to the person according to this chapter and any pertinent rules, attempt to  
2386 negotiate a stipulated settlement, or notify the person to appear before an adjudicative  
2387 proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

2388 (i) A person who violates Section 58-1-501, 58-22-501, or 58-22-502.5, or any rule or  
2389 order issued with respect to Section 58-22-501 or 58-22-502.5, as evidenced by an uncontested  
2390 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may  
2391 be assessed a fine pursuant to this Subsection (1) and may, in addition to or in lieu of, be  
2392 ordered to cease and desist from violating Section 58-1-501, 58-22-501, or 58-22-502.5, or  
2393 any rule or order issued with respect to this section.

2394 (ii) Except for a cease and desist order, the licensure sanctions cited in Section  
2395 58-22-401 may not be assessed through a citation.

2396 (b) A citation shall:

2397 (i) be in writing;

2398 (ii) describe with particularity the nature of the violation, including a reference to the  
2399 provision of the chapter, rule, or order alleged to have been violated;

2400 (iii) clearly state that the recipient must notify the division in writing within 20  
2401 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing  
2402 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

2403 (iv) clearly explain the consequences of failure to timely contest the citation or to make  
2404 payment of any fines assessed by the citation within the time specified in the citation.

2405 (c) The division may issue a notice in lieu of a citation.

2406 (d) Each citation issued under this section, or a copy of each citation, may be served  
2407 upon a person upon whom a summons may be served in accordance with the Utah Rules of  
2408 Civil Procedure and may be made personally or upon the person's agent by a division  
2409 investigator or by any person specially designated by the director or by mail.

2410 (e) If within 20 calendar days from the service of the citation, the person to whom the  
2411 citation was issued fails to request a hearing to contest the citation, the citation becomes the  
2412 final order of the division and is not subject to further agency review. The period to contest a  
2413 citation may be extended by the division for cause.

2414 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation  
2415 the license of a licensee who fails to comply with a citation after it becomes final.

2416 (g) The failure of an applicant for licensure to comply with a citation after it becomes  
2417 final is a ground for denial of license.

2418 (h) No citation may be issued under this section after the expiration of [~~six months~~  
2419 ~~following the occurrence of any violation~~] one year following the date on which the violation  
2420 that is the subject of the citation is reported to the division.

2421 (i) The director or the director's designee shall assess fines according to the following:

2422 (i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to \$1,000;

2423 (ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000;

2424 and

2425 (iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to  
2426 \$2,000 for each day of continued offense.

2427 (2) An action initiated for a first or second offense which has not yet resulted in a final  
2428 order of the division shall not preclude initiation of any subsequent action for a second or  
2429 subsequent offense during the pendency of any preceding action. The final order on a  
2430 subsequent action shall be considered a second or subsequent offense, respectively, provided  
2431 the preceding action resulted in a first or second offense, respectively.

2432 (3) (a) The director may collect a penalty that is not paid by:

2433 (i) referring the matter to a collection agency; or

2434 (ii) bringing an action in the district court of the county where the person against whom  
2435 the penalty is imposed resides or in the county where the office of the director is located.

2436 (b) A county attorney or the attorney general of the state shall provide legal assistance  
2437 and advice to the director in an action to collect a penalty.

2438 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an  
2439 action brought by the division to collect a penalty.

2440 Section 39. Section **58-24b-302** is amended to read:

2441 **58-24b-302. Licensure.**

2442 (1) An applicant for a license as a physical therapist shall:

2443 [~~(a) be of good moral character;~~]

2444 [~~(b)~~] (a) complete the application process, including payment of fees;

2445 [~~(c)~~] (b) submit proof of graduation from a professional physical therapist education  
2446 program that is accredited by a recognized accreditation agency;

2447 [~~(d)~~] (c) pass a licensing examination:

2448 (i) after complying with Subsection [~~(1)(c)~~] (1)(b); or

2449 (ii) if the applicant is in the final term of a professional physical therapist education  
2450 program that is accredited by a recognized accreditation agency;

2451 [~~(e)~~] (d) be able to read, write, speak, understand, and be understood in the English  
2452 language and demonstrate proficiency to the satisfaction of the board if requested by the board;

2453 [~~(f) if the applicant is applying to participate in the Physical Therapy Licensure  
2454 Compact under Chapter 24c, Physical Therapy Licensure Compact,]~~

2455 (e) consent to a criminal background check in accordance with Section [58-24b-302.1](#)  
2456 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah  
2457 Administrative Rulemaking Act; and

2458 [~~(g)~~] (f) meet any other requirements established by the division, by rule made in  
2459 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2460 (2) An applicant for a license as a physical therapist assistant shall:

2461 [~~(a) be of good moral character;~~]

2462 [~~(b)~~] (a) complete the application process, including payment of fees set by the  
2463 division, in accordance with Section [63J-1-504](#), to recover the costs of administering the  
2464 licensing requirements relating to physical therapist assistants;

2465 [~~(c)~~] (b) submit proof of graduation from a physical therapist assistant education



2466 program that is accredited by a recognized accreditation agency;

2467 ~~[(d)]~~ (c) pass a licensing examination approved by division rule made in collaboration

2468 with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

2469 Act:

2470 (i) after the applicant complies with Subsection ~~[(2)(c)]~~ (2)(b); or

2471 (ii) if the applicant is in the final term of a physical therapist assistant education

2472 program that is accredited by a recognized accreditation agency;

2473 ~~[(e)]~~ (d) be able to read, write, speak, understand, and be understood in the English

2474 language and demonstrate proficiency to the satisfaction of the board if requested by the board;

2475 ~~[(f)]~~ (e) submit to, and pass, a criminal background check, in accordance with Section

2476 [58-24b-302.1](#) and standards established by rule made in accordance with Title 63G, Chapter 3,

2477 Utah Administrative Rulemaking Act; and

2478 ~~[(g)]~~ (f) meet any other requirements established by the division, by rule made in

2479 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2480 (3) An applicant for a license as a physical therapist who is educated outside of the

2481 United States shall:

2482 ~~[(a) be of good moral character;]~~

2483 ~~[(b)]~~ (a) complete the application process, including payment of fees;

2484 ~~[(c)]~~ (b) (i) provide satisfactory evidence that the applicant graduated from a

2485 professional physical therapist education program that is accredited by a recognized

2486 accreditation agency; or

2487 (ii) (A) provide satisfactory evidence that the applicant graduated from a physical

2488 therapist education program that prepares the applicant to engage in the practice of physical

2489 therapy, without restriction;

2490 (B) provide satisfactory evidence that the education program described in Subsection

2491 ~~[(3)(c)(ii)(A)]~~ (3)(b)(ii)(A) is recognized by the government entity responsible for recognizing

2492 a physical therapist education program in the country where the program is located; and

2493 (C) pass a credential evaluation to ensure that the applicant has satisfied uniform

2494 educational requirements;

2495       ~~[(d)]~~ (c) after complying with Subsection ~~[(3)(e)]~~ (3)(b), pass a licensing examination;

2496       ~~[(e)]~~ (d) be able to read, write, speak, understand, and be understood in the English

2497 language and demonstrate proficiency to the satisfaction of the board if requested by the board;

2498       ~~[(f) if the applicant is applying to participate in the Physical Therapy Licensure~~

2499 ~~Compact under Chapter 24c, Physical Therapy Licensure Compact,]~~

2500       (e) consent to a criminal background check in accordance with Section 58-24b-302.1

2501 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah

2502 Administrative Rulemaking Act; and

2503       ~~[(g)]~~ (f) meet any other requirements established by the division, by rule made in

2504 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2505       (4) The division shall issue a license to a person who holds a current unrestricted

2506 license to practice physical therapy in a state, district, or territory of the United States of

2507 America, other than Utah, if the person:

2508       ~~[(a) is of good moral character;]~~

2509       ~~[(b)]~~ (a) completes the application process, including payment of fees;

2510       ~~[(c)]~~ (b) is able to read, write, speak, understand, and be understood in the English

2511 language and demonstrate proficiency to the satisfaction of the board if requested by the board;

2512       ~~[(d) if the applicant is applying to participate in the Physical Therapy Licensure~~

2513 ~~Compact under Chapter 24c, Physical Therapy Licensure Compact,]~~

2514       (c) consents to a criminal background check in accordance with Section 58-24b-302.1

2515 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah

2516 Administrative Rulemaking Act; and

2517       ~~[(e)]~~ (d) meets any other requirements established by the division, by rule made in

2518 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2519       (5) (a) Notwithstanding Subsection 58-1-307(1)(c), an individual may not engage in an

2520 internship in physical therapy, unless the person is:

2521       (i) certified by the division; or

2522 (ii) exempt from licensure under Section 58-24b-304.

2523 (b) The provisions of Subsection (5)(a) apply, regardless of whether the individual is  
2524 participating in the supervised clinical training program for the purpose of becoming a physical  
2525 therapist or a physical therapist assistant.

2526 Section 40. Section 58-26a-302 is amended to read:

2527 **58-26a-302. Qualifications for licensure and registration -- Licensure by**  
2528 **endorsement.**

2529 (1) Each applicant for licensure under this chapter as a certified public accountant  
2530 shall:

2531 (a) submit an application in a form prescribed by the division;

2532 (b) pay a fee determined by the department under Section 63J-1-504;

2533 [~~(c)~~ show evidence of good moral character;]

2534 [~~(d)~~ (c) submit a certified transcript of credits from an accredited institution acceptable  
2535 to the board showing:

2536 (i) successful completion of a total of 150 semester hours or 225 quarter hours of  
2537 collegiate level education with a concentration in accounting, auditing, and business;

2538 (ii) a baccalaureate degree or its equivalent at a college or university approved by the  
2539 board; and

2540 (iii) compliance with any other education requirements established by rule by the  
2541 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah  
2542 Administrative Rulemaking Act;

2543 [~~(e)~~ (d) submit evidence of one year of accounting experience in a form prescribed by  
2544 the division;

2545 [~~(f)~~ (e) submit evidence of having successfully completed the qualifying examinations  
2546 in accordance with Section 58-26a-306; and

2547 [~~(g)~~ (f) submit to an interview by the board, if requested, for the purpose of examining  
2548 the applicant's competence and qualifications for licensure.

2549 (2) (a) The division may issue a license under this chapter to a person who holds a

2550 license as a certified public accountant issued by any other state of the United States of  
2551 America if the applicant for licensure by endorsement:

- 2552 (i) submits an application in a form prescribed by the division;
- 2553 (ii) pays a fee determined by the department under Section 63J-1-504;
- 2554 [~~(iii) shows evidence of good moral character;~~]
- 2555 [~~(iv)~~] (iii) submits to an interview by the board, if requested, for the purpose of  
2556 examining the applicant's competence and qualifications for licensure; and
- 2557 [~~(v)~~] (iv) (A) (I) shows evidence of having passed the qualifying examinations; and  
2558 (II) (Aa) meets the requirements for licensure which were applicable in this state at the  
2559 time of the issuance of the applicant's license by the state from which the original licensure by  
2560 satisfactorily passing the AICPA Uniform CPA Examination was issued; or
- 2561 (Bb) had four years of professional experience after passing the AICPA Uniform CPA  
2562 Examination upon which the original license was based, within the 10 years immediately  
2563 preceding the application for licensure by endorsement; or
- 2564 (B) shows evidence that the applicant's education, examination record, and experience  
2565 are substantially equivalent to the requirements of Subsection (1), as provided by rule.
- 2566 (b) This Subsection (2) applies only to a person seeking to obtain a license issued by  
2567 this state and does not apply to a person practicing as a certified public accountant in the state  
2568 under Subsection 58-26a-305(1).
- 2569 (3) (a) Each applicant for registration as a Certified Public Accountant firm shall:
- 2570 (i) submit an application in a form prescribed by the division;
- 2571 (ii) pay a fee determined by the department under Section 63J-1-504;
- 2572 (iii) have, notwithstanding any other provision of law, a simple majority of the  
2573 ownership of the Certified Public Accountant firm, in terms of financial interests and voting  
2574 rights of all partners, officers, shareholders, members, or managers, held by individuals who  
2575 are certified public accountants, licensed under this chapter or another state of the United States  
2576 of America, and the partners, officers, shareholders, members, or managers, whose principal  
2577 place of business is in this state, and who perform professional services in this state hold a

2578 valid license issued under Subsection 58-26a-301(2) or the corresponding provisions of prior  
2579 law; and

2580 (iv) meet any other requirements established by rule by the division in collaboration  
2581 with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2582 (b) Each separate location of a qualified business entity within the state seeking  
2583 registration as a Certified Public Accountant firm shall register separately.

2584 (c) A Certified Public Accountant firm may include owners who are not licensed under  
2585 this chapter as outlined in Subsection (3)(a)(iii), provided that:

2586 (i) the firm designates a licensee of this state who is responsible for the proper  
2587 registration of the Certified Public Accountant firm and identifies that individual to the  
2588 division; and

2589 (ii) all nonlicensed owners are active individual participants in the CPA firm.

2590 Section 41. Section 58-26a-305 is amended to read:

2591 **58-26a-305. Exemptions from licensure.**

2592 (1) In addition to the exemptions from licensure in Section 58-1-307, the following  
2593 may engage in acts included within the definition of the practice of public accountancy, subject  
2594 to the stated circumstances and limitations, without being licensed under this chapter:

2595 (a) a person licensed by any other state, district, or territory of the United States as a  
2596 certified public accountant or its equivalent under any other title while practicing in this state  
2597 if:

2598 (i) the person's principal place of business is not in this state; and

2599 (A) the person's license as a certified public accountant is from any state which the  
2600 National Association of State Boards of Accountancy (NASBA) National Qualification  
2601 Appraisal Service has verified to be substantially equivalent to the CPA licensure requirements  
2602 of the Uniform Accountancy Act; or

2603 (B) the person's license as a certified public accountant is from a state which the  
2604 NASBA National Qualification Appraisal Service has not verified to be substantially  
2605 equivalent to the CPA licensure requirements of the Uniform Accountancy Act and the person

2606 obtains from the NASBA National Qualification Appraisal Service verification that the  
2607 person's CPA qualifications are substantially equivalent to the CPA licensure requirements of  
2608 the Uniform Accountancy Act and Subsection [~~58-26a-302(1)(d)(i)~~] 58-26a-302(1)(c)(i); and  
2609 (ii) the person consents, as a condition of the grant of this privilege:  
2610 (A) to personal and subject matter jurisdiction and disciplinary authority of the  
2611 division;  
2612 (B) to comply with this chapter and the rules made under this chapter;  
2613 (C) that in the event the license from the state of the person's principal place of  
2614 business becomes invalid, the person shall cease offering or rendering professional services in  
2615 this state both individually and on behalf of the firm; and  
2616 (D) to the appointment of the state board which issued the person's license as the  
2617 person's agent upon whom process may be served in an action or proceeding brought by the  
2618 division against the licensee;  
2619 (b) through December 31, 2012, a person licensed by any other state, district, or  
2620 territory of the United States as a certified public accountant or its equivalent under another  
2621 title while practicing in this state if:  
2622 (i) the person does not qualify for a practice privilege under Subsection (1)(a);  
2623 (ii) the practice is incidental to the person's regular practice outside of this state; and  
2624 (iii) the person's temporary practice within the state is in conformity with this chapter  
2625 and the rules established under this chapter;  
2626 (c) an officer, member, partner, or employee of any entity or organization who signs  
2627 any statement or report in reference to the financial affairs of the entity or organization with a  
2628 designation of that person's position within the entity or organization;  
2629 (d) a public official or employee while performing his official duties;  
2630 (e) a person using accounting or auditing skills, including the preparation of tax  
2631 returns, management advisory services, and the preparation of financial statements without the  
2632 issuance of reports; or  
2633 (f) an employee of a CPA firm registered under this chapter or an assistant to a person

2634 licensed under this chapter, working under the supervision of a licensee, if:

2635 (i) neither the employee or assistant nor the licensed employer or registered CPA firm  
2636 represents that the unlicensed person is a certified public accountant; and

2637 (ii) no accounting or financial statements are issued over the unlicensed person's name.

2638 (2) (a) Notwithstanding any other provision of law, a person who qualifies under

2639 Subsection (1)(a) has all the privileges of a licensee of this state and may engage in acts

2640 included within the definition of the practice of public accountancy, whether in person or by

2641 mail, telephone, or electronic means, based on a practice privilege in this state, and no notice,

2642 fee, or other submission shall be provided by that person.

2643 (b) The division may revoke, suspend, or restrict an exemption granted under

2644 Subsection (1)(a) or (b), or place on probation or issue a public or private reprimand to a

2645 person exempted under those subsections for the reasons set forth in Subsection [58-1-401](#)(2).

2646 Section 42. Section **58-26a-306** is amended to read:

2647 **58-26a-306. Examination requirements.**

2648 (1) Before taking the qualifying examinations, an applicant shall:

2649 (a) submit an application in a form approved by the division;

2650 (b) pay a fee determined by the department under Section [63J-1-504](#);

2651 (c) demonstrate completion of at least 120 semester hours or 180 quarter hours of the  
2652 education requirement described in Subsection [~~58-26a-302(1)(d)~~] [58-26a-302\(1\)\(c\)](#); and

2653 (d) be approved by the board, or an organization designated by the board, to take the  
2654 qualifying examinations.

2655 (2) A person must sit for and meet the conditioning requirements of the AICPA

2656 Uniform CPA Examination as established by the AICPA.

2657 Section 43. Section **58-28-301** is amended to read:

2658 **58-28-301. Licensure required.**

2659 (1) (a) A license is required to engage in the practice of veterinary medicine, except as  
2660 specifically provided in Sections [58-1-307](#) and [58-28-307](#).

2661 (b) Notwithstanding the provisions of Subsection [58-1-307\(1\)\(c\)](#) an individual shall be

2662 licensed under this chapter as a veterinary intern in order to engage in a program of indirectly  
2663 supervised clinical training with a veterinarian licensed under this chapter, and as necessary to  
2664 meet licensing requirements under Subsection [~~58-28-302(1)(d)~~] 58-28-302(1)(c).

2665 (2) The division shall issue to a person who qualifies under this chapter a license in the  
2666 classification of:

2667 (a) veterinarian; or

2668 (b) veterinarian intern.

2669 Section 44. Section **58-28-302** is amended to read:

2670 **58-28-302. License qualifications.**

2671 (1) Every applicant for a license to practice veterinary medicine, surgery, and dentistry  
2672 shall:

2673 [~~(a)~~] ~~be of good moral character as it relates to the functions and duties of a licensed~~  
2674 ~~veterinarian;~~

2675 [~~(b)~~] (a) pass an examination approved by the board on the theory and practice of the  
2676 science of veterinary medicine, surgery, dentistry, and other subjects determined by the board,  
2677 knowledge of which is generally required of veterinarians;

2678 [~~(c)~~] (b) (i) graduate from a veterinary college accredited by the AVMA; or

2679 (ii) obtain a certificate issued by the Educational Commission for Foreign Veterinary  
2680 Graduates issued by the AVMA;

2681 [~~(d)~~] (c) (i) have practiced under the supervision of a veterinarian licensed to practice  
2682 in this state for a period of at least six months;

2683 (ii) have participated in veterinary investigational, educational, or sanitary control work  
2684 of a nature and duration as to be the equivalent of the experience of Subsection [~~(1)(d)(i)~~]  
2685 (1)(c)(i);

2686 (iii) have practiced as a licensed veterinarian outside Utah for a period of at least six  
2687 months; or

2688 (iv) have practiced as a veterinarian while employed by the United States government,  
2689 its agencies, or the state or its political subdivisions for a period of at least six months; and



2690           ~~[(e)]~~ (d) pay a fee to the Department of Commerce determined ~~[by it pursuant to]~~ in  
2691 accordance with Section 63J-1-504 for the examination, for an initial license, and for a renewal  
2692 license.

2693           (2) (a) An applicant for licensure as a veterinary intern shall comply with the  
2694 provisions of ~~[Subsections (1)(a) and (c)]~~ Subsection (1)(b).

2695           (b) An applicant's license as a veterinary intern is limited to the period of time  
2696 necessary to complete clinical training as described in Subsection ~~[(1)(d)]~~ (1)(c) and extends  
2697 not more than one year from the date the minimum requirement for training is completed,  
2698 unless the individual presents satisfactory evidence to the division and the board that the  
2699 individual is making reasonable progress toward passing the qualifying examination or is  
2700 otherwise on a course reasonably expected to lead to licensure as a veterinarian, but the period  
2701 of time under this Subsection (2)(b) may not exceed two years past the date the minimum  
2702 supervised clinical training has been completed.

2703           Section 45. Section **58-28-304** is amended to read:

2704           **58-28-304. Temporary license -- License reciprocity.**

2705           (1) The division may issue a temporary license to practice veterinary medicine, surgery,  
2706 and dentistry to any person not qualified for licensure under Subsection (4) who meets all  
2707 requirements of Section 58-28-302 with the exception of Subsections ~~[58-28-302(1)(b) and (d)]~~  
2708 58-28-302(1)(a) and (c), except that the temporary license shall by its terms expire at the date  
2709 examination results are available for the examination next following the date of the issuance of  
2710 the temporary license.

2711           (2) The temporary license shall permit the holder to practice under the indirect  
2712 supervision of a veterinarian licensed to practice in this state.

2713           (3) The division may extend the expiration date of the temporary license until the  
2714 following examination date if:

2715           (a) the applicant shows to the board good cause for failing to take or pass the  
2716 examination; and

2717           (b) the majority of the board members recommend the extension.

2718 (4) Upon the recommendation of the board, the division may issue a license without  
2719 examination to a person who:

2720 (a) has been licensed or registered to practice veterinary medicine, surgery, and  
2721 dentistry in any state, district, or territory of the United States or in any foreign country, whose  
2722 educational, examination, and experience requirements are or were at the time the license was  
2723 issued equal to those of this state;

2724 (b) has engaged in the practice of veterinary medicine, dentistry, and surgery while  
2725 licensed by another jurisdiction for at least two years;

2726 (c) obtained the license in another jurisdiction after passing an examination component  
2727 acceptable to the division and the board;

2728 (d) produces satisfactory evidence of having practiced veterinary medicine competently  
2729 and in accordance with the standards and ethics of the profession while practicing in another  
2730 jurisdiction; and

2731 (e) produces satisfactory evidence of identity and good moral character as it relates to  
2732 the applicant's functions and practice as a licensed veterinarian.

2733 Section 46. Section **58-31b-503** is amended to read:

2734 **58-31b-503. Penalties and administrative actions for unlawful conduct and**  
2735 **unprofessional conduct.**

2736 (1) Any person who violates the unlawful conduct provision specifically defined in  
2737 Subsection **58-1-501**(1)(a) is guilty of a third degree felony.

2738 (2) Any person who violates any of the unlawful conduct provisions specifically  
2739 defined in Subsections **58-1-501**(1)(b) through (f) and **58-31b-501**(1)(d) is guilty of a class A  
2740 misdemeanor.

2741 (3) Any person who violates any of the unlawful conduct provisions specifically  
2742 defined in this chapter and not set forth in Subsection (1) or (2) is guilty of a class B  
2743 misdemeanor.

2744 (4) (a) Subject to Subsection (6) and in accordance with Section **58-31b-401**, for acts  
2745 of unprofessional or unlawful conduct, the division may:

2746 (i) assess administrative penalties; and  
2747 (ii) take any other appropriate administrative action.  
2748 (b) An administrative penalty imposed pursuant to this section shall be deposited in the  
2749 "Nurse Education and Enforcement Account" as provided in Section 58-31b-103.  
2750 (5) If a licensee has been convicted of violating Section 58-31b-501 prior to an  
2751 administrative finding of a violation of the same section, the licensee may not be assessed an  
2752 administrative fine under this chapter for the same offense for which the conviction was  
2753 obtained.  
2754 (6) (a) If upon inspection or investigation, the division concludes that a person has  
2755 violated the provisions of Section 58-31b-401, 58-31b-501, or 58-31b-502, Chapter 1, Division  
2756 of Occupational and Professional Licensing Act, Chapter 37, Utah Controlled Substances Act,  
2757 or any rule or order issued with respect to these provisions, and that disciplinary action is  
2758 appropriate, the director or the director's designee from within the division shall:  
2759 (i) promptly issue a citation to the person according to this chapter and any pertinent  
2760 administrative rules;  
2761 (ii) attempt to negotiate a stipulated settlement; or  
2762 (iii) notify the person to appear before an adjudicative proceeding conducted under  
2763 Title 63G, Chapter 4, Administrative Procedures Act.  
2764 (b) Any person who is in violation of a provision described in Subsection (6)(a), as  
2765 evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an  
2766 adjudicative proceeding may be assessed a fine:  
2767 (i) pursuant to this Subsection (6) of up to \$10,000 per single violation or up to \$2,000  
2768 per day of ongoing violation, whichever is greater, in accordance with a fine schedule  
2769 established by rule; and  
2770 (ii) in addition to or in lieu of the fine imposed under Subsection (6)(b)(i), be ordered  
2771 to cease and desist from violating a provision of Sections 58-31b-501 and 58-31b-502, Chapter  
2772 1, Division of Occupational and Professional Licensing Act, Chapter 37, Utah Controlled  
2773 Substances Act, or any rule or order issued with respect to those provisions.

2774 (c) Except for an administrative fine and a cease and desist order, the licensure  
2775 sanctions cited in Section 58-31b-401 may not be assessed through a citation.

2776 (d) Each citation issued under this section shall:

2777 (i) be in writing; and

2778 (ii) clearly describe or explain:

2779 (A) the nature of the violation, including a reference to the provision of the chapter,  
2780 rule, or order alleged to have been violated;

2781 (B) that the recipient must notify the division in writing within 20 calendar days of  
2782 service of the citation in order to contest the citation at a hearing conducted under Title 63G,  
2783 Chapter 4, Administrative Procedures Act; and

2784 (C) the consequences of failure to timely contest the citation or to make payment of  
2785 any fines assessed by the citation within the time specified in the citation; and

2786 (iii) be served upon any person upon whom a summons may be served:

2787 (A) in accordance with the Utah Rules of Civil Procedure;

2788 (B) personally or upon the person's agent by a division investigator or by any person  
2789 specially designated by the director; or

2790 (C) by mail.

2791 (e) If within 20 calendar days from the service of a citation, the person to whom the  
2792 citation was issued fails to request a hearing to contest the citation, the citation becomes the  
2793 final order of the division and is not subject to further agency review. The period to contest the  
2794 citation may be extended by the division for cause.

2795 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation  
2796 the license of a licensee who fails to comply with the citation after it becomes final.

2797 (g) The failure of an applicant for licensure to comply with a citation after it becomes  
2798 final is a ground for denial of license.

2799 (h) No citation may be issued under this section after the expiration of [~~six months~~  
2800 ~~following the occurrence of any violation~~] one year following the date on which the violation  
2801 that is the subject of the citation is reported to the division.

- 2802 (7) (a) The director may collect a penalty that is not paid by:  
2803 (i) referring the matter to a collection agency; or  
2804 (ii) bringing an action in the district court of the county where the person against whom  
2805 the penalty is imposed resides or in the county where the office of the director is located.  
2806 (b) A county attorney or the attorney general of the state shall provide legal assistance  
2807 and advice to the director in an action to collect a penalty.  
2808 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an  
2809 action brought by the division to collect a penalty.

2810 Section 47. Section **58-31b-803** is amended to read:

2811 **58-31b-803. Limitations on prescriptive authority for advanced practice**  
2812 **registered nurses.**

2813 (1) This section does not apply to an advanced practice registered nurse specializing as  
2814 a certified registered nurse anesthetist under Subsection [58-31b-102\(14\)\(d\)](#).

2815 (2) Except as provided in Subsections (3) and [~~58-31b-502(1)(r)~~] [58-31b-502\(1\)\(q\)](#), an  
2816 advanced practice registered nurse may prescribe or administer a Schedule II controlled  
2817 substance without a consultation and referral plan.

2818 (3) An advanced practice registered nurse described in Subsection (4) may not  
2819 prescribe or administer a Schedule II controlled substance unless the advanced practice  
2820 registered nurse prescribes or administers Schedule II controlled substances in accordance with  
2821 a consultation and referral plan.

2822 (4) Subsection (3) applies to an advanced practice registered nurse who:

- 2823 (a) (i) is engaged in independent solo practice; and  
2824 (ii) (A) has been licensed as an advanced practice registered nurse for less than one  
2825 year; or  
2826 (B) has less than 2,000 hours of experience practicing as a licensed advanced practice  
2827 registered nurse; or

2828 (b) owns or operates a pain clinic.

2829 (5) Notwithstanding Subsection [58-31b-102\(5\)](#), an advanced practice registered nurse

2830 with at least three years of experience as a licensed advanced practice registered nurse may  
2831 supervise a consultation and referral plan for an advanced practice registered nurse described in  
2832 Subsection (4)(a).

2833 Section 48. Section **58-37f-203** is amended to read:

2834 **58-37f-203. Submission, collection, and maintenance of data.**

2835 (1) (a) The division shall implement on a statewide basis, including non-resident  
2836 pharmacies as defined in Section **58-17b-102**, the following two options for a pharmacist to  
2837 submit information:

2838 (i) real-time submission of the information required to be submitted under this part to  
2839 the controlled substance database; and

2840 (ii) 24-hour daily or next business day, whichever is later, batch submission of the  
2841 information required to be submitted under this part to the controlled substance database.

2842 (b) ~~[(i) On and after January 1, 2016, a]~~ A pharmacist shall comply with either:

2843 ~~[(A)]~~ (i) the submission time requirements established by the division under  
2844 Subsection (1)(a)(i); or

2845 ~~[(B)]~~ (ii) the submission time requirements established by the division under  
2846 Subsection (1)(a)(ii).

2847 ~~[(ii) Prior to January 1, 2016, a pharmacist may submit information using either option~~  
2848 ~~under this Subsection (1).]~~

2849 (c) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code.

2850 (2) (a) The pharmacist-in-charge and the pharmacist of the drug outlet where a  
2851 controlled substance is dispensed shall submit the data described in this section to the division  
2852 in accordance with:

2853 (i) the requirements of this section;

2854 (ii) the procedures established by the division;

2855 (iii) additional types of information or data fields established by the division; and

2856 (iv) the format established by the division.

2857 (b) A dispensing medical practitioner licensed under Chapter 17b, Part 8, Dispensing

2858 Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, shall comply with  
2859 the provisions of this section and the dispensing medical practitioner shall assume the duties of  
2860 the pharmacist under this chapter.

2861 (3) (a) The pharmacist-in-charge and the pharmacist described in Subsection (2)~~((b))~~((a))  
2862 shall, for each controlled substance dispensed by a pharmacist under the pharmacist's  
2863 supervision other than those dispensed for an inpatient at a health care facility, submit to the  
2864 division any type of information or data field established by the division by rule in accordance  
2865 with Subsection (6) regarding:

2866 (i) each controlled substance that is dispensed by the pharmacist or under the  
2867 pharmacist's supervision; and

2868 (ii) each noncontrolled substance that is:

2869 (A) designated by the division under Subsection (8)(a); and

2870 (B) dispensed by the pharmacist or under the pharmacist's supervision.

2871 (b) Subsection (3)(a) does not apply to a drug that is dispensed for an inpatient at a  
2872 health care facility.

2873 (4) An individual whose records are in the database may obtain those records upon  
2874 submission of a written request to the division.

2875 (5) (a) A patient whose record is in the database may contact the division in writing to  
2876 request correction of any of the patient's database information that is incorrect. ~~[The patient~~  
2877 ~~shall provide a postal address for the division's response.]~~

2878 (b) The division shall grant or deny the request within 30 days from receipt of the  
2879 request and shall advise the requesting patient of its decision ~~[by mail postmarked]~~ within 35  
2880 days of receipt of the request.

2881 (c) If the division denies a request under this Subsection (5) or does not respond within  
2882 35 days, the patient may submit an appeal to the Department of Commerce, within 60 days  
2883 after the ~~[postmark date of the patient's letter making a]~~ patient's written request for a  
2884 correction under this Subsection (5).

2885 (6) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah

2886 Administrative Rulemaking Act, to establish submission requirements under this part,  
2887 including:

- 2888 (a) electronic format;
- 2889 (b) submission procedures; and
- 2890 (c) required information and data fields.

2891 (7) The division shall ensure that the database system records and maintains for  
2892 reference:

- 2893 (a) the identification of each individual who requests or receives information from the  
2894 database;
- 2895 (b) the information provided to each individual; and
- 2896 (c) the date and time that the information is requested or provided.

2897 (8) (a) The division, in collaboration with the Utah Controlled Substance Advisory  
2898 Committee created in Section [58-38a-201](#), shall designate a list of noncontrolled substances  
2899 described in Subsection (8)(b) by rule made in accordance with Title 63G, Chapter 3, Utah  
2900 Administrative Rulemaking Act.

2901 (b) To determine whether a prescription drug should be designated in the schedules of  
2902 controlled substances under this chapter, the division may collect information about a  
2903 prescription drug as defined in Section [58-17b-102](#) that is not designated in the schedules of  
2904 controlled substances under this chapter.

2905 Section 49. Section **58-37f-301** is amended to read:

2906 **58-37f-301. Access to database.**

2907 (1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah  
2908 Administrative Rulemaking Act, to:

2909 (a) effectively enforce the limitations on access to the database as described in this  
2910 part; and

2911 (b) establish standards and procedures to ensure accurate identification of individuals  
2912 requesting information or receiving information without request from the database.

2913 (2) The division shall make information in the database and information obtained from



2914 other state or federal prescription monitoring programs by means of the database available only  
2915 to the following individuals, in accordance with the requirements of this chapter and division  
2916 rules:

2917 (a) (i) personnel of the division specifically assigned to conduct investigations related  
2918 to controlled substance laws under the jurisdiction of the division; and

2919 (ii) the following law enforcement officers, but the division may only provide  
2920 nonidentifying information, limited to gender, year of birth, and postal ZIP code, regarding  
2921 individuals for whom a controlled substance has been prescribed or to whom a controlled  
2922 substance has been dispensed:

2923 (A) a law enforcement agency officer who is engaged in a joint investigation with the  
2924 division; and

2925 (B) a law enforcement agency officer to whom the division has referred a suspected  
2926 criminal violation of controlled substance laws;

2927 (b) authorized division personnel engaged in analysis of controlled substance  
2928 prescription information as a part of the assigned duties and responsibilities of their  
2929 employment;

2930 (c) a board member if:

2931 (i) the board member is assigned to monitor a licensee on probation; and

2932 (ii) the board member is limited to obtaining information from the database regarding  
2933 the specific licensee on probation;

2934 (d) a member of a diversion committee established in accordance with Subsection  
2935 [58-1-404\(2\)](#) if:

2936 (i) the diversion committee member is limited to obtaining information from the  
2937 database regarding the person whose conduct is the subject of the committee's consideration;  
2938 and

2939 (ii) the conduct that is the subject of the committee's consideration includes a violation  
2940 or a potential violation of Chapter 37, Utah Controlled Substances Act, or another relevant  
2941 violation or potential violation under this title;

2942 (e) in accordance with a written agreement entered into with the department,  
2943 employees of the Department of Health:

2944 (i) whom the director of the Department of Health assigns to conduct scientific studies  
2945 regarding the use or abuse of controlled substances, if the identity of the individuals and  
2946 pharmacies in the database are confidential and are not disclosed in any manner to any  
2947 individual who is not directly involved in the scientific studies;

2948 (ii) when the information is requested by the Department of Health in relation to a  
2949 person or provider whom the Department of Health suspects may be improperly obtaining or  
2950 providing a controlled substance; or

2951 (iii) in the medical examiner's office;

2952 (f) in accordance with a written agreement entered into with the department, a designee  
2953 of the director of the Department of Health, who is not an employee of the Department of  
2954 Health, whom the director of the Department of Health assigns to conduct scientific studies  
2955 regarding the use or abuse of controlled substances pursuant to an application process  
2956 established in rule by the Department of Health, if:

2957 (i) the designee provides explicit information to the Department of Health regarding  
2958 the purpose of the scientific studies;

2959 (ii) the scientific studies to be conducted by the designee:

2960 (A) fit within the responsibilities of the Department of Health for health and welfare;  
2961 (B) are reviewed and approved by an Institutional Review Board that is approved for  
2962 human subject research by the United States Department of Health and Human Services; and  
2963 (C) are not conducted for profit or commercial gain; and  
2964 (D) are conducted in a research facility, as defined by division rule, that is associated  
2965 with a university or college accredited by one or more regional or national accrediting agencies  
2966 recognized by the United States Department of Education;

2967 (iii) the designee protects the information as a business associate of the Department of  
2968 Health; and

2969 (iv) the identity of the prescribers, patients, and pharmacies in the database are

2970 de-identified, confidential, not disclosed in any manner to the designee or to any individual  
2971 who is not directly involved in the scientific studies;

2972 (g) in accordance with the written agreement entered into with the department and the  
2973 Department of Health, authorized employees of a managed care organization, as defined in 42  
2974 C.F.R. Sec. 438, if:

2975 (i) the managed care organization contracts with the Department of Health under the  
2976 provisions of Section 26-18-405 and the contract includes provisions that:

2977 (A) require a managed care organization employee who will have access to information  
2978 from the database to submit to a criminal background check; and

2979 (B) limit the authorized employee of the managed care organization to requesting  
2980 either the division or the Department of Health to conduct a search of the database regarding a  
2981 specific Medicaid enrollee and to report the results of the search to the authorized employee;  
2982 and

2983 (ii) the information is requested by an authorized employee of the managed care  
2984 organization in relation to a person who is enrolled in the Medicaid program with the managed  
2985 care organization, and the managed care organization suspects the person may be improperly  
2986 obtaining or providing a controlled substance;

2987 (h) a licensed practitioner having authority to prescribe controlled substances, to the  
2988 extent the information:

2989 (i) (A) relates specifically to a current or prospective patient of the practitioner; and

2990 (B) is provided to or sought by the practitioner for the purpose of:

2991 (I) prescribing or considering prescribing any controlled substance to the current or  
2992 prospective patient;

2993 (II) diagnosing the current or prospective patient;

2994 (III) providing medical treatment or medical advice to the current or prospective  
2995 patient; or

2996 (IV) determining whether the current or prospective patient:

2997 (Aa) is attempting to fraudulently obtain a controlled substance from the practitioner;

2998 or

2999 (Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled  
3000 substance from the practitioner;

3001 (ii) (A) relates specifically to a former patient of the practitioner; and

3002 (B) is provided to or sought by the practitioner for the purpose of determining whether  
3003 the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a  
3004 controlled substance from the practitioner;

3005 (iii) relates specifically to an individual who has access to the practitioner's Drug  
3006 Enforcement Administration identification number, and the practitioner suspects that the  
3007 individual may have used the practitioner's Drug Enforcement Administration identification  
3008 number to fraudulently acquire or prescribe a controlled substance;

3009 (iv) relates to the practitioner's own prescribing practices, except when specifically  
3010 prohibited by the division by administrative rule;

3011 (v) relates to the use of the controlled substance database by an employee of the  
3012 practitioner, described in Subsection (2)(i); or

3013 (vi) relates to any use of the practitioner's Drug Enforcement Administration  
3014 identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a  
3015 controlled substance;

3016 (i) in accordance with Subsection (3)(a), an employee of a practitioner described in  
3017 Subsection (2)(h), for a purpose described in Subsection (2)(h)(i) or (ii), if:

3018 (i) the employee is designated by the practitioner as an individual authorized to access  
3019 the information on behalf of the practitioner;

3020 (ii) the practitioner provides written notice to the division of the identity of the  
3021 employee; and

3022 (iii) the division:

3023 (A) grants the employee access to the database; and

3024 (B) provides the employee with a password that is unique to that employee to access  
3025 the database in order to permit the division to comply with the requirements of Subsection

3026 58-37f-203(5) with respect to the employee;

3027 (j) an employee of the same business that employs a licensed practitioner under

3028 Subsection (2)(h) if:

3029 (i) the employee is designated by the practitioner as an individual authorized to access

3030 the information on behalf of the practitioner;

3031 (ii) the practitioner and the employing business provide written notice to the division of

3032 the identity of the designated employee; and

3033 (iii) the division:

3034 (A) grants the employee access to the database; and

3035 (B) provides the employee with a password that is unique to that employee to access

3036 the database in order to permit the division to comply with the requirements of Subsection

3037 58-37f-203(5) with respect to the employee;

3038 (k) a licensed pharmacist having authority to dispense a controlled substance to the

3039 extent the information is provided or sought for the purpose of:

3040 (i) dispensing or considering dispensing any controlled substance; or

3041 (ii) determining whether a person:

3042 (A) is attempting to fraudulently obtain a controlled substance from the pharmacist; or

3043 (B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled

3044 substance from the pharmacist;

3045 (l) in accordance with Subsection (3)(a), a licensed pharmacy technician and pharmacy

3046 intern who is an employee of a pharmacy as defined in Section 58-17b-102, for the purposes

3047 described in Subsection ~~[(2)(j)]~~ (2)(k)(i) or (ii), if:

3048 (i) the employee is designated by the pharmacist-in-charge as an individual authorized

3049 to access the information on behalf of a licensed pharmacist employed by the pharmacy;

3050 (ii) the pharmacist-in-charge provides written notice to the division of the identity of

3051 the employee; and

3052 (iii) the division:

3053 (A) grants the employee access to the database; and

3054 (B) provides the employee with a password that is unique to that employee to access  
3055 the database in order to permit the division to comply with the requirements of Subsection  
3056 58-37f-203(5) with respect to the employee;

3057 (m) pursuant to a valid search warrant, federal, state, and local law enforcement  
3058 officers and state and local prosecutors who are engaged in an investigation related to:

3059 (i) one or more controlled substances; and

3060 (ii) a specific person who is a subject of the investigation;

3061 (n) subject to Subsection (7), a probation or parole officer, employed by the  
3062 Department of Corrections or by a political subdivision, to gain access to database information  
3063 necessary for the officer's supervision of a specific probationer or parolee who is under the  
3064 officer's direct supervision;

3065 (o) employees of the Office of Internal Audit and Program Integrity within the  
3066 Department of Health who are engaged in their specified duty of ensuring Medicaid program  
3067 integrity under Section 26-18-2.3;

3068 (p) a mental health therapist, if:

3069 (i) the information relates to a patient who is:

3070 (A) enrolled in a licensed substance abuse treatment program; and

3071 (B) receiving treatment from, or under the direction of, the mental health therapist as  
3072 part of the patient's participation in the licensed substance abuse treatment program described  
3073 in Subsection (2)(p)(i)(A);

3074 (ii) the information is sought for the purpose of determining whether the patient is  
3075 using a controlled substance while the patient is enrolled in the licensed substance abuse  
3076 treatment program described in Subsection (2)(p)(i)(A); and

3077 (iii) the licensed substance abuse treatment program described in Subsection  
3078 (2)(p)(i)(A) is associated with a practitioner who:

3079 (A) is a physician, a physician assistant, an advance practice registered nurse, or a  
3080 pharmacist; and

3081 (B) is available to consult with the mental health therapist regarding the information

3082 obtained by the mental health therapist, under this Subsection (2)(p), from the database;

3083 (q) an individual who is the recipient of a controlled substance prescription entered into  
3084 the database, upon providing evidence satisfactory to the division that the individual requesting  
3085 the information is in fact the individual about whom the data entry was made;

3086 (r) an individual under Subsection (2)(q) for the purpose of obtaining a list of the  
3087 persons and entities that have requested or received any information from the database  
3088 regarding the individual, except if the individual's record is subject to a pending or current  
3089 investigation as authorized under this Subsection (2);

3090 (s) the inspector general, or a designee of the inspector general, of the Office of  
3091 Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in  
3092 Title 63A, Chapter 13, Part 2, Office and Powers;

3093 (t) the following licensed physicians for the purpose of reviewing and offering an  
3094 opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter  
3095 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

3096 (i) a member of the medical panel described in Section [34A-2-601](#);

3097 (ii) a physician employed as medical director for a licensed workers' compensation  
3098 insurer or an approved self-insured employer; or

3099 (iii) a physician offering a second opinion regarding treatment; and

3100 (u) members of Utah's Opioid Fatality Review Committee, for the purpose of  
3101 reviewing a specific fatality due to opioid use and recommending policies to reduce the  
3102 frequency of opioid use fatalities.

3103 (3) (a) (i) A practitioner described in Subsection (2)(h) may designate one or more  
3104 employees to access information from the database under Subsection (2)(i), (2)(j), or (4)(c).

3105 (ii) A pharmacist described in Subsection (2)(k) who is a pharmacist-in-charge may  
3106 designate up to five employees to access information from the database under Subsection (2)(l).

3107 (b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah  
3108 Administrative Rulemaking Act, to:

3109 (i) establish background check procedures to determine whether an employee

3110 designated under Subsection (2)(i), (2)(j), or (4)(c) should be granted access to the database;  
3111 and

3112 (ii) establish the information to be provided by an emergency department employee  
3113 under Subsection (4); and

3114 (iii) facilitate providing controlled substance prescription information to a third party  
3115 under Subsection (5).

3116 (c) The division shall grant an employee designated under Subsection (2)(i), (2)(j), or  
3117 (4)(c) access to the database, unless the division determines, based on a background check, that  
3118 the employee poses a security risk to the information contained in the database.

3119 (4) (a) An individual who is employed in the emergency department of a hospital may  
3120 exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if  
3121 the individual is designated under Subsection (4)(c) and the licensed practitioner:

3122 (i) is employed in the emergency department;

3123 (ii) is treating an emergency department patient for an emergency medical condition;

3124 and

3125 (iii) requests that an individual employed in the emergency department and designated  
3126 under Subsection (4)(c) obtain information regarding the patient from the database as needed in  
3127 the course of treatment.

3128 (b) The emergency department employee obtaining information from the database  
3129 shall, when gaining access to the database, provide to the database the name and any additional  
3130 identifiers regarding the requesting practitioner as required by division administrative rule  
3131 established under Subsection (3)(b).

3132 (c) An individual employed in the emergency department under this Subsection (4)  
3133 may obtain information from the database as provided in Subsection (4)(a) if:

3134 (i) the employee is designated by the practitioner as an individual authorized to access  
3135 the information on behalf of the practitioner;

3136 (ii) the practitioner and the hospital operating the emergency department provide  
3137 written notice to the division of the identity of the designated employee; and



3138 (iii) the division:  
3139 (A) grants the employee access to the database; and  
3140 (B) provides the employee with a password that is unique to that employee to access  
3141 the database in order to permit the division to comply with the requirements of Subsection  
3142 [58-37f-203\(5\)](#) with respect to the employee.

3143 (d) The division may impose a fee, in accordance with Section [63J-1-504](#), on a  
3144 practitioner who designates an employee under Subsection (2)(i), (2)(j), or (4)(c) to pay for the  
3145 costs incurred by the division to conduct the background check and make the determination  
3146 described in Subsection (3)(b).

3147 (5) (a) (i) An individual may request that the division provide the information under  
3148 Subsection (5)(b) to a third party who is designated by the individual each time a controlled  
3149 substance prescription for the individual is dispensed.

3150 (ii) The division shall upon receipt of the request under this Subsection (5)(a) advise  
3151 the individual in writing that the individual may direct the division to discontinue providing the  
3152 information to a third party and that notice of the individual's direction to discontinue will be  
3153 provided to the third party.

3154 (b) The information the division shall provide under Subsection (5)(a) is:

3155 (i) the fact a controlled substance has been dispensed to the individual, but without  
3156 identifying the controlled substance; and  
3157 (ii) the date the controlled substance was dispensed.

3158 (c) (i) An individual who has made a request under Subsection (5)(a) may direct that  
3159 the division discontinue providing information to the third party.

3160 (ii) The division shall:

3161 (A) notify the third party that the individual has directed the division to no longer  
3162 provide information to the third party; and  
3163 (B) discontinue providing information to the third party.

3164 (6) (a) An individual who is granted access to the database based on the fact that the  
3165 individual is a licensed practitioner or a mental health therapist shall be denied access to the

3166 database when the individual is no longer licensed.

3167 (b) An individual who is granted access to the database based on the fact that the  
3168 individual is a designated employee of a licensed practitioner shall be denied access to the  
3169 database when the practitioner is no longer licensed.

3170 (7) A probation or parole officer is not required to obtain a search warrant to access the  
3171 database in accordance with Subsection (2)(n).

3172 (8) The division shall review and adjust the database programming which  
3173 automatically logs off an individual who is granted access to the database under Subsections  
3174 (2)(h), (2)(i), (2)(j), and (4)(c) to maximize the following objectives:

3175 (a) to protect patient privacy;

3176 (b) to reduce inappropriate access; and

3177 (c) to make the database more useful and helpful to a person accessing the database  
3178 under Subsections (2)(h), (2)(i), (2)(j), and (4)(c), especially in high usage locations such as an  
3179 emergency department.

3180 Section 50. Section **58-37f-302** is amended to read:

3181 **58-37f-302. Other restrictions on access to database.**

3182 (1) A person who is a relative of a deceased individual is not entitled to access  
3183 information from the database relating to the deceased individual based on the fact or claim  
3184 that the person is:

3185 (a) related to the deceased individual; or

3186 (b) subrogated to the rights of the deceased individual.

3187 (2) Except as provided in [~~Subsection~~] Subsections (3) and (4), data provided to,  
3188 maintained in, or accessed from the database that may be identified to, or with, a particular  
3189 person is not subject to discovery, subpoena, or similar compulsory process in any civil,  
3190 judicial, administrative, or legislative proceeding, nor shall any individual or organization with  
3191 lawful access to the data be compelled to testify with regard to the data.

3192 (3) The restrictions described in Subsection (2) do not apply to a civil, judicial, or  
3193 administrative action brought to enforce the provisions of this chapter.

3194 (4) (a) Subject to the requirements of this Subsection (4), in a state criminal proceeding  
3195 a court may:

3196 (i) order the release of information contained in the database if the court determines  
3197 good cause has been shown in accordance with Rule 16, Utah Rules of Criminal Procedure;  
3198 and

3199 (ii) at any time order that information released under this Subsection (4) be restricted,  
3200 limited, or restrained from further dissemination as the court determines is appropriate.

3201 (b) Upon the motion of a defendant, a court may only issue an order compelling the  
3202 production of database information under this Subsection (4) that pertains to a victim if the  
3203 court finds upon notice as provided in Subsection (4)(c), and after a hearing, that the defendant  
3204 is entitled to production of the information under applicable state and federal law.

3205 (c) A motion by a defendant for database information pertaining to a victim shall be  
3206 served by the defendant on:

3207 (i) the prosecutor and on counsel for the victim or victim's representative; or

3208 (ii) the prosecutor if the victim is unrepresented by counsel.

3209 (d) Upon a defendant's motion for database information pertaining to a victim, if the  
3210 court determines that good cause exists to order release of database information pertaining to  
3211 the victim, the court shall conduct an in camera review of the database information and may  
3212 only disclose to the defense and prosecution those portions of database information that are  
3213 relevant to the state criminal proceeding.

3214 Section 51. Section **58-37f-303** is amended to read:

3215 **58-37f-303. Access to opioid prescription information via an electronic data**  
3216 **system.**

3217 (1) As used in this section:

3218 (a) "Dispense" means the same as that term is defined in Section [58-17b-102](#).

3219 (b) "EDS user":

3220 (i) means:

3221 (A) a prescriber;

3222 (B) a pharmacist; or  
3223 (C) an individual granted access to the database under Subsection 58-37f-301(3)(c);  
3224 and  
3225 (ii) does not mean an individual whose access to the database has been revoked by the  
3226 division pursuant to Subsection 58-37f-301(5)(~~b~~)(c).  
3227 (c) "Electronic data system" means a software product or an electronic service used by:  
3228 (i) a prescriber to manage electronic health records; or  
3229 (ii) a pharmacist to manage the dispensing of prescription drugs.  
3230 (d) "Opioid" means any substance listed in Subsection 58-37-4(2)(b)(i) or (2)(b)(ii).  
3231 (e) "Pharmacist" means the same as that term is defined in Section 58-17b-102.  
3232 (f) "Prescriber" means a practitioner, as that term is defined in Section 58-37-2, who is  
3233 licensed under Section 58-37-6 to prescribe an opioid.  
3234 (g) "Prescription drug" means the same as that term is defined in Section 58-17b-102.  
3235 (2) Subject to Subsections (3) through (6), no later than January 1, 2017, the division  
3236 shall make opioid prescription information in the database available to an EDS user via the  
3237 user's electronic data system.  
3238 (3) An electronic data system may be used to make opioid prescription information in  
3239 the database available to an EDS user only if the electronic data system complies with rules  
3240 established by the division under Subsection (4).  
3241 (4) (a) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah  
3242 Administrative Rulemaking Act, specifying:  
3243 (i) an electronic data system's:  
3244 (A) allowable access to and use of opioid prescription information in the database; and  
3245 (B) minimum actions that must be taken to ensure that opioid prescription information  
3246 accessed from the database is protected from inappropriate disclosure or use; and  
3247 (ii) an EDS user's:  
3248 (A) allowable access to opioid prescription information in the database via an  
3249 electronic data system; and

3250 (B) allowable use of the information.

3251 (b) The rules shall establish:

3252 (i) minimum user identification requirements that in substance are the same as the

3253 database identification requirements in Section 58-37f-301;

3254 (ii) user access restrictions that in substance are the same as the database identification

3255 requirements in Section 58-37f-301; and

3256 (iii) any other requirements necessary to ensure that in substance the provisions of

3257 Sections 58-37f-301 and 58-37f-302 apply to opioid prescription information in the database

3258 that has been made available to an EDS user via an electronic data system.

3259 (5) The division may not make opioid prescription information in the database

3260 available to an EDS user via the user's electronic data system if:

3261 (a) the electronic data system does not comply with the rules established by the

3262 division under Subsection (4); or

3263 (b) the EDS user does not comply with the rules established by the division under

3264 Subsection (4).

3265 (6) (a) The division shall periodically audit the use of opioid prescription information

3266 made available to an EDS user via the user's electronic data system.

3267 (b) The audit shall review compliance by:

3268 (i) the electronic data system with rules established by the division under Subsection

3269 (4); and

3270 (ii) the EDS user with rules established by the division under Subsection (4).

3271 (c) (i) If the division determines by audit or other means that an electronic data system

3272 is not in compliance with rules established by the division under Subsection (4), the division

3273 shall immediately suspend or revoke the electronic data system's access to opioid prescription

3274 information in the database.

3275 (ii) If the division determines by audit or other means that an EDS user is not in

3276 compliance with rules established by the division under Subsection (4), the division shall

3277 immediately suspend or revoke the EDS user's access to opioid prescription information in the

3278 database via an electronic data system.

3279 (iii) If the division suspends or revokes access to opioid prescription information in the  
3280 database under Subsection (6)(c)(i) or (6)(c)(ii), the division shall also take any other  
3281 appropriate corrective or disciplinary action authorized by this chapter or title.

3282 Section 52. Section **58-40-302** is amended to read:

3283 **58-40-302. Qualifications for licensure.**

3284 (1) An applicant for licensure under this chapter shall:

- 3285 (a) submit an application in a form prescribed by the division; and
- 3286 (b) pay a fee determined by the department under Section ~~63J-1-504~~ [~~and~~].
- 3287 [~~(c) be of good moral character.~~]

3288 (2) In addition to the requirements of Subsection (1), an applicant for licensure as a  
3289 master therapeutic recreation specialist under this chapter shall as defined by division rule:

- 3290 (a) complete an approved graduate degree;
- 3291 (b) complete 4,000 qualifying hours of paid experience as:
  - 3292 (i) a licensed therapeutic recreation specialist if completed in the state; or
  - 3293 (ii) a certified therapeutic recreation specialist certified by the National Council for  
3294 Therapeutic Recreation Certification if completed outside of the state; and
- 3295 (c) pass an approved examination.

3296 (3) In addition to the requirements of Subsection (1), an applicant for licensure as a  
3297 therapeutic recreation specialist under this chapter shall, as defined by division rule:

- 3298 (a) complete an approved:
  - 3299 (i) bachelor's degree in therapeutic recreation or recreational therapy;
  - 3300 (ii) bachelor's degree with an approved emphasis, option, or concentration in  
3301 therapeutic recreation or recreational therapy; or
  - 3302 (iii) graduate degree;
- 3303 (b) complete an approved practicum; and
- 3304 (c) pass an approved examination.

3305 (4) In addition to the requirements of Subsection (1), an applicant for licensure as a

3306 therapeutic recreation technician under this chapter shall, as defined by division rule:

3307 (a) have a high school diploma or GED equivalent;

3308 (b) complete an approved:

3309 (i) educational course in therapeutic recreation taught by a licensed master therapeutic

3310 recreation specialist; or

3311 (ii) six semester hours or nine quarter hours in therapeutic recreation or recreational

3312 therapy from an accredited college or university;

3313 (c) complete an approved practicum under the supervision of:

3314 (i) a licensed master therapeutic recreation specialist; or

3315 (ii) an on-site, full-time, employed therapeutic recreation specialist;

3316 (d) pass an approved examination; and

3317 (e) complete a minimum of two hours of training in suicide prevention via a course that

3318 the division designates as approved.

3319 Section 53. Section **58-40-501** is amended to read:

3320 **58-40-501. Unlawful conduct.**

3321 "Unlawful conduct" includes:

3322 (1) providing, leading, facilitating, teaching, or offering to provide or teach recreational

3323 therapy services unless licensed under this chapter or exempted from licensure under Section

3324 [58-1-307](#) or [58-40-305](#); and

3325 (2) using the initials MTRS, TRS, or TRT, or other abbreviation, term, title, or sign

3326 relating to the practice of recreational therapy services unless licensed under this chapter~~[-and].~~

3327 ~~[(3) employing or aiding and abetting the employment of an unqualified or unlicensed~~

3328 ~~person to:]~~

3329 ~~[(a) practice as a recreational therapist; or]~~

3330 ~~[(b) provide recreational therapy services.]~~

3331 Section 54. Section **58-41-5** is amended to read:

3332 **58-41-5. Licensure requirements.**

3333 (1) To obtain and maintain a license as an audiologist beginning July 1, 2010, an

3334 applicant must:

3335 (a) submit a completed application in the form and content prescribed by the division  
3336 and pay a fee to the department in accordance with Section 63J-1-504;

3337 [~~(b)~~ be of good moral character;]

3338 [~~(c)~~] (b) provide the committee with verification that the applicant is the legal holder of  
3339 a clinical doctor's degree or AuD, in audiology, from an accredited university or college, based  
3340 on a program of studies primarily in the field of audiology;

3341 [~~(d)~~] (c) be in compliance with the regulations of conduct and codes of ethics for the  
3342 profession of audiology;

3343 [~~(e)~~] (d) submit to the board certified evidence of having completed at least one year of  
3344 professional experience, at least 30 hours per week for an academic year, of direct clinical  
3345 experience in treatment and management of patients, supervised and attested to by one holding  
3346 an audiologist license under this chapter, the CCC, or their full equivalent; and

3347 [~~(f)~~] (e) pass a nationally standardized examination in audiology which is the same as  
3348 or equivalent to the examination required for the CCC and with pass-fail criteria equivalent to  
3349 current ASHA standards, and the board may require the applicant to pass an acceptable  
3350 practical demonstration of clinical skills to an examining committee of licensed audiologists  
3351 appointed by the board.

3352 (2) To obtain and maintain a license as an audiologist prior to July 1, 2010, an  
3353 applicant shall:

3354 (a) comply with Subsections (1)(a), [~~(b)~~, ~~(d)~~, ~~(e)~~, and ~~(f)~~] (c), (d), and (e); and

3355 (b) provide the committee with verification that the applicant has received at least a  
3356 master's degree in the area of audiology from an accredited university or college, based on a  
3357 program of studies primarily in the field of audiology, and holds the CCC or its full equivalent.

3358 (3) An individual who, prior to July 1, 2010, is licensed as an audiologist under this  
3359 chapter is, on or after July 1, 2010, considered to hold a current license under this chapter as an  
3360 audiologist and is subject to this chapter.

3361 (4) To obtain and maintain a license as a speech-language pathologist, an applicant



3362 must:

3363 (a) comply with [~~Subsections (1)(a) and (b)~~] Subsection (1)(a);

3364 (b) provide the committee with verification that the applicant has received at least a  
3365 master's degree in speech-language pathology from an accredited university or college, based  
3366 on a program of studies primarily in the field of speech-language pathology;

3367 (c) be in compliance with the regulations of conduct and code of ethics for the  
3368 profession of speech-language pathology;

3369 (d) comply with Subsection [~~(1)(e)~~] (1)(b), except that the supervision and attestation  
3370 requirement shall be from a licensed speech-language pathologist rather than a licensed  
3371 audiologist; and

3372 (e) pass a nationally standardized examination in speech-language pathology which is  
3373 the same as or equivalent to the examination required for the CCC and with pass-fail criteria  
3374 equivalent to current ASHA standards, and the board may require the applicant to pass an  
3375 acceptable practical demonstration of clinical skills to an examining committee of licensed  
3376 speech-language pathologists appointed by the board.

3377 Section 55. Section **58-42a-302** is amended to read:

3378 **58-42a-302. Qualifications for licensure.**

3379 (1) An applicant for licensure as an occupational therapist shall:

3380 (a) submit an application in a form as prescribed by the division;

3381 (b) pay a fee as determined by the department under Section [63J-1-504](#);

3382 [~~(c) be of good moral character as it relates to the functions and responsibilities of the~~  
3383 ~~practice of occupational therapy;~~]

3384 [~~(d)~~] (c) graduate with a bachelor's or graduate degree for the practice of occupational  
3385 therapy from an education program accredited by the American Occupational Therapy  
3386 Association's Accreditation Council for Occupational Therapy Education, a predecessor  
3387 organization, or an equivalent organization as determined by division rule;

3388 [~~(e)~~] (d) if applying for licensure on or after July 1, 2015, complete a minimum of 24  
3389 weeks of supervised fieldwork experience; and

3390            ~~[(f)]~~ (e) pass an examination approved by the division in consultation with the board  
3391 and administered by the National Board for Certification in Occupational Therapy, or by  
3392 another nationally recognized credentialing body as approved by division rule, to demonstrate  
3393 knowledge of the practice, skills, theory, and professional ethics related to occupational  
3394 therapy.

3395            (2) All applicants for licensure as an occupational therapy assistant shall:

3396            (a) submit an application in a form as prescribed by the division;

3397            (b) pay a fee as determined by the department under Section 63J-1-504;

3398            ~~[(e) be of good moral character as it relates to the functions and responsibilities of the~~  
3399 ~~practice of occupational therapy;]~~

3400            ~~[(d)]~~ (c) graduate from an educational program for the practice of occupational therapy  
3401 as an occupational therapy assistant that is accredited by the American Occupational Therapy  
3402 Association's Accreditation Council for Occupational Therapy Education, a predecessor  
3403 organization, or an equivalent organization as determined by division rule;

3404            ~~[(e)]~~ (d) if applying for licensure on or after July 1, 2015, complete a minimum of 16  
3405 weeks of supervised fieldwork experience; and

3406            ~~[(f)]~~ (e) pass an examination approved by the division in consultation with the board  
3407 and administered by the National Board for Certification in Occupational Therapy, or by  
3408 another nationally recognized credentialing body as approved by division rule, to demonstrate  
3409 knowledge of the practice, skills, theory, and professional ethics related to occupational  
3410 therapy.

3411            (3) Notwithstanding the other requirements of this section, the division may issue a  
3412 license as an occupational therapist or as an occupational therapy assistant to an applicant who:

3413            (a) meets the requirements of receiving a license by endorsement under Section  
3414 58-1-302; or

3415            (b) has been licensed in a state, district, or territory of the United States, or in a foreign  
3416 country, where the education, experience, or examination requirements are not substantially  
3417 equal to the requirements of this state, if the applicant passes the applicable examination

3418 described in Subsection ~~[(1)(f) or (2)(f)]~~ (1)(e) or (2)(e).

3419 Section 56. Section **58-42a-501** is amended to read:

3420 **58-42a-501. Unlawful conduct.**

3421 "Unlawful conduct," as defined in Section **58-1-501** and as may be further defined by  
3422 division rule, includes:

3423 (1) engaging or offering to engage in the practice of occupational therapy unless  
3424 licensed under this chapter or exempted from licensure under Section **58-1-307** or **58-42a-304**;

3425 (2) using the title occupational therapist or occupational therapy assistant unless  
3426 licensed under this chapter; and

3427 ~~[(3) employing or aiding and abetting an unqualified or unlicensed person to engage or~~  
3428 ~~offer to engage in the practice of occupational therapy unless the person is exempted from~~  
3429 ~~licensure under Section **58-1-307** or **58-42a-304**; and]~~

3430 ~~[(4)]~~ (3) obtaining a license under this chapter by means of fraud, misrepresentation, or  
3431 concealment of a material fact.

3432 Section 57. Section **58-46a-302** is amended to read:

3433 **58-46a-302. Qualifications for licensure.**

3434 (1) Each applicant for licensure as a hearing instrument specialist shall:

3435 (a) submit to the division an application in a form prescribed by the division;

3436 (b) pay a fee as determined by the division pursuant to Section **63J-1-504**;

3437 ~~[(c) be of good moral character;]~~

3438 ~~[(d)]~~ (c) have qualified for and currently hold board certification by the National Board  
3439 for Certification - Hearing Instrument Sciences, or an equivalent certification approved by the  
3440 division in collaboration with the board;

3441 ~~[(e)]~~ (d) have passed the Utah Law and Rules Examination for Hearing Instrument  
3442 Specialists; and

3443 ~~[(f)]~~ (e) if the applicant holds a hearing instrument intern license, surrender the hearing  
3444 instrument intern license at the time of licensure as a hearing instrument specialist.

3445 (2) Each applicant for licensure as a hearing instrument intern shall:

- 3446 (a) submit to the division an application in a form prescribed by the division;
- 3447 (b) pay a fee as determined by the division pursuant to Section 63J-1-504;
- 3448 [~~(c)~~ be of good moral character;]
- 3449 [~~(d)~~ (c) have passed the Utah Law and Rules Examination for Hearing Instrument
- 3450 Specialists; and
- 3451 [~~(e)~~ (d) present evidence acceptable to the division and the board that the applicant,
- 3452 when licensed, will practice as a hearing instrument intern only under the supervision of a
- 3453 supervising hearing instrument specialist in accordance with:
- 3454 (i) Section 58-46a-302.5; and
- 3455 (ii) the supervision requirements for obtaining board certification by the National
- 3456 Board for Certification - Hearing Instrument Sciences, or an equivalent certification approved
- 3457 by the division in collaboration with the board.
- 3458 Section 58. Section 58-47b-302 is amended to read:
- 3459 **58-47b-302. License classifications -- Qualifications for licensure.**
- 3460 (1) The division shall issue licenses under this chapter in the classifications of:
- 3461 (a) massage therapist; and
- 3462 (b) massage apprentice.
- 3463 (2) Each applicant for licensure as a massage therapist shall:
- 3464 (a) submit an application in a form prescribed by the division;
- 3465 (b) pay a fee determined by the department under Section 63J-1-504;
- 3466 [~~(c)~~ be of good moral character;]
- 3467 [~~(d)~~ (c) be 18 years of age or older;
- 3468 [~~(e)~~ (d) have either:
- 3469 (i) (A) graduated from a school of massage having a curriculum which meets standards
- 3470 established by division rule made in collaboration with the board; or
- 3471 (B) completed equivalent education and training in compliance with division rule; or
- 3472 (ii) completed a massage apprenticeship program consisting of a minimum of 1,000
- 3473 hours of supervised training over a minimum of 12 months and in accordance with standards

3474 established by the division by rule made in collaboration with the board; and  
3475       ~~[(f)]~~ (e) pass examinations established by rule by the division in collaboration with the  
3476 board.

3477       (3) Each applicant for licensure as a massage apprentice shall:  
3478       (a) submit an application in a form prescribed by the division;  
3479       (b) pay a fee determined by the department under Section 63J-1-504;  
3480       ~~[(e) be of good moral character;]~~  
3481       ~~[(d)]~~ (c) be 18 years of age or older;  
3482       ~~[(e)]~~ (d) provide satisfactory evidence to the division that the individual will practice as  
3483 a massage apprentice only under the direct supervision of a licensed massage therapist in good  
3484 standing and who has engaged in the lawful practice of massage therapy as a licensed massage  
3485 therapist for not less than 6,000 hours; and  
3486       ~~[(f)]~~ (e) successfully complete an examination as required by division rule.

3487       (4) (a) Any new massage therapist or massage apprentice applicant shall submit  
3488 fingerprint cards in a form acceptable to the division at the time the license application is filed  
3489 and shall consent to a fingerprint background check by the Utah Bureau of Criminal  
3490 Identification and the Federal Bureau of Investigation regarding the application.

3491       (b) The division shall request the Department of Public Safety to complete a Federal  
3492 Bureau of Investigation criminal background check for each new massage therapist or  
3493 apprentice applicant through the national criminal history system (NCIC) or any successor  
3494 system.

3495       (c) The cost of the background check and the fingerprinting shall be borne by the  
3496 applicant.

3497       (5) (a) Any new massage therapist or massage apprentice license issued under this  
3498 section shall be conditional, pending completion of the criminal background check. If the  
3499 criminal background check discloses the applicant has failed to accurately disclose a criminal  
3500 history, the license shall be immediately and automatically revoked.

3501       (b) Any person whose conditional license has been revoked under Subsection (5)(a)

3502 shall be entitled to a post-revocation hearing to challenge the revocation. The hearing shall be  
3503 conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

3504 (6) An applicant who successfully completes a fingerprint background check under  
3505 Subsection (4) may not be required by any other state or local government body to submit to a  
3506 second fingerprint background check as a condition of lawfully practicing massage therapy in  
3507 this state.

3508 Section 59. Section **58-49-4** is amended to read:

3509 **58-49-4. Qualifications for certification -- Fee.**

3510 Each applicant for certification under this chapter shall provide proof satisfactory to the  
3511 division that the applicant:

3512 [~~(1) is of good moral character as it relates to the practice of dietetics;~~]

3513 [~~(2)~~] (1) holds a baccalaureate or post-baccalaureate degree conferred by a college or  
3514 university approved by the division at the time the degree was conferred with a major course of  
3515 study in the sciences of food, dietetics, food systems management, or an equivalent major  
3516 course of study;

3517 [~~(3)~~] (2) has completed an internship or preplanned professional baccalaureate or  
3518 post-baccalaureate experience in a dietetic program under the supervision of a certified  
3519 dietitian who is certified under this chapter or certified, registered, or licensed under the laws of  
3520 another state or territory of the United States;

3521 [~~(4)~~] (3) has satisfactorily passed a competency examination, approved by or given at  
3522 the direction of the board in collaboration with the division; and

3523 [~~(5)~~] (4) has paid the appropriate fees determined by the Department of Commerce.

3524 The fee assessed by the Department of Commerce shall be fair and reasonable and shall reflect  
3525 the cost of services provided.

3526 Section 60. Section **58-49-5** is amended to read:

3527 **58-49-5. Certification of persons currently qualified.**

3528 The requirements of Subsections [~~58-49-4(2), (3), and (4)~~] 58-49-4(1), (2), and (3) are  
3529 waived and a certificate shall be issued by the division upon application and payment of the

3530 appropriate fees by any person who, [~~prior to~~] before December 31, 1986, has provided to the  
3531 division proof that on May 1, 1985, [~~he~~] the person was and is currently registered by the  
3532 Commission on Dietetic Registration.

3533 Section 61. Section **58-49-9** is amended to read:

3534 **58-49-9. Use of titles by uncertified person.**

3535 No person, without first being certified under this chapter may:

3536 (1) assume or use the title or designation "dietitian," [~~"dietician,"~~] "certified dietitian,"  
3537 "registered dietitian," "registered dietitian nutritionist," the letters "C.D.," the letter "D.," or any  
3538 other title, words, letters, abbreviations, or insignia indicating or implying that the person is a  
3539 certified dietitian, including by using any of the preceding terms with the alternative spelling  
3540 "dietician"; or

3541 (2) represent in any way, whether orally, in writing, in print, or by signature, directly or  
3542 by implication, that [~~he~~] the person is a certified dietitian.

3543 Section 62. Section **58-53-502** is amended to read:

3544 **58-53-502. Citations -- Penalty for unlawful conduct.**

3545 (1) (a) If upon inspection or investigation, the division concludes that a person has  
3546 violated Subsections **58-1-501**(1)(a) through (d), Section **58-53-501**, or Section **58-53-603** or  
3547 any rule or order issued with respect to Section **58-53-501**, and that disciplinary action is  
3548 appropriate, the director or the director's designee from within the division for each alternative  
3549 respectively, shall promptly issue a citation to the person according to this chapter and any  
3550 pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear  
3551 before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative  
3552 Procedures Act.

3553 (i) A person who violates Subsections **58-1-501**(1)(a) through (d) or Section **58-53-501**  
3554 or any rule or order issued with respect to Section **58-53-501**, as evidenced by an uncontested  
3555 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may  
3556 be assessed a fine pursuant to Subsection (1)(i) and may, in addition to or in lieu of, be ordered  
3557 to cease and desist from violating Subsections **58-1-501**(1)(a) through (d) or Section **58-53-501**

3558 or any rule or order issued with respect to Section 58-53-501.

3559 (ii) Except for a cease and desist order, the licensure sanctions cited in Section  
3560 58-53-401 may not be assessed through a citation.

3561 (b) A citation shall:

3562 (i) be in writing;

3563 (ii) describe with particularity the nature of the violation, including a reference to the  
3564 provision of the chapter, rule, or order alleged to have been violated;

3565 (iii) clearly state that the recipient must notify the division in writing within 20  
3566 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing  
3567 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

3568 (iv) clearly explain the consequences of failure to timely contest the citation or to make  
3569 payment of any fines assessed by the citation within the time specified in the citation.

3570 (c) The division may issue a notice in lieu of a citation.

3571 (d) Each citation issued under this section, or a copy of each citation, may be served  
3572 upon any person whom a summons may be served in accordance with the Utah Rules of Civil  
3573 Procedure and may be made personally or upon the person's agent by a division investigator or  
3574 by any person specially designated by the director or by mail.

3575 (e) If within 20 calendar days from the service of the citation, the person to whom the  
3576 citation was issued fails to request a hearing to contest the citation, the citation becomes the  
3577 final order of the division and is not subject to further agency review. The period to contest a  
3578 citation may be extended by the division for cause.

3579 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation  
3580 the license of a licensee who fails to comply with a citation after it becomes final.

3581 (g) The failure of an applicant for licensure to comply with a citation after it becomes  
3582 final is a ground for denial of license.

3583 (h) No citation may be issued under this section after the expiration of [~~six months~~  
3584 ~~following the occurrence of any violation~~] one year following the date on which the violation  
3585 that is the subject of the citation is reported to the division.



3586 (i) The director or the director's designee shall assess fines according to the following:

3587 (i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to \$1,000;

3588 (ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000;

3589 and

3590 (iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to

3591 \$2,000 for each day of continued offense.

3592 (2) An action initiated for a first or second offense which has not yet resulted in a final

3593 order of the division does not preclude initiation of any subsequent action for a second or

3594 subsequent offense during the pendency of any preceding action. The final order on a

3595 subsequent action shall be considered a second or subsequent offense, respectively, provided

3596 the preceding action resulted in a first or second offense, respectively.

3597 (3) (a) The director may collect a penalty that is not paid by:

3598 (i) referring the matter to a collection agency; or

3599 (ii) bringing an action in the district court of the county where the person against whom

3600 the penalty is imposed resides or in the county where the office of the director is located.

3601 (b) A county attorney or the attorney general of the state shall provide legal assistance

3602 and advice to the director in an action to collect a penalty.

3603 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an

3604 action brought by the division to collect a penalty.

3605 Section 63. Section **58-54-302** is amended to read:

3606 **58-54-302. Requirements for licensure.**

3607 (1) Each applicant for licensure as a radiologic technologist, radiology assistant, or

3608 radiology practical technician shall:

3609 (a) submit an application in a form prescribed by the division in collaboration with the

3610 board; and

3611 (b) pay a fee as determined by the department pursuant to Section [63J-1-504](#)~~[-and]~~;

3612 ~~[(c) be of good moral character.]~~

3613 (2) Each applicant for licensure as a radiologic technologist shall, in addition to the

3614 requirements of Subsection (1):

3615           (a) be a graduate of an accredited educational program in radiologic technology or  
3616 certified by the American Registry of Radiologic Technologists or any equivalent educational  
3617 program approved by the division in collaboration with the board; and

3618           (b) have passed an examination approved by the division in collaboration with the  
3619 board.

3620           (3) Each applicant for licensure as a radiology practical technician shall, in addition to  
3621 the requirements of Subsection (1), have passed a basic examination and one or more specialty  
3622 examinations that are competency based, using a task analysis of the scope of practice of  
3623 radiology practical technicians in the state. The basic examination and the specialty  
3624 examination shall be approved by the division in collaboration with the board and the licensing  
3625 board of the profession within which the radiology practical technician will be practicing.

3626           (4) The division shall provide for administration of the radiology practical technician  
3627 examination not less than monthly at offices designated by the division and located:

3628           (a) in Salt Lake City; and

3629           (b) within each local health department jurisdictional area.

3630           (5) (a) Except as provided in Subsection (5)(b), each applicant for licensure as a  
3631 radiologist assistant shall:

3632           (i) meet the requirements of Subsections (1) and (2);

3633           (ii) have a Bachelor of Science degree; and

3634           (iii) be certified as:

3635           (A) a radiologist assistant by the American Registry of Radiologic Technologists; or

3636           (B) a radiology practitioner assistant by the Certification Board of Radiology

3637 Practitioner Assistants.

3638           (b) An individual who meets the requirements of Subsections (5)(a)(i) and (iii), but not  
3639 Subsection (5)(a)(ii), may be licensed as a radiologist assistant under this chapter until May 31,  
3640 2013, at which time, the individual must have completed the Bachelor of Science degree in  
3641 order to retain the license of radiologist assistant.

3642 Section 64. Section **58-55-103** is amended to read:

3643 **58-55-103. Construction Services Commission created -- Functions --**

3644 **Appointment -- Qualifications and terms of members -- Vacancies -- Expenses -- Meetings**

3645 **-- Concurrence.**

3646 (1) (a) There is created within the division the Construction Services Commission.

3647 (b) The commission shall:

3648 (i) with the concurrence of the director, make reasonable rules under Title 63G,

3649 Chapter 3, Utah Administrative Rulemaking Act, to administer and enforce this chapter which

3650 are consistent with this chapter including:

3651 (A) licensing of various licensees;

3652 (B) examination requirements and administration of the examinations, to include

3653 approving and establishing a passing score for applicant examinations;

3654 (C) standards of supervision for students or persons in training to become qualified to

3655 obtain a license in the trade they represent; and

3656 (D) standards of conduct for various licensees;

3657 (ii) approve or disapprove fees adopted by the division under Section [63J-1-504](#);

3658 (iii) except where the boards conduct them, conduct all administrative hearings not

3659 delegated to an administrative law judge relating to the licensing of any applicant;

3660 (iv) except as otherwise provided in Sections [38-11-207](#) and [58-55-503](#), with the

3661 concurrence of the director, impose sanctions against licensees and certificate holders with the

3662 same authority as the division under Section [58-1-401](#);

3663 (v) advise the director on the administration and enforcement of any matters affecting

3664 the division and the construction industry;

3665 (vi) advise the director on matters affecting the division budget;

3666 (vii) advise and assist trade associations in conducting construction trade seminars and

3667 industry education and promotion; and

3668 (viii) perform other duties as provided by this chapter.

3669 (2) (a) Initially the commission shall be comprised of the five members of the

3670 Contractors Licensing Board and two of the three chair persons from the Plumbers Licensing  
3671 Board, the Alarm System Security and Licensing Board, and the Electricians Licensing Board.

3672 (b) The terms of office of the commission members who are serving on the Contractors  
3673 Licensing Board shall continue as they serve on the commission.

3674 (c) Beginning July 1, 2004, the commission shall be comprised of nine members  
3675 appointed by the executive director with the approval of the governor from the following  
3676 groups:

3677 (i) one member shall be a licensed general engineering contractor;

3678 (ii) one member shall be a licensed general building contractor;

3679 (iii) two members shall be licensed residential and small commercial contractors;

3680 (iv) three members shall be the three chair persons from the Plumbers Licensing Board,  
3681 the Alarm System Security and Licensing Board, and the Electricians Licensing Board; and

3682 (v) two members shall be from the general public~~[- provided, however that the certified  
3683 public accountant on the Contractors Licensing Board will continue to serve until the current  
3684 term expires, after which both members under this Subsection (2)(c)(v) shall be appointed from  
3685 the general public].~~

3686 (3) (a) Except as required by Subsection (3)(b), as terms of current commission  
3687 members expire, the executive director with the approval of the governor shall appoint each  
3688 new member or reappointed member to a four-year term ending June 30.

3689 (b) Notwithstanding the requirements of Subsection (3)(a), the executive director with  
3690 the approval of the governor shall, at the time of appointment or reappointment, adjust the  
3691 length of terms to stagger the terms of commission members so that approximately 1/2 of the  
3692 commission members are appointed every two years.

3693 (c) A commission member may not serve more than two consecutive terms.

3694 (4) The commission shall elect annually one of its members as chair, for a term of one  
3695 year.

3696 (5) When a vacancy occurs in the membership for any reason, the replacement shall be  
3697 appointed for the unexpired term.

3698 (6) A member may not receive compensation or benefits for the member's service, but  
3699 may receive per diem and travel expenses in accordance with:

3700 (a) Section 63A-3-106;

3701 (b) Section 63A-3-107; and

3702 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
3703 63A-3-107.

3704 (7) (a) The commission shall meet at least monthly unless the director determines  
3705 otherwise.

3706 (b) The director may call additional meetings at the director's discretion, upon the  
3707 request of the chair, or upon the written request of four or more commission members.

3708 (8) (a) Five members constitute a quorum for the transaction of business.

3709 (b) If a quorum is present when a vote is taken, the affirmative vote of commission  
3710 members present is the act of the commission.

3711 (9) The commission shall comply with the procedures and requirements of Title 13,  
3712 Chapter 1, Department of Commerce, and Title 63G, Chapter 4, Administrative Procedures  
3713 Act, in all of its adjudicative proceedings.

3714 (10) (a) For purposes of this Subsection (10), "concurrence" means the entities given a  
3715 concurring role must jointly agree for the action to be taken.

3716 (b) If a provision of this chapter requires concurrence between the director or division  
3717 and the commission and no concurrence can be reached, the director or division has final  
3718 authority.

3719 (c) When this chapter requires concurrence between the director or division and the  
3720 commission:

3721 (i) the director or division shall report to and update the commission on a regular basis  
3722 related to matters requiring concurrence; and

3723 (ii) the commission shall review the report submitted by the director or division under  
3724 this Subsection (10)(c) and concur with the report, or:

3725 (A) provide a reason for not concurring with the report; and

3726 (B) provide recommendations to the director or division.

3727 Section 65. Section **58-55-106** is amended to read:

3728 **58-55-106. Surcharge fee.**

3729 (1) In addition to any other fees authorized by this chapter or by the division in  
3730 accordance with Section **63J-1-504**, the division shall require each applicant for an initial  
3731 license, renewal of a license, or reinstatement of a license under this chapter to pay a \$1  
3732 surcharge fee.

3733 (2) The surcharge fee shall be deposited in the General Fund as a dedicated credit to be  
3734 used by the division to provide each licensee under this chapter with access to an electronic  
3735 reference library that provides web-based access to national, state, and local building codes and  
3736 standards.

3737 Section 66. Section **58-55-201** is amended to read:

3738 **58-55-201. Boards created -- Duties.**

3739 (1) There is created a Plumbers Licensing Board, an Alarm System Security and  
3740 Licensing Board, and an Electricians Licensing Board. Members of the boards shall be  
3741 selected to provide representation as follows:

3742 (a) The Plumbers Licensing Board consists of [~~five~~] seven members as follows:

3743 (i) [~~two~~] three members shall be licensed from among the license classifications of  
3744 master or journeyman plumber, of whom at least one shall represent a union organization and  
3745 at least one shall be selected having no union affiliation;

3746 (ii) [~~two~~] three members shall be licensed plumbing contractors, of whom at least one  
3747 shall represent a union organization and at least one shall be selected having no union  
3748 affiliation; and

3749 (iii) one member shall be from the public at large with no history of involvement in the  
3750 construction trades.

3751 (b) (i) The Alarm System Security and Licensing Board consists of five members as  
3752 follows:

3753 (A) three individuals who are officers or owners of a licensed alarm business;

3754 (B) one individual from among nominees of the Utah Peace Officers Association; and

3755 (C) one individual representing the general public.

3756 (ii) The Alarm System Security and Licensing Board shall designate one of its  
3757 members on a permanent or rotating basis to:

3758 (A) assist the division in reviewing complaints concerning the unlawful or  
3759 unprofessional conduct of a licensee; and

3760 (B) advise the division in its investigation of these complaints.

3761 (iii) A board member who has, under this Subsection (1)(b)(iii), reviewed a complaint  
3762 or advised in its investigation is disqualified from participating with the board when the board  
3763 serves as a presiding officer in an adjudicative proceeding concerning the complaint.

3764 (c) The Electricians Licensing Board consists of [~~five~~] seven members as follows:

3765 (i) [~~two~~] three members shall be licensed from among the license classifications of  
3766 master or journeyman electrician, of whom at least one shall represent a union organization and  
3767 at least one shall be selected having no union affiliation;

3768 (ii) [~~two~~] three members shall be licensed electrical contractors, of whom at least one  
3769 shall represent a union organization and at least one shall be selected having no union  
3770 affiliation; and

3771 (iii) one member shall be from the public at large with no history of involvement in the  
3772 construction trades or union affiliation.

3773 (2) The duties, functions, and responsibilities of each board include the following:

3774 (a) recommending to the commission appropriate rules;

3775 (b) recommending to the commission policy and budgetary matters;

3776 (c) approving and establishing a passing score for applicant examinations;

3777 (d) overseeing the screening of applicants for licensing, renewal, reinstatement, and  
3778 relicensure;

3779 (e) assisting the commission in establishing standards of supervision for students or  
3780 persons in training to become qualified to obtain a license in the occupation or profession it  
3781 represents; and

3782 (f) acting as presiding officer in conducting hearings associated with the adjudicative  
3783 proceedings and in issuing recommended orders when so authorized by the commission.

3784 (3) The division in collaboration with the Plumbers Licensing Board and the  
3785 Electricians Licensing Board shall provide a preliminary report on or before October 1, 2019,  
3786 and a final written report on or before June 1, 2020, to the Business and Labor Interim  
3787 Committee and the Occupational and Professional Licensure Review Committee that provides  
3788 recommendations for consistent educational and training standards for plumber and electrician  
3789 apprentice programs in the state, including recommendations for education and training  
3790 provided by all providers, including institutions of higher education and technical colleges.

3791 Section 67. Section **58-55-302** is amended to read:

3792 **58-55-302. Qualifications for licensure.**

3793 (1) Each applicant for a license under this chapter shall:

3794 (a) submit an application prescribed by the division;

3795 (b) pay a fee as determined by the department under Section [63J-1-504](#);

3796 (c) meet the examination requirements established by this section and by rule by the  
3797 commission with the concurrence of the director, which requirements include:

3798 (i) for licensure as an apprentice electrician, apprentice plumber, or specialty  
3799 contractor, no division-administered examination is required;

3800 (ii) for licensure as a general building contractor, general engineering contractor,  
3801 residential and small commercial contractor, general plumbing contractor, residential plumbing  
3802 contractor, general electrical contractor, or residential electrical contractor, the only required  
3803 division-administered examination is a division-administered examination that covers  
3804 information from the 25-hour course described in Subsection (1)(e)(iii), which course may  
3805 have been previously completed as part of applying for any other license under this chapter,  
3806 and, if the 25-hour course was completed on or after July 1, 2019, the five-hour business law  
3807 course described in Subsection (1)(e)(iv); and

3808 (iii) if required in Section [58-55-304](#), an individual qualifier must pass the required  
3809 division-administered examination if the applicant is a business entity;



- 3810 (d) if an apprentice, identify the proposed supervisor of the apprenticeship;
- 3811 (e) if an applicant for a contractor's license:
- 3812 (i) produce satisfactory evidence of financial responsibility, except for a construction
- 3813 trades instructor for whom evidence of financial responsibility is not required;
- 3814 (ii) produce satisfactory evidence of:
- 3815 (A) except as provided in Subsection (2)(a), and except that no employment experience
- 3816 is required for licensure as a specialty contractor, two years full-time paid employment
- 3817 experience in the construction industry, which employment experience, unless more
- 3818 specifically described in this section, may be related to any contracting classification and does
- 3819 not have to include supervisory experience; and
- 3820 (B) knowledge of the principles of the conduct of business as a contractor, reasonably
- 3821 necessary for the protection of the public health, safety, and welfare;
- 3822 (iii) except as otherwise provided by rule by the commission with the concurrence of
- 3823 the director, complete a 25-hour course established by rule by the commission with the
- 3824 concurrence of the director, which is taught by an approved prelicensure course provider, and
- 3825 which course may include:
- 3826 (A) construction business practices;
- 3827 (B) bookkeeping fundamentals;
- 3828 (C) mechanics lien fundamentals;
- 3829 (D) other aspects of business and construction principles considered important by the
- 3830 commission with the concurrence of the director; and
- 3831 (E) for no additional fee, a provider-administered examination at the end of the
- 3832 25-hour course;
- 3833 (iv) complete a five-hour business and law course established by rule by the
- 3834 commission with the concurrence of the director, which is taught by an approved prelicensure
- 3835 course provider, if an applicant for licensure as a general building contractor, general
- 3836 engineering contractor, residential and small commercial contractor, general plumbing
- 3837 contractor, residential plumbing contractor, general electrical contractor, or residential

3838 electrical contractor, except that if the 25-hour course described in Subsection (1)(e)(iii) was  
3839 completed before July 1, 2019, the applicant does not need to take the business and law course;

3840 (v) (A) be a licensed master electrician if an applicant for an electrical contractor's  
3841 license or a licensed master residential electrician if an applicant for a residential electrical  
3842 contractor's license;

3843 (B) be a licensed master plumber if an applicant for a plumbing contractor's license or  
3844 a licensed master residential plumber if an applicant for a residential plumbing contractor's  
3845 license; or

3846 (C) be a licensed elevator mechanic and produce satisfactory evidence of three years  
3847 experience as an elevator mechanic if an applicant for an elevator contractor's license; and

3848 (vi) when the applicant is an unincorporated entity, provide a list of the one or more  
3849 individuals who hold an ownership interest in the applicant as of the day on which the  
3850 application is filed that includes for each individual:

3851 (A) the individual's name, address, birth date, and social security number; and

3852 (B) whether the individual will engage in a construction trade; and

3853 (f) if an applicant for a construction trades instructor license, satisfy any additional  
3854 requirements established by rule.

3855 (2) (a) If the applicant for a contractor's license described in Subsection (1) is a  
3856 building inspector, the applicant may satisfy Subsection (1)(e)(ii)(A) by producing satisfactory  
3857 evidence of two years full-time paid employment experience as a building inspector, which  
3858 shall include at least one year full-time experience as a licensed combination inspector.

3859 (b) ~~[After approval of an applicant for a contractor's license by the applicable board~~  
3860 ~~and the division, the] The applicant shall file the following with the division before the division~~  
3861 issues the license:

3862 (i) proof of workers' compensation insurance which covers employees of the applicant  
3863 in accordance with applicable Utah law;

3864 (ii) proof of public liability insurance in coverage amounts and form established by rule  
3865 except for a construction trades instructor for whom public liability insurance is not required;

3866 and

3867 (iii) proof of registration as required by applicable law with the:

3868 (A) Department of Commerce;

3869 (B) Division of Corporations and Commercial Code;

3870 (C) Unemployment Insurance Division in the Department of Workforce Services, for  
3871 purposes of Title 35A, Chapter 4, Employment Security Act;

3872 (D) State Tax Commission; and

3873 (E) Internal Revenue Service.

3874 (3) In addition to the general requirements for each applicant in Subsection (1),

3875 applicants shall comply with the following requirements to be licensed in the following  
3876 classifications:

3877 (a) (i) A master plumber shall produce satisfactory evidence that the applicant:

3878 (A) has been a licensed journeyman plumber for at least two years and had two years of  
3879 supervisory experience as a licensed journeyman plumber in accordance with division rule;

3880 (B) has received at least an associate of applied science degree or similar degree  
3881 following the completion of a course of study approved by the division and had one year of  
3882 supervisory experience as a licensed journeyman plumber in accordance with division rule; or

3883 (C) meets the qualifications for expedited licensure as established by rules made by the  
3884 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
3885 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
3886 and skills to be a licensed master plumber.

3887 (ii) An individual holding a valid Utah license as a journeyman plumber, based on at  
3888 least four years of practical experience as a licensed apprentice under the supervision of a  
3889 licensed journeyman plumber and four years as a licensed journeyman plumber, in effect  
3890 immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current  
3891 master plumber license under this chapter, and satisfies the requirements of this Subsection  
3892 (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

3893 (iii) An individual holding a valid plumbing contractor's license or residential

3894 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,  
3895 2008:

3896 (A) considered to hold a current master plumber license under this chapter if licensed  
3897 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this  
3898 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section  
3899 [58-55-303](#); and

3900 (B) considered to hold a current residential master plumber license under this chapter if  
3901 licensed as a residential plumbing contractor and a residential journeyman plumber, and  
3902 satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of  
3903 that license under Section [58-55-303](#).

3904 (b) A master residential plumber applicant shall produce satisfactory evidence that the  
3905 applicant:

3906 (i) has been a licensed residential journeyman plumber for at least two years and had  
3907 two years of supervisory experience as a licensed residential journeyman plumber in  
3908 accordance with division rule; or

3909 (ii) meets the qualifications for expedited licensure as established by rules made by the  
3910 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
3911 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
3912 and skills to be a licensed master residential plumber.

3913 (c) A journeyman plumber applicant shall produce satisfactory evidence of:

3914 (i) successful completion of the equivalent of at least four years of full-time training  
3915 and instruction as a licensed apprentice plumber under supervision of a licensed master  
3916 plumber or journeyman plumber and in accordance with a planned program of training  
3917 approved by the division;

3918 (ii) at least eight years of full-time experience approved by the division in collaboration  
3919 with the Plumbers Licensing Board; or

3920 (iii) meeting the qualifications for expedited licensure as established by rules made by  
3921 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,

3922 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
3923 and skills to be a licensed journeyman plumber.

3924 (d) A residential journeyman plumber shall produce satisfactory evidence of:

3925 (i) completion of the equivalent of at least three years of full-time training and  
3926 instruction as a licensed apprentice plumber under the supervision of a licensed residential  
3927 master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in  
3928 accordance with a planned program of training approved by the division;

3929 (ii) completion of at least six years of full-time experience in a maintenance or repair  
3930 trade involving substantial plumbing work; or

3931 (iii) meeting the qualifications for expedited licensure as established by rules made by  
3932 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
3933 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
3934 and skills to be a licensed residential journeyman plumber.

3935 (e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be  
3936 in accordance with the following:

3937 (i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be  
3938 under the immediate supervision of a licensed master plumber, licensed residential master  
3939 plumber, licensed journeyman plumber, or licensed residential journeyman plumber;

3940 (ii) beginning in a licensed apprentice plumber's fourth year of training, a licensed  
3941 apprentice plumber may work without supervision for a period not to exceed eight hours in any  
3942 24-hour period; and

3943 (iii) rules made by the commission, with the concurrence of the director, in accordance  
3944 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of  
3945 apprentices allowed under the immediate supervision of a licensed supervisor, including the  
3946 ratio of apprentices in their fourth year of training or later that are allowed to be under the  
3947 immediate supervision of a licensed supervisor.

3948 (f) A master electrician applicant shall produce satisfactory evidence that the applicant:

3949 (i) is a graduate electrical engineer of an accredited college or university approved by

3950 the division and has one year of practical electrical experience as a licensed apprentice  
3951 electrician;

3952 (ii) is a graduate of an electrical trade school, having received an associate of applied  
3953 sciences degree following successful completion of a course of study approved by the division,  
3954 and has two years of practical experience as a licensed journeyman electrician;

3955 (iii) has four years of practical experience as a journeyman electrician; or

3956 (iv) meets the qualifications for expedited licensure as established by rules made by the  
3957 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
3958 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
3959 and skills to be a licensed master electrician.

3960 (g) A master residential electrician applicant shall produce satisfactory evidence that  
3961 the applicant:

3962 (i) has at least two years of practical experience as a residential journeyman electrician;

3963 or

3964 (ii) meets the qualifications for expedited licensure as established by rules made by the  
3965 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
3966 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
3967 and skills to be a master residential electrician.

3968 (h) A journeyman electrician applicant shall produce satisfactory evidence that the  
3969 applicant:

3970 (i) has successfully completed at least four years of full-time training and instruction as  
3971 a licensed apprentice electrician under the supervision of a master electrician or journeyman  
3972 electrician and in accordance with a planned training program approved by the division;

3973 (ii) has at least eight years of full-time experience approved by the division in  
3974 collaboration with the Electricians Licensing Board; or

3975 (iii) meets the qualifications for expedited licensure as established by rules made by the  
3976 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
3977 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge

3978 and skills to be a licensed journeyman electrician.

3979 (i) A residential journeyman electrician applicant shall produce satisfactory evidence  
3980 that the applicant:

3981 (i) has successfully completed two years of training in an electrical training program  
3982 approved by the division;

3983 (ii) has four years of practical experience in wiring, installing, and repairing electrical  
3984 apparatus and equipment for light, heat, and power under the supervision of a licensed master,  
3985 journeyman, residential master, or residential journeyman electrician; or

3986 (iii) meets the qualifications for expedited licensure as established by rules made by the  
3987 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
3988 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
3989 and skills to be a licensed residential journeyman electrician.

3990 (j) The conduct of licensed apprentice electricians and their licensed supervisors shall  
3991 be in accordance with the following:

3992 (i) A licensed apprentice electrician shall be under the immediate supervision of a  
3993 licensed master, journeyman, residential master, or residential journeyman electrician;

3994 (ii) beginning in a licensed apprentice electrician's fourth year of training, a licensed  
3995 apprentice electrician may work without supervision for a period not to exceed eight hours in  
3996 any 24-hour period;

3997 (iii) rules made by the commission, with the concurrence of the director, in accordance  
3998 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of  
3999 apprentices allowed under the immediate supervision of a licensed supervisor, including the  
4000 ratio of apprentices in their fourth year of training or later that are allowed to be under the  
4001 immediate supervision of a licensed supervisor; and

4002 (iv) a licensed supervisor may have up to three licensed apprentice electricians on a  
4003 residential project, or more if established by rules made by the commission, in concurrence  
4004 with the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
4005 Act.

- 4006 (k) An alarm company applicant shall:
- 4007 (i) have a qualifying agent who is an officer, director, partner, proprietor, or manager of
- 4008 the applicant who:
- 4009 (A) demonstrates 6,000 hours of experience in the alarm company business;
- 4010 (B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm
- 4011 company business or in a construction business; and
- 4012 (C) passes an examination component established by rule by the commission with the
- 4013 concurrence of the director;
- 4014 (ii) if a corporation, provide:
- 4015 (A) the names, addresses, dates of birth, social security numbers, and fingerprint cards
- 4016 of all corporate officers, directors, and those responsible management personnel employed
- 4017 within the state or having direct responsibility for managing operations of the applicant within
- 4018 the state; and
- 4019 (B) the names, addresses, dates of birth, social security numbers, and fingerprint cards
- 4020 of all shareholders owning 5% or more of the outstanding shares of the corporation, except this
- 4021 shall not be required if the stock is publicly listed and traded;
- 4022 (iii) if a limited liability company, provide:
- 4023 (A) the names, addresses, dates of birth, social security numbers, and fingerprint cards
- 4024 of all company officers, and those responsible management personnel employed within the
- 4025 state or having direct responsibility for managing operations of the applicant within the state;
- 4026 and
- 4027 (B) the names, addresses, dates of birth, social security numbers, and fingerprint cards
- 4028 of all individuals owning 5% or more of the equity of the company;
- 4029 (iv) if a partnership, provide the names, addresses, dates of birth, social security
- 4030 numbers, and fingerprint cards of all general partners, and those responsible management
- 4031 personnel employed within the state or having direct responsibility for managing operations of
- 4032 the applicant within the state;
- 4033 (v) if a proprietorship, provide the names, addresses, dates of birth, social security



4034 numbers, and fingerprint cards of the proprietor, and those responsible management personnel  
4035 employed within the state or having direct responsibility for managing operations of the  
4036 applicant within the state;

4037 (vi) if a trust, provide the names, addresses, dates of birth, social security numbers, and  
4038 fingerprint cards of the trustee, and those responsible management personnel employed within  
4039 the state or having direct responsibility for managing operations of the applicant within the  
4040 state;

4041 (vii) be of good moral character in that officers, directors, shareholders described in  
4042 Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel  
4043 have not been convicted of a felony, a misdemeanor involving moral turpitude, or any other  
4044 crime that when considered with the duties and responsibilities of an alarm company is  
4045 considered by the board to indicate that the best interests of the public are served by granting  
4046 the applicant a license;

4047 (viii) document that none of the applicant's officers, directors, shareholders described  
4048 in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management  
4049 personnel have been declared by any court of competent jurisdiction incompetent by reason of  
4050 mental defect or disease and not been restored;

4051 (ix) document that none of the applicant's officers, directors, shareholders described in  
4052 Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel are  
4053 currently suffering from habitual drunkenness or from drug addiction or dependence;

4054 (x) file and maintain with the division evidence of:

4055 (A) comprehensive general liability insurance in form and in amounts to be established  
4056 by rule by the commission with the concurrence of the director;

4057 (B) workers' compensation insurance that covers employees of the applicant in  
4058 accordance with applicable Utah law; and

4059 (C) registration as is required by applicable law with the:

4060 (I) Division of Corporations and Commercial Code;

4061 (II) Unemployment Insurance Division in the Department of Workforce Services, for

4062 purposes of Title 35A, Chapter 4, Employment Security Act;

4063 (III) State Tax Commission; and

4064 (IV) Internal Revenue Service; and

4065 (xi) meet with the division and board.

4066 (l) Each applicant for licensure as an alarm company agent shall:

4067 (i) submit an application in a form prescribed by the division accompanied by

4068 fingerprint cards;

4069 (ii) pay a fee determined by the department under Section 63J-1-504;

4070 (iii) be of good moral character in that the applicant has not been convicted of a felony,

4071 a misdemeanor involving moral turpitude, or any other crime that when considered with the

4072 duties and responsibilities of an alarm company agent is considered by the board to indicate

4073 that the best interests of the public are served by granting the applicant a license;

4074 (iv) not have been declared by any court of competent jurisdiction incompetent by

4075 reason of mental defect or disease and not been restored;

4076 (v) not be currently suffering from habitual drunkenness or from drug addiction or

4077 dependence; and

4078 (vi) meet with the division and board if requested by the division or the board.

4079 (m) (i) Each applicant for licensure as an elevator mechanic shall:

4080 (A) provide documentation of experience and education credits of not less than three

4081 years work experience in the elevator industry, in construction, maintenance, or service and

4082 repair; and

4083 (B) satisfactorily complete a written examination administered by the division

4084 established by rule under Section 58-1-203; or

4085 (C) provide certificates of completion of an apprenticeship program for elevator

4086 mechanics, having standards substantially equal to those of this chapter and registered with the

4087 United States Department of Labor Bureau Apprenticeship and Training or a state

4088 apprenticeship council.

4089 (ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed

4090 elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing,  
4091 repairing, or maintaining an elevator, the contractor may:

4092 (I) notify the division of the unavailability of licensed personnel; and

4093 (II) request the division issue a temporary elevator mechanic license to an individual  
4094 certified by the contractor as having an acceptable combination of documented experience and  
4095 education to perform the work described in this Subsection (3)(m)(ii)(A).

4096 (B) (I) The division may issue a temporary elevator mechanic license to an individual  
4097 certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by  
4098 the appropriate fee as determined by the department under Section [63J-1-504](#).

4099 (II) The division shall specify the time period for which the license is valid and may  
4100 renew the license for an additional time period upon its determination that a shortage of  
4101 licensed elevator mechanics continues to exist.

4102 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
4103 division may make rules establishing when Federal Bureau of Investigation records shall be  
4104 checked for applicants as an alarm company or alarm company agent.

4105 (5) To determine if an applicant meets the qualifications of Subsections (3)(k)(vii) and  
4106 (3)(l)(iii), the division shall provide an appropriate number of copies of fingerprint cards to the  
4107 Department of Public Safety with the division's request to:

4108 (a) conduct a search of records of the Department of Public Safety for criminal history  
4109 information relating to each applicant for licensure as an alarm company or alarm company  
4110 agent and each applicant's officers, directors, shareholders described in Subsection  
4111 (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and

4112 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant  
4113 requiring a check of records of the Federal Bureau of Investigation for criminal history  
4114 information under this section.

4115 (6) The Department of Public Safety shall send to the division:

4116 (a) a written record of criminal history, or certification of no criminal history record, as  
4117 contained in the records of the Department of Public Safety in a timely manner after receipt of

4118 a fingerprint card from the division and a request for review of Department of Public Safety  
4119 records; and

4120 (b) the results of the Federal Bureau of Investigation review concerning an applicant in  
4121 a timely manner after receipt of information from the Federal Bureau of Investigation.

4122 (7) (a) The division shall charge each applicant for licensure as an alarm company or  
4123 alarm company agent a fee, in accordance with Section [63J-1-504](#), equal to the cost of  
4124 performing the records reviews under this section.

4125 (b) The division shall pay the Department of Public Safety the costs of all records  
4126 reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the  
4127 costs of records reviews under this section.

4128 (8) Information obtained by the division from the reviews of criminal history records of  
4129 the Department of Public Safety and the Federal Bureau of Investigation shall be used or  
4130 disseminated by the division only for the purpose of determining if an applicant for licensure as  
4131 an alarm company or alarm company agent is qualified for licensure.

4132 (9) (a) An application for licensure under this chapter shall be denied if:

4133 (i) the applicant has had a previous license, which was issued under this chapter,  
4134 suspended or revoked within two years before the date of the applicant's application;

4135 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

4136 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the  
4137 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar  
4138 status, performing similar functions, or directly or indirectly controlling the applicant has  
4139 served in any similar capacity with any person or entity which has had a previous license,  
4140 which was issued under this chapter, suspended or revoked within two years before the date of  
4141 the applicant's application;

4142 (iii) (A) the applicant is an individual or sole proprietorship; and

4143 (B) any owner or agent acting as a qualifier has served in any capacity listed in  
4144 Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under  
4145 this chapter, suspended or revoked within two years before the date of the applicant's

4146 application; or

4147 (iv) (A) the applicant includes an individual who was an owner, director, or officer of  
4148 an unincorporated entity at the time the entity's license under this chapter was revoked; and

4149 (B) the application for licensure is filed within 60 months after the revocation of the  
4150 unincorporated entity's license.

4151 (b) An application for licensure under this chapter shall be reviewed by the appropriate  
4152 licensing board prior to approval if:

4153 (i) the applicant has had a previous license, which was issued under this chapter,  
4154 suspended or revoked more than two years before the date of the applicant's application;

4155 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

4156 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the  
4157 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar  
4158 status, performing similar functions, or directly or indirectly controlling the applicant has  
4159 served in any similar capacity with any person or entity which has had a previous license,  
4160 which was issued under this chapter, suspended or revoked more than two years before the date  
4161 of the applicant's application; or

4162 (iii) (A) the applicant is an individual or sole proprietorship; and

4163 (B) any owner or agent acting as a qualifier has served in any capacity listed in  
4164 Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under  
4165 this chapter, suspended or revoked more than two years before the date of the applicant's  
4166 application.

4167 (10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status  
4168 report with the division every 30 days after the day on which the license is issued if the licensee  
4169 has more than five owners who are individuals who:

4170 (A) own an interest in the contractor that is an unincorporated entity;

4171 (B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the  
4172 division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the  
4173 unincorporated entity; and

4174 (C) engage, or will engage, in a construction trade in the state as owners of the  
4175 contractor described in Subsection (10)(a)(i)(A).

4176 (ii) If the licensee has five or fewer owners described in Subsection (10)(a)(i), the  
4177 licensee shall provide the ownership status report with an application for renewal of licensure.

4178 (b) An ownership status report required under this Subsection (10) shall:

4179 (i) specify each addition or deletion of an owner:

4180 (A) for the first ownership status report, after the day on which the unincorporated  
4181 entity is licensed under this chapter; and

4182 (B) for a subsequent ownership status report, after the day on which the previous  
4183 ownership status report is filed;

4184 (ii) be in a format prescribed by the division that includes for each owner, regardless of  
4185 the owner's percentage ownership in the unincorporated entity, the information described in  
4186 Subsection(1)(e)(vi);

4187 (iii) list the name of:

4188 (A) each officer or manager of the unincorporated entity; and

4189 (B) each other individual involved in the operation, supervision, or management of the  
4190 unincorporated entity; and

4191 (iv) be accompanied by a fee set by the division in accordance with Section [63J-1-504](#)  
4192 if the ownership status report indicates there is a change described in Subsection (10)(b)(i).

4193 (c) The division may, at any time, audit an ownership status report under this  
4194 Subsection (10):

4195 (i) to determine if financial responsibility has been demonstrated or maintained as  
4196 required under Section [58-55-306](#); and

4197 (ii) to determine compliance with Subsection [58-55-501\(23\)](#), (24), [~~(25)~~, ~~or (27)~~] or  
4198 (26) or Subsection [58-55-502\(8\)](#) or (9).

4199 (11) (a) An unincorporated entity that provides labor to an entity licensed under this  
4200 chapter by providing an individual who owns an interest in the unincorporated entity to engage  
4201 in a construction trade in Utah shall file with the division:

4202 (i) before the individual who owns an interest in the unincorporated entity engages in a  
4203 construction trade in Utah, a current list of the one or more individuals who hold an ownership  
4204 interest in the unincorporated entity that includes for each individual:

4205 (A) the individual's name, address, birth date, and social security number; and

4206 (B) whether the individual will engage in a construction trade; and

4207 (ii) every 30 days after the day on which the unincorporated entity provides the list  
4208 described in Subsection (11)(a)(i), an ownership status report containing the information that  
4209 would be required under Subsection (10) if the unincorporated entity were a licensed  
4210 contractor.

4211 (b) When filing an ownership list described in Subsection (11)(a)(i) or an ownership  
4212 status report described in Subsection (11)(a)(ii), an unincorporated entity shall pay a fee set by  
4213 the division in accordance with Section [63J-1-504](#).

4214 (12) This chapter may not be interpreted to create or support an express or implied  
4215 independent contractor relationship between an unincorporated entity described in Subsection  
4216 (10) or (11) and the owners of the unincorporated entity for any purpose, including income tax  
4217 withholding.

4218 (13) A social security number provided under Subsection (1)(e)(vi) is a private record  
4219 under Subsection [63G-2-302\(1\)\(i\)](#).

4220 Section 68. Section **58-55-305** is amended to read:

4221 **58-55-305. Exemptions from licensure.**

4222 (1) In addition to the exemptions from licensure in Section [58-1-307](#), the following  
4223 persons may engage in acts or practices included within the practice of construction trades,  
4224 subject to the stated circumstances and limitations, without being licensed under this chapter:

4225 (a) an authorized representative of the United States government or an authorized  
4226 employee of the state or any of its political subdivisions when working on construction work of  
4227 the state or the subdivision, and when acting within the terms of the person's trust, office, or  
4228 employment;

4229 (b) a person engaged in construction or operation incidental to the construction and

4230 repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation  
4231 districts, and drainage districts or construction and repair relating to farming, dairying,  
4232 agriculture, livestock or poultry raising, metal and coal mining, quarries, sand and gravel  
4233 excavations, well drilling, as defined in Section 73-3-25, hauling to and from construction  
4234 sites, and lumbering;

4235 (c) public utilities operating under the rules of the Public Service Commission on work  
4236 incidental to their own business;

4237 (d) a sole [owners] owner of property engaged in building:

4238 (i) no more than one residential structure per year on the sole owner's property and no  
4239 more than three residential structures per five years on ~~[their]~~ the sole owner's property for  
4240 ~~[their own]~~ the sole owner's noncommercial, nonpublic use~~[-except]~~, except that a person  
4241 other than the property owner or ~~[individuals]~~ a person described in Subsection (1)(e), who  
4242 engages in building ~~[the]~~ a residential structure must be licensed under this chapter if the  
4243 person is otherwise required to be licensed under this chapter; or

4244 (ii) structures on ~~[their]~~ the sole owner's property for ~~[their own]~~ the sole owner's  
4245 noncommercial, nonpublic use ~~[which]~~ that are incidental to a residential structure on the  
4246 property, including ~~[sheds, carports, or detached garages]~~ a shed, carport, or detached garage;

4247 (e) (i) a person engaged in construction or renovation of a residential building for  
4248 noncommercial, nonpublic use if that person:

4249 (A) works without compensation other than token compensation that is not considered  
4250 salary or wages; and

4251 (B) works under the direction of the property owner who engages in building the  
4252 structure; and

4253 (ii) as used in this Subsection (1)(e), "token compensation" means compensation paid  
4254 by a sole owner of property exempted from licensure under Subsection (1)(d) to a person  
4255 exempted from licensure under this Subsection (1)(e), that is:

4256 (A) minimal in value when compared with the fair market value of the services  
4257 provided by the person;



4258 (B) not related to the fair market value of the services provided by the person; and

4259 (C) is incidental to the providing of services by the person including paying for or  
4260 providing meals or refreshment while services are being provided, or paying reasonable  
4261 transportation costs incurred by the person in travel to the site of construction;

4262 (f) a person engaged in the sale or merchandising of personal property that by its design  
4263 or manufacture may be attached, installed, or otherwise affixed to real property who has  
4264 contracted with a person, firm, or corporation licensed under this chapter to install, affix, or  
4265 attach that property;

4266 (g) a contractor submitting a bid on a federal aid highway project, if, before  
4267 undertaking construction under that bid, the contractor is licensed under this chapter;

4268 (h) (i) subject to Subsection 58-1-401(2) and Sections 58-55-501 and 58-55-502, a  
4269 person engaged in the alteration, repair, remodeling, or addition to or improvement of a  
4270 building with a contracted or agreed value of less than \$3,000, including both labor and  
4271 materials, and including all changes or additions to the contracted or agreed upon work; and

4272 (ii) notwithstanding Subsection (1)(h)(i) and except as otherwise provided in this  
4273 section:

4274 (A) work in the plumbing and electrical trades on a Subsection (1)(h)(i) project within  
4275 any six month period of time:

4276 (I) must be performed by a licensed electrical or plumbing contractor, if the project  
4277 involves an electrical or plumbing system; and

4278 (II) may be performed by a licensed journeyman electrician or plumber or an individual  
4279 referred to in Subsection (1)(h)(ii)(A)(I), if the project involves a component of the system  
4280 such as a faucet, toilet, fixture, device, outlet, or electrical switch;

4281 (B) installation, repair, or replacement of a residential or commercial gas appliance or a  
4282 combustion system on a Subsection (1)(h)(i) project must be performed by a person who has  
4283 received certification under Subsection 58-55-308(2) except as otherwise provided in  
4284 Subsection 58-55-308(2)(d) or 58-55-308(3);

4285 (C) installation, repair, or replacement of water-based fire protection systems on a

4286 Subsection (1)(h)(i) project must be performed by a licensed fire suppression systems  
4287 contractor or a licensed journeyman plumber;

4288 (D) work as an alarm business or company or as an alarm company agent shall be  
4289 performed by a licensed alarm business or company or a licensed alarm company agent, except  
4290 as otherwise provided in this chapter;

4291 (E) installation, repair, or replacement of an alarm system on a Subsection (1)(h)(i)  
4292 project must be performed by a licensed alarm business or company or a licensed alarm  
4293 company agent;

4294 (F) installation, repair, or replacement of a heating, ventilation, or air conditioning  
4295 system (HVAC) on a Subsection (1)(h)(i) project must be performed by an HVAC contractor  
4296 licensed by the division;

4297 (G) installation, repair, or replacement of a radon mitigation system or a soil  
4298 depressurization system must be performed by a licensed contractor; and

4299 (H) if the total value of the project is greater than \$1,000, the person shall file with the  
4300 division a one-time affirmation, subject to periodic reaffirmation as established by division  
4301 rule, that the person has:

4302 (I) public liability insurance in coverage amounts and form established by division  
4303 rule; and

4304 (II) if applicable, workers compensation insurance which would cover an employee of  
4305 the person if that employee worked on the construction project;

4306 (i) a person practicing a specialty contractor classification or construction trade which  
4307 the director does not classify by administrative rule as significantly impacting the public's  
4308 health, safety, and welfare;

4309 (j) owners and lessees of property and persons regularly employed for wages by owners  
4310 or lessees of property or their agents for the purpose of maintaining the property, are exempt  
4311 from this chapter when doing work upon the property;

4312 (k) (i) a person engaged in minor plumbing work that is incidental, as defined by the  
4313 division by rule, to the replacement or repair of a fixture or an appliance in a residential or

4314 small commercial building, or structure used for agricultural use, as defined in Section  
4315 [15A-1-202](#), provided that no modification is made to:

- 4316 (A) existing culinary water, soil, waste, or vent piping; or
- 4317 (B) a gas appliance or combustion system; and

4318 (ii) except as provided in Subsection (1)(e), installation for the first time of a fixture or  
4319 an appliance is not included in the exemption provided under Subsection (1)(k)(i);

4320 (l) a person who ordinarily would be subject to the plumber licensure requirements  
4321 under this chapter when installing or repairing a water conditioner or other water treatment  
4322 apparatus if the conditioner or apparatus:

- 4323 (i) meets the appropriate state construction codes or local plumbing standards; and
- 4324 (ii) is installed or repaired under the direction of a person authorized to do the work  
4325 under an appropriate specialty contractor license;
- 4326 (m) a person who ordinarily would be subject to the electrician licensure requirements  
4327 under this chapter when employed by:
  - 4328 (i) railroad corporations, telephone corporations or their corporate affiliates, elevator  
4329 contractors or constructors, or street railway systems; or
  - 4330 (ii) public service corporations, rural electrification associations, or municipal utilities  
4331 who generate, distribute, or sell electrical energy for light, heat, or power;
  - 4332 (n) a person involved in minor electrical work incidental to a mechanical or service  
4333 installation, including the outdoor installation of an above-ground, prebuilt hot tub;
  - 4334 (o) a person who ordinarily would be subject to the electrician licensure requirements  
4335 under this chapter but who during calendar years 2009, 2010, or 2011 was issued a specialty  
4336 contractor license for the electrical work associated with the installation, repair, or maintenance  
4337 of solar energy panels, may continue the limited electrical work for solar energy panels under a  
4338 specialty contractor license;
  - 4339 (p) a student participating in construction trade education and training programs  
4340 approved by the commission with the concurrence of the director under the condition that:
    - 4341 (i) all work intended as a part of a finished product on which there would normally be

4342 an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed  
4343 building inspector; and

4344 (ii) a licensed contractor obtains the necessary building permits;

4345 (q) a delivery person when replacing any of the following existing equipment with a  
4346 new gas appliance, provided there is an existing gas shutoff valve at the appliance:

4347 (i) gas range;

4348 (ii) gas dryer;

4349 (iii) outdoor gas barbeque; or

4350 (iv) outdoor gas patio heater;

4351 (r) a person performing maintenance on an elevator as defined in Section 58-55-102, if  
4352 the maintenance is not related to the operating integrity of the elevator; and

4353 (s) an apprentice or helper of an elevator mechanic licensed under this chapter when  
4354 working under the general direction of the licensed elevator mechanic.

4355 (2) A compliance agency as defined in Section 15A-1-202 that issues a building permit  
4356 to a person requesting a permit as a sole owner of property referred to in Subsection (1)(d) shall  
4357 notify the division, in writing or through electronic transmission, of the issuance of the permit.

4358 Section 69. Section 58-55-308 is amended to read:

4359 **58-55-308. Scope of practice -- Installation, repair, maintenance, or replacement**  
4360 **of gas appliance, combustion system, or automatic fire sprinkler system -- Rules.**

4361 (1) (a) The commission, with the concurrence of the director, may adopt reasonable  
4362 rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define and  
4363 limit the scope of practice and operating standards of the classifications and subclassifications  
4364 licensed under this chapter in a manner consistent with established practice in the relevant  
4365 industry.

4366 (b) The commission and the director may limit the field and scope of operations of a  
4367 licensee under this chapter in accordance with the rules and the public health, safety, and  
4368 welfare, based on the licensee's education, training, experience, knowledge, and financial  
4369 responsibility.

4370 (2) (a) The work and scope of practice covered by this Subsection (2) and Subsection  
4371 (3) is the installation, repair, maintenance, cleaning, or replacement of a residential or  
4372 commercial gas appliance or combustion system.

4373 (b) The provisions of this Subsection (2) apply to any:

4374 (i) licensee under this chapter whose license authorizes the licensee to perform the  
4375 work described in Subsection (2)(a); and

4376 (ii) person exempt from licensure under Subsection 58-55-305~~[(1)(1)]~~.

4377 (c) Any person described in Subsection (2)(b) that performs work described in  
4378 Subsection (2)(a):

4379 (i) must first receive training and certification as specified in rules adopted by the  
4380 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
4381 Utah Administrative Rulemaking Act; and

4382 (ii) shall ensure that any employee authorized under other provisions of this chapter to  
4383 perform work described in Subsection (2)(a) has first received training and certification as  
4384 specified in rules adopted by the division.

4385 (d) The division may exempt from the training requirements adopted under Subsection  
4386 (2)(c) a person that has adequate experience, as determined by the division.

4387 (3) The division may exempt the following individuals from the certification  
4388 requirements adopted under Subsection (2)(c):

4389 (a) a person who has passed a test equivalent to the level of testing required by the  
4390 division for certification, or has completed an apprenticeship program that teaches the  
4391 installation of gas line appliances and is approved by the Federal Bureau of Apprenticeship  
4392 Training; and

4393 (b) a person working under the immediate one-to-one supervision of a certified natural  
4394 gas technician or a person exempt from certification.

4395 (4) (a) The work and scope of practice covered by this Subsection (4) is the  
4396 installation, repair, maintenance, or replacement of an automatic fire sprinkler system.

4397 (b) The provisions of this Subsection (4) apply to an individual acting as a qualifier for

4398 a business entity in accordance with Section 58-55-304, where the business entity seeks to  
4399 perform the work described in Subsection (4)(a).

4400 (c) Before a business entity described in Subsection (4)(b) may perform the work  
4401 described in Subsection (4)(a), the qualifier for the business entity shall:

4402 (i) be a licensed general building contractor; or

4403 (ii) obtain a certification in fire sprinkler fitting from the division by providing  
4404 evidence to the division that the qualifier has met the following requirements:

4405 (A) completing a Department of Labor federally approved apprentice training program  
4406 or completing two-years experience under the immediate supervision of a licensee who has  
4407 obtained a certification in fire sprinkler fitting; and

4408 (B) passing the Star fire sprinklerfitting mastery examination offered by the National  
4409 Inspection Testing and Certification Corporation or an equivalent examination approved by the  
4410 division.

4411 (d) The division may also issue a certification in fire sprinkler fitting to a qualifier for a  
4412 business entity who has received training and experience equivalent to the requirements of  
4413 Subsection (4)(c), as specified in rules adopted by the commission, with the concurrence of the  
4414 director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

4415 (5) This section does not prohibit a licensed specialty contractor from accepting and  
4416 entering into a contract involving the use of two or more crafts or trades if the performance of  
4417 the work in the crafts or trades, other than that in which the contractor is licensed, is incidental  
4418 and supplemental to the work for which the contractor is licensed.

4419 Section 70. Section 58-55-401 is amended to read:

4420 **58-55-401. Grounds for denial of license and disciplinary proceedings.**

4421 (1) In accordance with Section 58-1-401, the division may:

4422 (a) refuse to issue a license to an applicant;

4423 (b) refuse to renew the license of a licensee;

4424 (c) revoke the right of a licensee to recover from the Residence Lien Recovery Fund  
4425 created by Section 38-11-201;

- 4426 (d) revoke, suspend, restrict, or place on probation the license of a licensee;
- 4427 (e) issue a public or private reprimand to a licensee; and
- 4428 (f) issue a cease and desist order.
- 4429 (2) In addition to an action taken under Subsection (1), the division may take an action
- 4430 described in Subsection [58-1-401](#)(2) in relation to a license as a contractor, if:
- 4431 (a) the applicant or licensee is an unincorporated entity; and
- 4432 (b) an individual who holds an ownership interest in or is the qualifier under Section
- 4433 [58-55-304](#) of the applicant or licensee engages in:
- 4434 (i) unlawful conduct as described in Section [58-55-501](#); or
- 4435 (ii) unprofessional conduct as described in Section [58-55-502](#).
- 4436 Section 71. Section **58-55-501** is amended to read:
- 4437 **58-55-501. Unlawful conduct.**
- 4438 Unlawful conduct includes:
- 4439 (1) engaging in a construction trade, acting as a contractor, an alarm business or
- 4440 company, or an alarm company agent, or representing oneself to be engaged in a construction
- 4441 trade or to be acting as a contractor in a construction trade requiring licensure, unless the
- 4442 person doing any of these is appropriately licensed or exempted from licensure under this
- 4443 chapter;
- 4444 (2) acting in a construction trade, as an alarm business or company, or as an alarm
- 4445 company agent beyond the scope of the license held;
- 4446 (3) hiring or employing a person who is not licensed under this chapter to perform
- 4447 work on a project, unless the person:
- 4448 (a) is an employee of a person licensed under this chapter for wages; and
- 4449 (b) is not required to be licensed under this chapter;
- 4450 (4) applying for or obtaining a building permit either for oneself or another when not
- 4451 licensed or exempted from licensure as a contractor under this chapter;
- 4452 (5) issuing a building permit to any person for whom there is no evidence of a current
- 4453 license or exemption from licensure as a contractor under this chapter;

- 4454           (6) applying for or obtaining a building permit for the benefit of or on behalf of any  
4455 other person who is required to be licensed under this chapter but who is not licensed or is  
4456 otherwise not entitled to obtain or receive the benefit of the building permit;
- 4457           (7) failing to obtain a building permit when required by law or rule;
- 4458           (8) submitting a bid for any work for which a license is required under this chapter by a  
4459 person not licensed or exempted from licensure as a contractor under this chapter;
- 4460           (9) willfully or deliberately misrepresenting or omitting a material fact in connection  
4461 with an application to obtain or renew a license under this chapter;
- 4462           (10) allowing one's license to be used by another except as provided by statute or rule;
- 4463           (11) doing business under a name other than the name appearing on the license, except  
4464 as permitted by statute or rule;
- 4465           (12) if licensed as a contractor in the electrical trade or plumbing trade, journeyman  
4466 plumber, residential journeyman plumber, journeyman electrician, master electrician, or  
4467 residential electrician, failing to directly supervise an apprentice under one's supervision or  
4468 exceeding the number of apprentices one is allowed to have under the contractor's supervision;
- 4469           (13) if licensed as a contractor or representing oneself to be a contractor, receiving any  
4470 funds in payment for a specific project from an owner or any other person, which funds are to  
4471 pay for work performed or materials and services furnished for that specific project, and after  
4472 receiving the funds to exercise unauthorized control over the funds by failing to pay the full  
4473 amounts due and payable to persons who performed work or furnished materials or services  
4474 within a reasonable period of time;
- 4475           (14) employing an unlicensed alarm business or company or an unlicensed individual  
4476 as an alarm company agent, except as permitted under the exemption from licensure provisions  
4477 under Section [58-1-307](#);
- 4478           (15) if licensed as an alarm company or alarm company agent, filing with the division  
4479 fingerprint cards for an applicant which are not those of the applicant, or are in any other way  
4480 false or fraudulent and intended to mislead the division in its consideration of the applicant for  
4481 licensure;



4482 (16) if licensed under this chapter, willfully or deliberately disregarding or violating:

4483 (a) the building or construction laws of this state or any political subdivision;

4484 (b) the safety and labor laws applicable to a project;

4485 (c) any provision of the health laws applicable to a project;

4486 (d) the workers' compensation insurance laws of the state applicable to a project;

4487 (e) the laws governing withholdings for employee state and federal income taxes,

4488 unemployment taxes, Social Security payroll taxes, or other required withholdings; or

4489 (f) reporting, notification, and filing laws of this state or the federal government;

4490 [~~(17) aiding or abetting any person in evading the provisions of this chapter or rules~~

4491 ~~established under the authority of the division to govern this chapter;~~]

4492 [~~(18)~~] (17) engaging in the construction trade or as a contractor for the construction of

4493 residences of up to two units when not currently registered or exempt from registration as a

4494 qualified beneficiary under Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery

4495 Fund Act;

4496 [~~(19)~~] (18) failing, as an original contractor, as defined in Section 38-11-102, to

4497 include in a written contract the notification required in Section 38-11-108;

4498 [~~(20)~~] (19) wrongfully filing a preconstruction or construction lien in violation of

4499 Section 38-1a-308;

4500 [~~(21)~~] (20) if licensed as a contractor, not completing the approved continuing

4501 education required under Section 58-55-302.5;

4502 [~~(22)~~] (21) an alarm company allowing an employee with a temporary license under

4503 Section 58-55-312 to engage in conduct on behalf of the company outside the scope of the

4504 temporary license, as provided in Subsection 58-55-312(3)(a)(ii);

4505 [~~(23)~~] (22) an alarm company agent under a temporary license under Section 58-55-312

4506 engaging in conduct outside the scope of the temporary license, as provided in Subsection

4507 58-55-312(3)(a)(ii);

4508 [~~(24)~~] (23) (a) an unincorporated entity licensed under this chapter having an individual

4509 who owns an interest in the unincorporated entity engage in a construction trade in Utah while

4510 not lawfully present in the United States; or

4511 (b) an unincorporated entity providing labor to an entity licensed under this chapter by  
4512 providing an individual who owns an interest in the unincorporated entity to engage in a  
4513 construction trade in Utah while not lawfully present in the United States;

4514 [~~25~~] (24) an unincorporated entity failing to provide the following for an individual  
4515 who engages, or will engage, in a construction trade in Utah for the unincorporated entity, or  
4516 for an individual who engages, or will engage, in a construction trade in Utah for a separate  
4517 entity for which the unincorporated entity provides the individual as labor:

4518 (a) workers' compensation coverage:

4519 (i) to the extent required by Title 34A, Chapter 2, Workers' Compensation Act, and  
4520 Title 34A, Chapter 3, Utah Occupational Disease Act; or

4521 (ii) that would be required under the chapters listed in Subsection [~~25~~] (24)(a)(i) if  
4522 the unincorporated entity were licensed under this chapter; and

4523 (b) unemployment compensation in accordance with Title 35A, Chapter 4,  
4524 Employment Security Act, for an individual who owns, directly or indirectly, less than an 8%  
4525 interest in the unincorporated entity, as defined by rule made by the division in accordance with  
4526 Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

4527 [~~26~~] (25) the failure of a sign installation contractor or nonelectrical outdoor  
4528 advertising sign contractor, as classified and defined in division rules, to:

4529 (a) display the contractor's license number prominently on a vehicle that:

4530 (i) the contractor uses; and

4531 (ii) displays the contractor's business name; or

4532 (b) carry a copy of the contractor's license in any other vehicle that the contractor uses  
4533 at a job site, whether or not the vehicle is owned by the contractor;

4534 [~~27~~] (26) (a) an unincorporated entity licensed under this chapter having an individual  
4535 who owns an interest in the unincorporated entity engage in a construction trade in the state  
4536 while the individual is using a Social Security number that does not belong to that individual;  
4537 or

4538 (b) an unincorporated entity providing labor to an entity licensed under this chapter by  
4539 providing an individual, who owns an interest in the unincorporated entity, to engage in a  
4540 construction trade in the state while the individual is using a Social Security number that does  
4541 not belong to that individual;

4542 [~~(28)~~] (27) a contractor failing to comply with a requirement imposed by a political  
4543 subdivision, state agency, or board of education under Section 58-55-310; or

4544 [~~(29)~~] (28) failing to timely comply with the requirements described in Section  
4545 58-55-605.

4546 Section 72. Section 58-55-503 is amended to read:

4547 **58-55-503. Penalty for unlawful conduct -- Citations.**

4548 (1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1),  
4549 (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (21), (22), (23), (24), (25), (26), (27), or  
4550 (28), [~~or (29)~~] or Subsection 58-55-504(2), or who fails to comply with a citation issued under  
4551 this section after it is final, is guilty of a class A misdemeanor.

4552 (ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an  
4553 individual and does not include a sole proprietorship, joint venture, corporation, limited  
4554 liability company, association, or organization of any type.

4555 (b) A person who violates the provisions of Subsection 58-55-501(8) may not be  
4556 awarded and may not accept a contract for the performance of the work.

4557 (2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an  
4558 infraction unless the violator did so with the intent to deprive the person to whom money is to  
4559 be paid of the money received, in which case the violator is guilty of theft, as classified in  
4560 Section 76-6-412.

4561 (3) Grounds for immediate suspension of a licensee's license by the division and the  
4562 commission include:

4563 (a) the issuance of a citation for violation of Subsection 58-55-308(2), Section  
4564 58-55-501, or Subsection 58-55-504(2); and

4565 (b) the failure by a licensee to make application to, report to, or notify the division with

4566 respect to any matter for which application, notification, or reporting is required under this  
4567 chapter or rules adopted under this chapter, including:

4568 (i) applying to the division for a new license to engage in a new specialty classification  
4569 or to do business under a new form of organization or business structure;

4570 (ii) filing a current financial statement with the division; and

4571 (iii) notifying the division concerning loss of insurance coverage or change in qualifier.

4572 (4) (a) If upon inspection or investigation, the division concludes that a person has  
4573 violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),  
4574 (10), (12), (14), [~~(19)~~] (18), (20), (21), (22), (23), (24), (25), (26), (27), or (28), [~~or (29)~~],  
4575 Subsection 58-55-504(2), or any rule or order issued with respect to these subsections, and that  
4576 disciplinary action is appropriate, the director or the director's designee from within the  
4577 division shall promptly issue a citation to the person according to this chapter and any pertinent  
4578 rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an  
4579 adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

4580 (i) A person who is in violation of the provisions of Subsection 58-55-308(2),  
4581 Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), [~~(19)~~] (18), (20), (21), (22), (23), (24),  
4582 (25), (26), (27), or (28), [~~or (29)~~], or Subsection 58-55-504(2), as evidenced by an uncontested  
4583 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may  
4584 be assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be  
4585 ordered to cease and desist from violating Subsection 58-55-308(2), Subsection 58-55-501(1),  
4586 (2), (3), (9), (10), (12), [~~(14)~~] (18), (19), (20), (21), (24), (25), (26), (27), or (28), [~~or (29)~~], or  
4587 Subsection 58-55-504(2).

4588 (ii) Except for a cease and desist order, the licensure sanctions cited in Section  
4589 58-55-401 may not be assessed through a citation.

4590 (b) (i) A citation shall be in writing and describe with particularity the nature of the  
4591 violation, including a reference to the provision of the chapter, rule, or order alleged to have  
4592 been violated.

4593 (ii) A citation shall clearly state that the recipient must notify the division in writing

4594 within 20 calendar days of service of the citation if the recipient wishes to contest the citation  
4595 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

4596 (iii) A citation shall clearly explain the consequences of failure to timely contest the  
4597 citation or to make payment of any fines assessed by the citation within the time specified in  
4598 the citation.

4599 (c) A citation issued under this section, or a copy of a citation, may be served upon a  
4600 person upon whom a summons may be served:

4601 (i) in accordance with the Utah Rules of Civil Procedure;

4602 (ii) personally or upon the person's agent by a division investigator or by a person  
4603 specially designated by the director; or

4604 (iii) by mail.

4605 (d) (i) If within 20 calendar days after the day on which a citation is served, the person  
4606 to whom the citation was issued fails to request a hearing to contest the citation, the citation  
4607 becomes the final order of the division and is not subject to further agency review.

4608 (ii) The period to contest a citation may be extended by the division for cause.

4609 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation  
4610 the license of a licensee who fails to comply with a citation after it becomes final.

4611 (f) The failure of an applicant for licensure to comply with a citation after it becomes  
4612 final is a ground for denial of license.

4613 (g) A citation may not be issued under this section after the expiration of [~~six months~~  
4614 ~~following the occurrence of a violation~~] one year following the date on which the violation that  
4615 is the subject of the citation is reported to the division.

4616 (h) Except as provided in Subsection (5), the director or the director's designee shall  
4617 assess a fine in accordance with the following:

4618 (i) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;

4619 (ii) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000;

4620 and

4621 (iii) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to

4622 \$2,000 for each day of continued offense.

4623 (i) (i) For purposes of issuing a final order under this section and assessing a fine under  
4624 Subsection (4)(h), an offense constitutes a second or subsequent offense if:

4625 (A) the division previously issued a final order determining that a person committed a  
4626 first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2),  
4627 (3), (9), (10), (12), (14), [~~(19)~~] (18), (23), (24), (25), (26), (27), or (28), [~~or (29)~~]; or Subsection  
4628 58-55-504(2); or

4629 (B) (I) the division initiated an action for a first or second offense;

4630 (II) a final order has not been issued by the division in the action initiated under  
4631 Subsection (4)(i)(i)(B)(I);

4632 (III) the division determines during an investigation that occurred after the initiation of  
4633 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent  
4634 violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),  
4635 (10), (12), (14), [~~(19)~~] (18), (23), (24), (25), (26), (27), or (28), [~~or (29)~~]; or Subsection  
4636 58-55-504(2); and

4637 (IV) after determining that the person committed a second or subsequent offense under  
4638 Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under  
4639 Subsection (4)(i)(i)(B)(I).

4640 (ii) In issuing a final order for a second or subsequent offense under Subsection  
4641 (4)(i)(i), the division shall comply with the requirements of this section.

4642 (j) In addition to any other licensure sanction or fine imposed under this section, the  
4643 division shall revoke the license of a licensee that violates Subsection 58-55-501(23) or (24)  
4644 [~~or (25)~~] two or more times within a 12-month period, unless, with respect to a violation of  
4645 Subsection 58-55-501[~~(24)~~](23), the licensee can demonstrate that the licensee successfully  
4646 verified the federal legal working status of the individual who was the subject of the violation  
4647 using a status verification system, as defined in Section 13-47-102.

4648 (k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24)  
4649 [~~or (25)~~] for each individual is considered a separate violation.

4650 (5) If a person violates Section 58-55-501, the division may not treat the violation as a  
4651 subsequent violation of a previous violation if the violation occurs five years or more after the  
4652 day on which the person committed the previous violation.

4653 (6) If, after an investigation, the division determines that a person has committed  
4654 multiple of the same type of violation of Section 58-55-501, the division may treat each  
4655 violation as a separate violation of Section 58-55-501 and apply a penalty under this section to  
4656 each violation.

4657 (7) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited  
4658 into the Commerce Service Account created by Section 13-1-2.

4659 (b) A penalty that is not paid may be collected by the director by either referring the  
4660 matter to a collection agency or bringing an action in the district court of the county in which  
4661 the person against whom the penalty is imposed resides or in the county where the office of the  
4662 director is located.

4663 (c) A county attorney or the attorney general of the state shall provide legal assistance  
4664 and advice to the director in an action to collect a penalty.

4665 (d) In an action brought to collect a penalty, the court shall award reasonable attorney  
4666 fees and costs to the prevailing party.

4667 Section 73. Section 58-56-9.5 is amended to read:

4668 **58-56-9.5. Penalty for unlawful conduct -- Citations.**

4669 (1) A person who violates a provision of Section 58-56-9.1 or who fails to comply with  
4670 a citation issued under this section after it is final is guilty of a class A misdemeanor.

4671 (2) Grounds for immediate suspension of a licensee's license by the division under this  
4672 chapter include:

4673 (a) the issuance of a citation for violation of a provision of Section 58-56-9.1 or  
4674 58-56-9.3; and

4675 (b) failure by a licensee to make application to, report to, or notify the division with  
4676 respect to a matter for which application, notification, or reporting is required under this  
4677 chapter or rules made under this chapter by the division.

4678 (3) (a) If upon inspection or investigation, the division concludes that a person has  
4679 violated a provision of Section 58-56-9.1 or 58-56-9.3, or a rule or order issued with respect to  
4680 that section, and that disciplinary action is appropriate, the director or the director's designee  
4681 from within the division shall:

4682 (i) promptly issue a citation to the person according to this chapter and any pertinent  
4683 rules;

4684 (ii) attempt to negotiate a stipulated settlement; or

4685 (iii) notify the person to appear before an adjudicative proceeding conducted under  
4686 Title 63G, Chapter 4, Administrative Procedures Act.

4687 (b) (i) A person who violates a provision of Section 58-56-9.1 or 58-56-9.3, as  
4688 evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an  
4689 adjudicative proceeding, may be assessed a fine under this Subsection (3)(b) and may, in  
4690 addition to or instead of the fine, be ordered by the division to cease from violating the  
4691 provision.

4692 (ii) Except as otherwise provided in Subsection (2)(a), the division may not assess  
4693 licensure sanctions referred to in Subsection 58-56-9(1)(c) through a citation.

4694 (c) (i) Each citation shall be in writing and describe with particularity the nature of the  
4695 violation, including a reference to the provision of the chapter, rule, or order alleged to have  
4696 been violated.

4697 (ii) The citation shall clearly state that the recipient must notify the division in writing  
4698 within 20 calendar days of service of the citation if the recipient wishes to contest the citation  
4699 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

4700 (iii) The citation shall clearly explain the consequences of failure to timely contest the  
4701 citation or to make payment of any fines assessed by the citation within the time specified in  
4702 the citation.

4703 (d) Each citation issued under this section, or a copy of each citation, may be served  
4704 upon any person upon whom a summons may be served:

4705 (i) in accordance with the Utah Rules of Civil Procedure;



4706 (ii) personally or upon the person's agent by a division investigator or by any person  
4707 specially designated by the director; or

4708 (iii) by mail.

4709 (e) (i) If within 20 calendar days from the service of a citation, the person to whom the  
4710 citation was issued fails to request a hearing to contest the citation, the citation becomes the  
4711 final order of the division and is not subject to further agency review.

4712 (ii) The period to contest a citation may be extended by the division for cause.

4713 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation  
4714 the license of a licensee who fails to comply with a citation after it becomes final.

4715 (g) The failure of an applicant for licensure to comply with a citation after it becomes  
4716 final is a ground for denial of a license.

4717 (h) No citation may be issued under this section after the expiration of [~~six months~~  
4718 ~~following the occurrence of the violation~~] one year following the date on which the violation  
4719 that is the subject of the citation is reported to the division.

4720 (i) The director or the director's designee may assess fines for violations of Section  
4721 [58-56-9.1](#) or [58-56-9.3](#) as follows:

4722 (i) for a first offense determined under this Subsection (3), a fine of up to \$1,000;

4723 (ii) for a second offense, a fine of up to \$2,000; and

4724 (iii) for any subsequent offense, a fine of up to \$2,000 for each day of continued  
4725 offense.

4726 (j) For the purposes of issuing a final order under this section and assessing a fine  
4727 under Subsection (3)(i), an offense constitutes a second or subsequent offense if:

4728 (i) the division previously issued a final order determining that a person committed a  
4729 first or second offense in violation of a provision of Section [58-56-9.1](#); or

4730 (ii) (A) the division initiated an action for a first or second offense;

4731 (B) no final order has been issued by the division in the action initiated under  
4732 Subsection (3)(j)(ii)(A);

4733 (C) the division determines during an investigation that occurred after the initiation of

4734 the action under Subsection (3)(j)(ii)(A) that the person committed a second or subsequent  
4735 violation of a provision of Section 58-56-9.1; and

4736 (D) after determining that the person committed a second or subsequent offense under  
4737 Subsection (3)(j)(ii)(C), the division issues a final order on the action initiated under  
4738 Subsection (3)(j)(ii)(A).

4739 (k) In issuing a final order for a second or subsequent offense under Subsection (3)(j),  
4740 the division shall comply with the requirements of this section.

4741 (4) (a) Proceeds from a fine imposed under Subsection (3)(i) shall be deposited in the  
4742 Commerce Service Account created by Section 13-1-2.

4743 (b) The director may collect a fine that is not paid by:

4744 (i) referring the matter to a collection agency; or

4745 (ii) bringing an action in the district court of the county where the person against whom  
4746 the penalty is imposed resides or in the county where the office of the director is located.

4747 (c) A county attorney or the attorney general of the state shall provide legal assistance  
4748 and advice to the director in an action to collect a penalty.

4749 (d) A court shall award reasonable attorney fees and costs to the prevailing party in an  
4750 action brought by the division to collect a penalty.

4751 Section 74. Section 58-57-4 is amended to read:

4752 **58-57-4. Qualifications for a license.**

4753 (1) The division shall issue a respiratory care practitioner license to an applicant who  
4754 meets the requirements specified in this section.

4755 (2) An applicant seeking licensure as a respiratory care practitioner shall:

4756 (a) submit an application on a form prescribed by the division;

4757 (b) pay a fee as determined by the department pursuant to Section 63J-1-504;

4758 [~~(c) show evidence of good moral character;~~]

4759 [~~(d)~~] (c) possess a high school education or its equivalent, as determined by the  
4760 division in collaboration with the board;

4761 [~~(e)~~] (d) have completed a respiratory care practitioner educational program that is

4762 accredited by a nationally accredited organization acceptable to the division as defined by rule;  
4763 and

4764 [~~(f)~~] (e) pass an examination approved by the division in collaboration with the board.

4765 Section 75. Section **58-60-109** is amended to read:

4766 **58-60-109. Unlawful conduct.**

4767 As used in this chapter, "unlawful conduct" includes:

4768 (1) practice of the following unless licensed in the appropriate classification or  
4769 exempted from licensure under this title:

4770 (a) mental health therapy;

4771 (b) clinical social work;

4772 (c) certified social work;

4773 (d) marriage and family therapy;

4774 (e) clinical mental health counselor;

4775 (f) practice as a social service worker; or

4776 (g) substance use disorder counselor;

4777 (2) practice of mental health therapy by a licensed psychologist who has not acceptably  
4778 documented to the division the licensed psychologist's completion of the supervised training in  
4779 mental health therapy required under Subsection **58-61-304(1)**~~(f)~~(e); or

4780 (3) representing oneself as, or using the title of, the following:

4781 (a) unless currently licensed in a license classification under this title:

4782 (i) psychiatrist;

4783 (ii) psychologist;

4784 (iii) registered psychiatric mental health nurse specialist;

4785 (iv) mental health therapist;

4786 (v) clinical social worker;

4787 (vi) certified social worker;

4788 (vii) marriage and family therapist;

4789 (viii) clinical mental health counselor;

- 4790 (ix) social service worker;
- 4791 (x) substance use disorder counselor;
- 4792 (xi) associate clinical mental health counselor; or
- 4793 (xii) associate marriage and family therapist; or
- 4794 (b) unless currently in possession of the credentials described in Subsection (4), social
- 4795 worker.

4796 (4) An individual may represent oneself as a, or use the title of, social worker if the  
4797 individual possesses certified transcripts from an accredited institution of higher education,  
4798 recognized by the division in collaboration with the Social Work Licensing Board, verifying  
4799 satisfactory completion of an education and an earned degree as follows:

- 4800 (a) a bachelor's or master's degree in a social work program accredited by the Council
- 4801 on Social Work Education or by the Canadian Association of Schools of Social Work; or
- 4802 (b) a doctoral degree that contains a clinical social work concentration and practicum
- 4803 approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah
- 4804 Administrative Rulemaking Act, that is consistent with Section [58-1-203](#).

4805 Section 76. Section **58-60-115** is amended to read:

4806 **58-60-115. License by endorsement.**

4807 The division shall issue a license by endorsement under this chapter to a person who:

- 4808 (1) submits an application on a form provided by the division;
- 4809 (2) pays a fee determined by the department under Section [63J-1-504](#);
- 4810 (3) provides documentation of current licensure in good standing in a state, district, or
- 4811 territory of the United States to practice in the profession for which licensure is being sought;
- 4812 (4) except as provided in Subsection (5), provides documentation that the person has
- 4813 engaged in the lawful practice of the profession for which licensure is sought for at least 4,000
- 4814 hours, of which 1,000 hours are in mental health therapy;
- 4815 (5) if applying for a license to practice as a licensed substance use disorder counselor,
- 4816 provides documentation that the person:
- 4817 (a) has engaged in the lawful practice of the profession for at least 4,000 hours; and

4818 (b) has passed an examination approved by the division, by rule, to establish  
4819 proficiency in the profession;

4820 (6) has passed the profession specific jurisprudence examination if required of a new  
4821 applicant; and

4822 (7) is of good ~~[moral character and]~~ professional standing, and has no disciplinary  
4823 action pending or in effect against the applicant's license in any jurisdiction.

4824 Section 77. Section **58-60-117** is amended to read:

4825 **58-60-117. Externship licenses.**

4826 (1) The division shall issue a temporary license under Part 2, Social Worker Licensing  
4827 Act, Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Clinical Mental Health  
4828 Counselor Licensing Act, of this chapter to a person who:

4829 (a) submits an application for licensure under Part 2, Social Worker Licensing Act,  
4830 Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Clinical Mental Health  
4831 Counselor Licensing Act;

4832 (b) pays a fee determined by the department under Section [63J-1-504](#);

4833 (c) holds an earned doctoral degree or master's degree in a discipline that is a  
4834 prerequisite for practice as a mental health therapist;

4835 (d) has a deficiency, as defined by division rule, in course work;

4836 (e) provides mental health therapy as an employee of a public or private organization,  
4837 which provides mental health therapy, while under the supervision of a person licensed under  
4838 this chapter; and

4839 (f) ~~[is of good moral character and]~~ has no disciplinary action pending or in effect  
4840 against the applicant in connection with the practice of mental health therapy, in any  
4841 jurisdiction.

4842 (2) A temporary license issued under this section shall expire upon the earlier of:

4843 (a) issuance of the license applied for; or

4844 (b) unless the deadline is extended for good cause as determined by the division, three  
4845 years from the date the temporary license was issued.

4846 (3) The temporary license issued under this section is an externship license.

4847 Section 78. Section **58-60-205** is amended to read:

4848 **58-60-205. Qualifications for licensure or certification as a clinical social worker,**  
4849 **certified social worker, and social service worker.**

4850 (1) An applicant for licensure as a clinical social worker shall:

4851 (a) submit an application on a form provided by the division;

4852 (b) pay a fee determined by the department under Section [63J-1-504](#);

4853 [~~(c)~~ be of good moral character;]

4854 [~~(d)~~ (c) produce certified transcripts from an accredited institution of higher education  
4855 recognized by the division in collaboration with the board verifying satisfactory completion of  
4856 an education and an earned degree as follows:

4857 (i) a master's degree in a social work program accredited by the Council on Social  
4858 Work Education or by the Canadian Association of Schools of Social Work; or

4859 (ii) a doctoral degree that contains a clinical social work concentration and practicum  
4860 approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah  
4861 Administrative Rulemaking Act, that is consistent with Section [58-1-203](#);

4862 [~~(e)~~ (d) have completed a minimum of 4,000 hours of clinical social work training as  
4863 defined by division rule under Section [58-1-203](#):

4864 (i) in not less than two years;

4865 (ii) under the supervision of a supervisor approved by the division in collaboration with  
4866 the board who is a:

4867 (A) clinical mental health counselor;

4868 (B) psychiatrist;

4869 (C) psychologist;

4870 (D) registered psychiatric mental health nurse practitioner;

4871 (E) marriage and family therapist; or

4872 (F) clinical social worker; and

4873 (iii) including a minimum of two hours of training in suicide prevention via a course

4874 that the division designates as approved;

4875 ~~[(f)]~~ (e) document successful completion of not less than 1,000 hours of supervised  
4876 training in mental health therapy obtained after completion of the education requirement in  
4877 Subsection ~~[(1)(d)]~~ (1)(c), which training may be included as part of the 4,000 hours of training  
4878 in Subsection ~~[(1)(e)]~~ (1)(d), and of which documented evidence demonstrates not less than  
4879 100 of the hours were obtained under the direct supervision, as defined by rule, of a supervisor  
4880 described in Subsection ~~[(1)(e)(ii)]~~ (1)(d)(ii);

4881 ~~[(g)]~~ (f) have completed a case work, group work, or family treatment course sequence  
4882 with a clinical practicum in content as defined by rule under Section 58-1-203; and

4883 ~~[(h)]~~ (g) pass the examination requirement established by rule under Section 58-1-203.

4884 (2) An applicant for licensure as a certified social worker shall:

4885 (a) submit an application on a form provided by the division;

4886 (b) pay a fee determined by the department under Section 63J-1-504;

4887 ~~[(c) be of good moral character;]~~

4888 ~~[(d)]~~ (c) produce certified transcripts from an accredited institution of higher education  
4889 recognized by the division in collaboration with the board verifying satisfactory completion of  
4890 an education and an earned degree as follows:

4891 (i) a master's degree in a social work program accredited by the Council on Social  
4892 Work Education or by the Canadian Association of Schools of Social Work; or

4893 (ii) a doctoral degree that contains a clinical social work concentration and practicum  
4894 approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah  
4895 Administrative Rulemaking Act, that is consistent with Section 58-1-203; and

4896 ~~[(e)]~~ (d) pass the examination requirement established by rule under Section 58-1-203.

4897 (3) (a) An applicant for certification as a certified social worker intern shall meet the  
4898 requirements of Subsections (2)(a), (b), ~~[(c), and (d)]~~ and (c).

4899 (b) Certification under Subsection (3)(a) is limited to the time necessary to pass the  
4900 examination required under Subsection ~~[(2)(e)]~~ (2)(d) or six months, whichever occurs first.

4901 (c) A certified social worker intern may provide mental health therapy under the

4902 general supervision, as defined by rule, of a supervisor described in Subsection ~~[(1)(e)(ii)]~~  
4903 (1)(d)(ii).

4904 (4) An applicant for licensure as a social service worker shall:

4905 (a) submit an application on a form provided by the division;

4906 (b) pay a fee determined by the department under Section 63J-1-504;

4907 ~~[(c) be of good moral character;]~~

4908 ~~[(c)]~~ (c) produce certified transcripts from an accredited institution of higher education  
4909 recognized by the division in collaboration with the board verifying satisfactory completion of  
4910 an education and an earned degree as follows:

4911 (i) a bachelor's degree in a social work program accredited by the Council on Social  
4912 Work Education or by the Canadian Association of Schools of Social Work;

4913 (ii) a master's degree in a field approved by the division in collaboration with the  
4914 board;

4915 (iii) a bachelor's degree in any field if the applicant:

4916 (A) has completed at least three semester hours, or the equivalent, in each of the  
4917 following areas:

4918 (I) social welfare policy;

4919 (II) human growth and development; and

4920 (III) social work practice methods, as defined by rule; and

4921 (B) provides documentation that the applicant has completed at least 2,000 hours of  
4922 qualifying experience under the supervision of a mental health therapist, which experience is  
4923 approved by the division in collaboration with the board, and which is performed after  
4924 completion of the requirements to obtain the bachelor's degree required under this Subsection  
4925 (4); or

4926 (iv) successful completion of the first academic year of a Council on Social Work  
4927 Education approved master's of social work curriculum and practicum; and

4928 ~~[(e)]~~ (d) pass the examination requirement established by rule under Section 58-1-203.

4929 (5) The division shall ensure that the rules for an examination described under



4930 Subsections [~~(1)(h), (2)(e), and (4)(e)~~] (1)(g), (2)(d), and (4)(d) allow additional time to  
4931 complete the examination if requested by an applicant who is:

4932 (a) a foreign born legal resident of the United States for whom English is a second  
4933 language; or

4934 (b) an enrolled member of a federally recognized Native American tribe.

4935 Section 79. Section **58-60-207** is amended to read:

4936 **58-60-207. Scope of practice -- Limitations.**

4937 (1) (a) A clinical social worker may engage in all acts and practices defined as the  
4938 practice of clinical social work without supervision, in private and independent practice, or as  
4939 an employee of another person, limited only by the licensee's education, training, and  
4940 competence.

4941 (b) A clinical social worker may not supervise more than six individuals who are  
4942 lawfully engaged in training for the practice of mental health therapy, unless granted an  
4943 exception in writing from the division in collaboration with the board.

4944 (2) To the extent an individual is professionally prepared by the education and training  
4945 track completed while earning a master's or doctor of social work degree, a licensed certified  
4946 social worker may engage in all acts and practices defined as the practice of certified social  
4947 work consistent with the licensee's education, clinical training, experience, and competence:

4948 (a) under supervision of an individual described in Subsection **58-60-205(1)**~~(f)~~(d)(ii)  
4949 and as an employee of another person when engaged in the practice of mental health therapy;

4950 (b) without supervision and in private and independent practice or as an employee of  
4951 another person, if not engaged in the practice of mental health therapy;

4952 (c) including engaging in the private, independent, unsupervised practice of social  
4953 work as a self-employed individual, in partnership with other mental health therapists, as a  
4954 professional corporation, or in any other capacity or business entity, so long as he does not  
4955 practice unsupervised psychotherapy; and

4956 (d) supervising social service workers as provided by division rule.

4957 Section 80. Section **58-60-305** is amended to read:

4958 **58-60-305. Qualifications for licensure.**

4959 (1) All applicants for licensure as marriage and family therapists shall:

4960 (a) submit an application on a form provided by the division;

4961 (b) pay a fee determined by the department under Section 63J-1-504;

4962 [~~(c)~~ be of good moral character;]4963 [~~(d)~~ (c) produce certified transcripts evidencing completion of a masters or doctorate  
4964 degree in marriage and family therapy from:4965 (i) a program accredited by the Commission on Accreditation for Marriage and Family  
4966 Therapy Education; or4967 (ii) an accredited institution meeting criteria for approval established by rule under  
4968 Section 58-1-203;4969 [~~(e)~~ (d) have completed a minimum of 4,000 hours of marriage and family therapy  
4970 training as defined by division rule under Section 58-1-203:

4971 (i) in not less than two years;

4972 (ii) under the supervision of a mental health therapist supervisor who meets the  
4973 requirements of Section 58-60-307;4974 (iii) obtained after completion of the education requirement in Subsection [~~(1)(d)~~]  
4975 (1)(c); and4976 (iv) including a minimum of two hours of training in suicide prevention via a course  
4977 that the division designates as approved;4978 [~~(f)~~ (e) document successful completion of not less than 1,000 hours of supervised  
4979 training in mental health therapy obtained after completion of the education requirement  
4980 described in Subsection [~~(1)(d)(i) or (1)(d)(ii)~~] (1)(c)(i) or (1)(c)(ii), which training may be  
4981 included as part of the 4,000 hours of training described in Subsection [~~(1)(e)~~] (1)(d), and of  
4982 which documented evidence demonstrates not less than 100 of the supervised hours were  
4983 obtained during direct, personal supervision, as defined by rule, by a mental health therapist  
4984 supervisor qualified under Section 58-60-307; and4985 [~~(g)~~ (f) pass the examination requirement established by division rule under Section

4986 58-1-203.

4987 (2) (a) All applicants for licensure as an associate marriage and family therapist shall  
4988 comply with the provisions of Subsections [~~(1)(a), (b), (c), and (d)~~] (1)(a), (b), and (c).

4989 (b) An individual's license as an associate marriage and family therapist is limited to  
4990 the period of time necessary to complete clinical training as described in Subsections [~~(1)(e)~~  
4991 ~~and (f)~~] (1)(d) and (e) and extends not more than one year from the date the minimum  
4992 requirement for training is completed, unless the individual presents satisfactory evidence to  
4993 the division and the appropriate board that the individual is making reasonable progress toward  
4994 passing of the qualifying examination for that profession or is otherwise on a course reasonably  
4995 expected to lead to licensure, but the period of time under this Subsection (2)(b) may not  
4996 exceed two years past the date the minimum supervised clinical training requirement has been  
4997 completed.

4998 Section 81. Section **58-60-305.5** is amended to read:

4999 **58-60-305.5. Qualification for licensure before May 1, 2000.**

5000 (1) A person who was licensed under this chapter as of May 1, 2000, may apply for  
5001 renewal of licensure without being required to fulfill the educational requirements described in  
5002 Subsection **58-60-305**(1)[~~(d)~~](c).

5003 (2) A person who seeks licensure under this chapter before July 1, 2002, need comply  
5004 only with the licensure requirements in effect before May 1, 2000.

5005 Section 82. Section **58-60-308** is amended to read:

5006 **58-60-308. Scope of practice -- Limitations.**

5007 (1) A licensed marriage and family therapist may engage in all acts and practices  
5008 defined as the practice of marriage and family therapy without supervision, in private and  
5009 independent practice, or as an employee of another person, limited only by the licensee's  
5010 education, training, and competence.

5011 (2) (a) To the extent an individual has completed the educational requirements of  
5012 Subsection **58-60-305**(1)[~~(d)~~](c), a licensed associate marriage and family therapist may engage  
5013 in all acts and practices defined as the practice of marriage and family therapy if the practice is:

5014 (i) within the scope of employment as a licensed associate marriage and family  
5015 therapist with a public agency or a private clinic as defined by division rule; and

5016 (ii) under the supervision of a licensed mental health therapist who is qualified as a  
5017 supervisor under Section 58-60-307.

5018 (b) A licensed associate marriage and family therapist may not engage in the  
5019 independent practice of marriage and family therapy.

5020 Section 83. Section 58-60-405 is amended to read:

5021 **58-60-405. Qualifications for licensure.**

5022 (1) An applicant for licensure as a clinical mental health counselor shall:

5023 (a) submit an application on a form provided by the division;

5024 (b) pay a fee determined by the department under Section 63J-1-504;

5025 [~~(c)~~] be of good moral character;

5026 [~~(d)~~] (c) produce certified transcripts from an accredited institution of higher education  
5027 recognized by the division in collaboration with the board verifying satisfactory completion of:

5028 (i) an education and degree in an education program in counseling with a core  
5029 curriculum defined by division rule under Section 58-1-203 preparing one to competently  
5030 engage in mental health therapy; and

5031 (ii) an earned doctoral or master's degree resulting from that education program;

5032 [~~(e)~~] (d) have completed a minimum of 4,000 hours of clinical mental health counselor  
5033 training as defined by division rule under Section 58-1-203:

5034 (i) in not less than two years;

5035 (ii) under the supervision of a clinical mental health counselor, psychiatrist,  
5036 psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or  
5037 marriage and family therapist supervisor approved by the division in collaboration with the  
5038 board;

5039 (iii) obtained after completion of the education requirement in Subsection (1)[~~(d)~~](c);

5040 and

5041 (iv) including a minimum of two hours of training in suicide prevention via a course

5042 that the division designates as approved;

5043           ~~[(f)]~~ (e) document successful completion of not less than 1,000 hours of supervised  
 5044 training in mental health therapy obtained after completion of the education requirement in  
 5045 Subsection ~~[(1)(d)]~~ (1)(c), which training may be included as part of the 4,000 hours of training  
 5046 in Subsection ~~[(1)(e)]~~ (1)(d), and of which documented evidence demonstrates not less than  
 5047 100 of the hours were obtained under the direct supervision of a mental health therapist, as  
 5048 defined by rule; and

5049           ~~[(g)]~~ (f) pass the examination requirement established by division rule under Section  
 5050 [58-1-203](#).

5051           (2) (a) An applicant for licensure as an associate clinical mental health counselor shall  
 5052 comply with the provisions of Subsections ~~[(1)(a), (b), (c), and (d)]~~ (1)(a), (b), and (c).

5053           (b) Except as provided under Subsection (2)(c), an individual's licensure as an  
 5054 associate clinical mental health counselor is limited to the period of time necessary to complete  
 5055 clinical training as described in Subsections ~~[(1)(e) and (f)]~~ (1)(d) and (e) and extends not more  
 5056 than one year from the date the minimum requirement for training is completed.

5057           (c) The time period under Subsection (2)(b) may be extended to a maximum of two  
 5058 years past the date the minimum supervised clinical training requirement has been completed,  
 5059 if the applicant presents satisfactory evidence to the division and the appropriate board that the  
 5060 individual is:

5061           (i) making reasonable progress toward passing of the qualifying examination for that  
 5062 profession; or

5063           (ii) otherwise on a course reasonably expected to lead to licensure.

5064           Section 84. Section **58-60-407** is amended to read:

5065           **58-60-407. Scope of practice -- Limitations.**

5066           (1) (a) A licensed clinical mental health counselor may engage in all acts and practices  
 5067 defined as the practice of clinical mental health counseling without supervision, in private and  
 5068 independent practice, or as an employee of another person, limited only by the licensee's  
 5069 education, training, and competence.

5070 (b) A licensed clinical mental health counselor may not supervise more than six  
5071 individuals who are lawfully engaged in training for the practice of mental health therapy,  
5072 unless granted an exception in writing from the division in collaboration with the board.

5073 (2) (a) To the extent an individual has completed the educational requirements of  
5074 Subsection ~~58-60-305(1)(d)~~58-60-305(1)(c), a licensed associate clinical mental health counselor may  
5075 engage in all acts and practices defined as the practice of clinical mental health counseling if  
5076 the practice is:

5077 (i) within the scope of employment as a licensed clinical mental health counselor with  
5078 a public agency or private clinic as defined by division rule; and

5079 (ii) under supervision of a qualified licensed mental health therapist as defined in  
5080 Section ~~58-60-102~~.

5081 (b) A licensed associate clinical mental health counselor may not engage in the  
5082 independent practice of clinical mental health counseling.

5083 Section 85. Section ~~58-60-506~~ is amended to read:

5084 **~~58-60-506. Qualifications for licensure.~~**

5085 (1) An applicant for licensure under this part on and after July 1, 2012, must meet the  
5086 following qualifications:

5087 (a) submit an application in a form prescribed by the division;

5088 (b) pay a fee determined by the department under Section ~~63J-1-504~~;

5089 ~~[(c) be of good moral character;]~~

5090 ~~[(d)]~~ (c) satisfy the requirements of Subsection (2), (3), (4), (5), (6), or (7) respectively;

5091 and

5092 ~~[(e)]~~ (d) except for licensure as a certified substance use disorder counselor intern and a  
5093 certified advanced substance use disorder counselor intern, satisfy the examination requirement  
5094 established by division rule under Section ~~58-1-203~~.

5095 (2) In accordance with division rules, an applicant for licensure as an advanced  
5096 substance use disorder counselor shall produce:

5097 (a) certified transcripts from an accredited institution of higher education that:

- 5098 (i) meet division standards;
- 5099 (ii) verify the satisfactory completion of a baccalaureate or graduate degree; and
- 5100 (iii) verify the completion of prerequisite courses established by division rules;
- 5101 (b) documentation of the applicant's completion of a substance use disorder education
- 5102 program that includes:
- 5103 (i) at least 300 hours of substance use disorder related education, of which 200 hours
- 5104 may have been obtained while qualifying for a substance use disorder counselor license; and
- 5105 (ii) a supervised practicum of at least 350 hours, of which 200 hours may have been
- 5106 obtained while qualifying for a substance use disorder counselor license; and
- 5107 (c) documentation of the applicant's completion of at least 4,000 hours of supervised
- 5108 experience in substance use disorder treatment, of which 2,000 hours may have been obtained
- 5109 while qualifying for a substance use disorder counselor license, that:
- 5110 (i) meets division standards; and
- 5111 (ii) is performed within a four-year period after the applicant's completion of the
- 5112 substance use disorder education program described in Subsection (2)(b), unless, as determined
- 5113 by the division after consultation with the board, the time for performance is extended due to
- 5114 an extenuating circumstance.
- 5115 (3) An applicant for licensure as a certified advanced substance use disorder counselor
- 5116 shall meet the requirements in Subsections (2)(a) and (b).
- 5117 (4) (a) An applicant for licensure as a certified advanced substance use disorder
- 5118 counselor intern shall meet the requirements in Subsections (2)(a) and (b).
- 5119 (b) A certified advanced substance use disorder counselor intern license expires at the
- 5120 earlier of:
- 5121 (i) the licensee passing the examination required for licensure as a certified advanced
- 5122 substance use disorder counselor; or
- 5123 (ii) six months after the certified advanced substance use disorder counselor intern
- 5124 license is issued.
- 5125 (5) In accordance with division rules, an applicant for licensure as a substance use

5126 disorder counselor shall produce:

5127 (a) certified transcripts from an accredited institution that:

5128 (i) meet division standards;

5129 (ii) verify satisfactory completion of an associate's degree or equivalent as defined by

5130 the division in rule; and

5131 (iii) verify the completion of prerequisite courses established by division rules;

5132 (b) documentation of the applicant's completion of a substance use disorder education

5133 program that includes:

5134 (i) completion of at least 200 hours of substance use disorder related education;

5135 (ii) included in the 200 hours described in Subsection (5)(b)(i), a minimum of two

5136 hours of training in suicide prevention via a course that the division designates as approved;

5137 and

5138 (iii) completion of a supervised practicum of at least 200 hours; and

5139 (c) documentation of the applicant's completion of at least 2,000 hours of supervised

5140 experience in substance use disorder treatment that:

5141 (i) meets division standards; and

5142 (ii) is performed within a two-year period after the applicant's completion of the

5143 substance use disorder education program described in Subsection (5)(b), unless, as determined

5144 by the division after consultation with the board, the time for performance is extended due to

5145 an extenuating circumstance.

5146 (6) An applicant for licensure as a certified substance use disorder counselor shall meet

5147 the requirements of Subsections (5)(a) and (b).

5148 (7) (a) An applicant for licensure as a certified substance use disorder counselor intern

5149 shall meet the requirements of Subsections (5)(a) and (b).

5150 (b) A certified substance use disorder counselor intern license expires at the earlier of:

5151 (i) the licensee passing the examination required for licensure as a certified substance

5152 use disorder counselor; or

5153 (ii) six months after the certified substance use disorder counselor intern license is



5154 issued.

5155 Section 86. Section **58-61-304** is amended to read:

5156 **58-61-304. Qualifications for licensure by examination or endorsement.**

5157 (1) An applicant for licensure as a psychologist based upon education, clinical training,  
5158 and examination shall:

5159 (a) submit an application on a form provided by the division;

5160 (b) pay a fee determined by the department under Section [63J-1-504](#);

5161 [~~(c)~~ be of good moral character;]

5162 [~~(d)~~ (c) produce certified transcripts of credit verifying satisfactory completion of a  
5163 doctoral degree in psychology that includes specific core course work established by division  
5164 rule under Section [58-1-203](#), from an institution of higher education whose doctoral program,  
5165 at the time the applicant received the doctoral degree, met approval criteria established by  
5166 division rule made in consultation with the board;

5167 [~~(e)~~ (d) have completed a minimum of 4,000 hours of psychology training as defined  
5168 by division rule under Section [58-1-203](#) in not less than two years and under the supervision of  
5169 a psychologist supervisor approved by the division in collaboration with the board;

5170 [~~(f)~~ (e) to be qualified to engage in mental health therapy, document successful  
5171 completion of not less than 1,000 hours of supervised training in mental health therapy  
5172 obtained after completion of a master's level of education in psychology, which training may be  
5173 included as part of the 4,000 hours of training required in Subsection (1)[~~(e)~~](d), and for which  
5174 documented evidence demonstrates not less than one hour of supervision for each 40 hours of  
5175 supervised training was obtained under the direct supervision of a psychologist, as defined by  
5176 rule;

5177 [~~(g)~~ (f) pass the examination requirement established by division rule under Section  
5178 [58-1-203](#); [~~and~~]

5179 (g) consent to a criminal background check in accordance with Section [58-61-304.1](#)  
5180 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah  
5181 Administrative Rulemaking Act; and

5182 (h) meet with the board, upon request for good cause, for the purpose of evaluating the  
5183 applicant's qualifications for licensure.

5184 (2) An applicant for licensure as a psychologist by endorsement based upon licensure  
5185 in another jurisdiction shall:

5186 (a) submit an application on a form provided by the division;

5187 (b) pay a fee determined by the department under Section 63J-1-504;

5188 (c) ~~[be of good moral character and professional standing, and]~~ not have any  
5189 disciplinary action pending or in effect against the applicant's psychologist license in any  
5190 jurisdiction;

5191 (d) have passed the Utah Psychologist Law and Ethics Examination established by  
5192 division rule;

5193 (e) provide satisfactory evidence the applicant is currently licensed in another state,  
5194 district, or territory of the United States, or in any other jurisdiction approved by the division in  
5195 collaboration with the board;

5196 (f) provide satisfactory evidence the applicant has actively practiced psychology in that  
5197 jurisdiction for not less than 2,000 hours or one year, whichever is greater;

5198 (g) provide satisfactory evidence that:

5199 (i) the education, supervised experience, examination, and all other requirements for  
5200 licensure in that jurisdiction at the time the applicant obtained licensure were substantially  
5201 equivalent to the licensure requirements for a psychologist in Utah at the time the applicant  
5202 obtained licensure in the other jurisdiction; or

5203 (ii) the applicant is:

5204 (A) a current holder of Board Certified Specialist status in good standing from the  
5205 American Board of Professional Psychology;

5206 (B) currently credentialed as a health service provider in psychology by the National  
5207 Register of Health Service Providers in Psychology; or

5208 (C) currently holds a Certificate of Professional Qualification (CPQ) granted by the  
5209 Association of State and Provincial Psychology Boards; ~~[and]~~

5210 (h) consent to a criminal background check in accordance with Section 58-61-304.1  
 5211 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah  
 5212 Administrative Rulemaking Act; and

5213 ~~[(h)]~~ (i) meet with the board, upon request for good cause, for the purpose of  
 5214 evaluating the applicant's qualifications for licensure.

5215 (3) (a) An applicant for certification as a psychology resident shall comply with the  
 5216 provisions of Subsections (1)(a), (b), (c), ~~[(d)]~~ (g), and (h).

5217 (b) (i) An individual's certification as a psychology resident is limited to the period of  
 5218 time necessary to complete clinical training as described in Subsections ~~[(1)(e) and (f)]~~ (1)(d)  
 5219 and (e) and extends not more than one year from the date the minimum requirement for  
 5220 training is completed, unless the individual presents satisfactory evidence to the division and  
 5221 the Psychologist Licensing Board that the individual is making reasonable progress toward  
 5222 passing the qualifying examination or is otherwise on a course reasonably expected to lead to  
 5223 licensure as a psychologist.

5224 (ii) The period of time under Subsection (3)(b)(i) may not exceed two years past the  
 5225 date the minimum supervised clinical training requirement has been completed.

5226 Section 87. Section **58-61-304.1** is enacted to read:

5227 **58-61-304.1. Criminal background check.**

5228 (1) An applicant for licensure under this chapter who requires a criminal background  
 5229 check shall:

5230 (a) submit fingerprint cards in a form acceptable to the division at the time the license  
 5231 application is filed; and

5232 (b) consent to a fingerprint background check conducted by the Bureau of Criminal  
 5233 Identification and the Federal Bureau of Investigation regarding the application.

5234 (2) The division shall:

5235 (a) in addition to other fees authorized by this chapter, collect from each applicant  
 5236 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal  
 5237 Identification is authorized to collect for the services provided under Section 53-10-108 and the

5238 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of  
5239 obtaining federal criminal history record information;

5240 (b) submit from each applicant the fingerprint card and the fees described in  
5241 Subsection (2)(a) to the Bureau of Criminal Identification; and

5242 (c) obtain and retain in division records a signed waiver approved by the Bureau of  
5243 Criminal Identification in accordance with Section 53-10-108 for each applicant.

5244 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of  
5245 Section 53-10-108:

5246 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state  
5247 and regional criminal records databases;

5248 (b) forward the fingerprints to the Federal Bureau of Investigation for a national  
5249 criminal history background check; and

5250 (c) provide the results from the state, regional, and nationwide criminal history  
5251 background checks to the division.

5252 (4) The division may not disseminate outside of the division any criminal history  
5253 record information that the division obtains from the Bureau of Criminal Identification or the  
5254 Federal Bureau of Investigation under the criminal background check requirements of this  
5255 section.

5256 Section 88. Section **58-61-501** is amended to read:

5257 **58-61-501. Unlawful conduct.**

5258 As used in this chapter, "unlawful conduct" includes:

5259 (1) practice of psychology unless licensed as a psychologist or certified psychology  
5260 resident under this chapter or exempted from licensure under this title;

5261 (2) practice of mental health therapy by a licensed psychologist who has not acceptably  
5262 documented to the division his completion of the supervised training in psychotherapy required  
5263 under Subsection 58-61-304(1)(~~f~~)(e); or

5264 (3) representing oneself as or using the title of psychologist, or certified psychology  
5265 resident unless currently licensed under this chapter.

5266 Section 89. Section **58-61-704** is amended to read:

5267 **58-61-704. Term of license or registration.**

5268 (1) (a) The division shall issue each license under this part with a two-year renewal  
5269 cycle established by division rule.

5270 (b) The division may by rule extend or shorten a renewal cycle by as much as one year  
5271 to stagger the renewal cycles it administers.

5272 (2) At the time of renewal, the licensed individual shall show satisfactory evidence of  
5273 renewal requirements as required under this part.

5274 (3) Each license or registration expires on the expiration date shown on the license  
5275 unless renewed by the licensed individual in accordance with Section [58-1-308](#).

5276 (4) (a) A registration as a registered behavior specialist or a registered assistant  
5277 behavior specialist:

5278 (i) expires on the day the individual is no longer employed in accordance with  
5279 Subsection [~~58-61-705(5)(c) or (6)(c)~~] [58-61-705\(5\)\(d\) or \(6\)\(d\)](#); and

5280 (ii) may not be renewed.

5281 (b) The Department of Human Services, or an organization contracted with a division  
5282 of the Department of Human Services, shall notify the Division of Occupational and  
5283 Professional Licensing when a person registered under this part is no longer employed as a  
5284 registered behavior specialist or a registered assistant behavior specialist.

5285 Section 90. Section **58-61-705** is amended to read:

5286 **58-61-705. Qualifications for licensure -- By examination -- By certification.**

5287 (1) An applicant for licensure as a behavior analyst based upon education, supervised  
5288 experience, and national examination shall:

5289 (a) submit an application on a form provided by the division;

5290 (b) pay a fee determined by the department under Section [63J-1-504](#);

5291 [~~(c) be of good moral character;~~]

5292 [~~(d)~~] (c) produce certified transcripts of credit verifying satisfactory completion of a  
5293 master's or doctoral degree in applied behavior analysis from an accredited institution of higher

5294 education or an equivalent master or doctorate degree as determined by the division by  
5295 administrative rule;

5296 ~~[(e)]~~ (d) as defined by the division by administrative rule, have completed at least  
5297 1,500 hours of experiential behavior analysis training within a five year period of time with a  
5298 qualified supervisor; and

5299 ~~[(f)]~~ (e) pass the examination requirement established by division rule under Section  
5300 [58-1-203](#).

5301 (2) An applicant for licensure as a behavior analyst based upon certification shall:

5302 (a) without exception, on or before November 15, 2015, submit to the division an  
5303 application on a form provided by the division;

5304 (b) pay a fee determined by the department under Section [63J-1-504](#); and

5305 ~~[(e) be of good moral character; and]~~

5306 ~~[(d)]~~ (c) provide official verification of current certification as a board certified  
5307 behavior analyst from the Behavior Analyst Certification Board.

5308 (3) An applicant for licensure as an assistant behavior analyst based upon education,  
5309 supervised experience, and national examination shall:

5310 (a) submit an application on a form provided by the division;

5311 (b) pay a fee determined by the department under Section [63J-1-504](#);

5312 ~~[(e) be of good moral character;]~~

5313 ~~[(d)]~~ (c) produce certified transcripts of credit verifying satisfactory completion of a  
5314 bachelor's degree from an accredited institution of higher education and satisfactory completion  
5315 of specific core course work in behavior analysis established under Section [58-1-203](#) from an  
5316 accredited institution of higher education;

5317 ~~[(e)]~~ (d) as defined by the division by administrative rule, have completed at least  
5318 1,000 hours of experiential behavior analysis training within a five-year period of time with a  
5319 qualified supervisor; and

5320 ~~[(f)]~~ (e) pass the examination requirement established by division rule under Section  
5321 [58-1-203](#).

5322 (4) An applicant for licensure as an assistant behavior analyst based upon certification  
5323 shall:

5324 (a) without exception, on or before November 15, 2015, submit to the division an  
5325 application on a form provided by the division;

5326 (b) pay a fee determined by the department under Section [63J-1-504](#); and  
5327 ~~[(c) be of good moral character; and]~~

5328 ~~[(d)]~~ (c) provide official verification of current certification as a board certified  
5329 assistant behavior analyst from the Behavior Analyst Certification Board.

5330 (5) An applicant for registration as a behavior specialist based upon professional  
5331 experience in behavior analysis shall:

5332 (a) without exception, on or before November 15, 2015, submit to the division, an  
5333 application on a form provided by the division;

5334 (b) pay a fee determined by the department under Section [63J-1-504](#);  
5335 ~~[(c) be of good moral character;]~~

5336 ~~[(d)]~~ (c) have at least five years of experience as a professional engaged in the practice  
5337 of behavior analysis on or before May 15, 2015; and

5338 ~~[(e)]~~ (d) be employed as a professional engaging in the practice of behavior analysis  
5339 within an organization contracted with a division of the Utah Department of Human Services to  
5340 provide behavior analysis on or before July 1, 2015.

5341 (6) An applicant for registration as an assistant behavior specialist based upon  
5342 professional experience in behavior analysis shall:

5343 (a) without exception, on or before November 15, 2015, submit to the division, an  
5344 application on a form provided by the division;

5345 (b) pay a fee determined by the department under Section [63J-1-504](#);  
5346 ~~[(c) be of good moral character;]~~

5347 ~~[(d)]~~ (c) have at least one year of experience as a professional engaging in the practice  
5348 of behavior analysis prior to July 1, 2015; and

5349 ~~[(e)]~~ (d) be employed as a professional engaging in the practice of behavior analysis

5350 within an organization contracted with a division of the Utah Department of Human Services to  
5351 provide behavior analysis on or before July 1, 2015.

5352 Section 91. Section **58-63-302** is amended to read:

5353 **58-63-302. Qualifications for licensure.**

5354 (1) Each applicant for licensure as an armored car company or a contract security  
5355 company shall:

5356 (a) submit an application in a form prescribed by the division;

5357 (b) pay a fee determined by the department under Section [63J-1-504](#);

5358 (c) have a qualifying agent who:

5359 (i) shall meet with the division and the board and demonstrate that the applicant and  
5360 the qualifying agent meet the requirements of this section;

5361 (ii) is a resident of the state and is a corporate officer or owner of the applicant;

5362 (iii) exercises material day-to-day authority in the conduct of the applicant's business  
5363 by making substantive technical and administrative decisions and whose primary employment  
5364 is with the applicant;

5365 (iv) is not concurrently acting as a qualifying agent or employee of another armored car  
5366 company or contract security company and is not engaged in any other employment on a  
5367 regular basis;

5368 (v) is not involved in any activity that would conflict with the qualifying agent's duties  
5369 and responsibilities under this chapter to ensure that the qualifying agent's and the applicant's  
5370 performance under this chapter does not jeopardize the health or safety of the general public;

5371 (vi) is not an employee of a government agency;

5372 (vii) passes an examination component established by rule by the division in  
5373 collaboration with the board; and

5374 (viii) (A) demonstrates 6,000 hours of compensated experience as a manager,  
5375 supervisor, or administrator of an armored car company or a contract security company; or

5376 (B) demonstrates 6,000 hours of supervisory experience acceptable to the division in  
5377 collaboration with the board with a federal, United States military, state, county, or municipal



5378 law enforcement agency;

5379 (d) if a corporation, provide:

5380 (i) the names, addresses, dates of birth, and social security numbers of all corporate

5381 officers, directors, and those responsible management personnel employed within the state or

5382 having direct responsibility for managing operations of the applicant within the state; and

5383 (ii) the names, addresses, dates of birth, and social security numbers, of all

5384 shareholders owning 5% or more of the outstanding shares of the corporation, unless waived by

5385 the division if the stock is publicly listed and traded;

5386 (e) if a limited liability company, provide:

5387 (i) the names, addresses, dates of birth, and social security numbers of all company

5388 officers, and those responsible management personnel employed within the state or having

5389 direct responsibility for managing operations of the applicant within the state; and

5390 (ii) the names, addresses, dates of birth, and social security numbers of all individuals

5391 owning 5% or more of the equity of the company;

5392 (f) if a partnership, provide the names, addresses, dates of birth, and social security

5393 numbers of all general partners, and those responsible management personnel employed within

5394 the state or having direct responsibility for managing operations of the applicant within the

5395 state;

5396 (g) if a proprietorship, provide the names, addresses, dates of birth, and social security

5397 numbers of the proprietor, and those responsible management personnel employed within the

5398 state or having direct responsibility for managing operations of the applicant within the state;

5399 (h) have good moral character in that officers, directors, shareholders described in

5400 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have not

5401 been convicted of:

5402 (i) a felony;

5403 (ii) a misdemeanor involving moral turpitude; or

5404 (iii) a crime that when considered with the duties and responsibilities of a contract

5405 security company or an armored car company by the division and the board indicates that the

5406 best interests of the public are not served by granting the applicant a license;

5407       (i) document that none of the applicant's officers, directors, shareholders described in

5408 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel:

5409       (i) have been declared by a court of competent jurisdiction incompetent by reason of

5410 mental defect or disease and not been restored; and

5411       (ii) currently suffer from habitual drunkenness or from drug addiction or dependence;

5412       (j) file and maintain with the division evidence of:

5413       (i) comprehensive general liability insurance in a form and in amounts established by

5414 rule by the division in collaboration with the board;

5415       (ii) workers' compensation insurance that covers employees of the applicant in

5416 accordance with applicable Utah law;

5417       (iii) registration with the Division of Corporations and Commercial Code; and

5418       (iv) registration as required by applicable law with the:

5419       (A) Unemployment Insurance Division in the Department of Workforce Services, for

5420 purposes of Title 35A, Chapter 4, Employment Security Act;

5421       (B) State Tax Commission; and

5422       (C) Internal Revenue Service; and

5423       (k) meet with the division and board if requested by the division or board.

5424       (2) Each applicant for licensure as an armed private security officer shall:

5425       (a) submit an application in a form prescribed by the division;

5426       (b) pay a fee determined by the department under Section [63J-1-504](#);

5427       (c) have good moral character in that the applicant has not been convicted of:

5428       (i) a felony;

5429       (ii) a misdemeanor involving moral turpitude; or

5430       (iii) a crime that when considered with the duties and responsibilities of an armed

5431 private security officer by the division and the board indicates that the best interests of the

5432 public are not served by granting the applicant a license;

5433       (d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec.

- 5434 922(g);
- 5435 (e) not have been declared incompetent by a court of competent jurisdiction by reason
- 5436 of mental defect or disease and not been restored;
- 5437 (f) not be currently suffering from habitual drunkenness or from drug addiction or
- 5438 dependence;
- 5439 (g) successfully complete basic education and training requirements established by rule
- 5440 by the division in collaboration with the board, which shall include a minimum of eight hours
- 5441 of classroom or online curriculum;
- 5442 (h) successfully complete firearms training requirements established by rule by the
- 5443 division in collaboration with the board, which shall include a minimum of 12 hours of
- 5444 training;
- 5445 (i) pass the examination requirement established by rule by the division in
- 5446 collaboration with the board; and
- 5447 (j) meet with the division and board if requested by the division or the board.
- 5448 (3) Each applicant for licensure as an unarmed private security officer shall:
- 5449 (a) submit an application in a form prescribed by the division;
- 5450 (b) pay a fee determined by the department under Section [63J-1-504](#);
- 5451 (c) have good moral character in that the applicant has not been convicted of:
- 5452 (i) a felony;
- 5453 (ii) a misdemeanor involving moral turpitude; or
- 5454 (iii) a crime that when considered with the duties and responsibilities of an unarmed
- 5455 private security officer by the division and the board indicates that the best interests of the
- 5456 public are not served by granting the applicant a license;
- 5457 (d) not have been declared incompetent by a court of competent jurisdiction by reason
- 5458 of mental defect or disease and not been restored;
- 5459 (e) not be currently suffering from habitual drunkenness or from drug addiction or
- 5460 dependence;
- 5461 (f) successfully complete basic education and training requirements established by rule

5462 by the division in collaboration with the board, which shall include a minimum of eight hours  
5463 of classroom or online curriculum;

5464 (g) pass the examination requirement established by rule by the division in  
5465 collaboration with the board; and

5466 (h) meet with the division and board if requested by the division or board.

5467 (4) Each applicant for licensure as an armored car security officer shall:

5468 (a) submit an application in a form prescribed by the division;

5469 (b) pay a fee determined by the department under Section [63J-1-504](#);

5470 (c) have good moral character in that the applicant has not been convicted of:

5471 (i) a felony;

5472 (ii) a misdemeanor involving moral turpitude; or

5473 (iii) a crime that when considered with the duties and responsibilities of an armored car  
5474 security officer by the division and the board indicates that the best interests of the public are  
5475 not served by granting the applicant a license;

5476 (d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec.  
5477 922(g);

5478 (e) not have been declared incompetent by a court of competent jurisdiction by reason  
5479 of mental defect or disease and not been restored;

5480 (f) not be currently suffering from habitual drunkenness or from drug addiction or  
5481 dependence;

5482 (g) successfully complete basic education and training requirements established by rule  
5483 by the division in collaboration with the board;

5484 (h) successfully complete firearms training requirements established by rule by the  
5485 division in collaboration with the board;

5486 (i) pass the examination requirements established by rule by the division in  
5487 collaboration with the board; and

5488 (j) meet with the division and board if requested by the division or the board.

5489 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

5490 division may make a rule establishing when the division shall request a Federal Bureau of  
5491 Investigation records' review for an applicant who is applying for licensure or licensure renewal  
5492 under this chapter.

5493 (6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c),  
5494 (3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint  
5495 cards to the Department of Public Safety with the division's request to:

5496 (a) conduct a search of records of the Department of Public Safety for criminal history  
5497 information relating to each applicant for licensure under this chapter and each applicant's  
5498 officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and  
5499 responsible management personnel; and

5500 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant  
5501 requiring a check of records of the FBI for criminal history information under this section.

5502 (7) The Department of Public Safety shall send the division:

5503 (a) a written record of criminal history, or certification of no criminal history record, as  
5504 contained in the records of the Department of Public Safety in a timely manner after receipt of  
5505 a fingerprint card from the division and a request for review of Department of Public Safety  
5506 records; and

5507 (b) the results of the FBI review concerning an applicant in a timely manner after  
5508 receipt of information from the FBI.

5509 (8) (a) The division shall charge each applicant a fee, in accordance with Section  
5510 [63J-1-504](#), equal to the cost of performing the records reviews under this section.

5511 (b) The division shall pay the Department of Public Safety the costs of all records  
5512 reviews, and the Department of Public Safety shall pay the FBI the costs of records reviews  
5513 under this chapter.

5514 (9) The division shall use or disseminate the information it obtains from the reviews of  
5515 criminal history records of the Department of Public Safety and the FBI only to determine if an  
5516 applicant for licensure or licensure renewal under this chapter is qualified for licensure.

5517 Section 92. Section **58-63-306** is amended to read:

5518 **58-63-306. Replacement of qualifying agent.**

5519 If the qualifying agent of an armored car company or a contract security company  
5520 ceases to perform the agent's duties on a regular basis, the licensee shall:

- 5521 (1) notify the division in writing within 15 days [~~by registered or certified mail~~]; and  
5522 (2) replace the qualifying agent within 60 days after the time required for notification  
5523 to the division.

5524 Section 93. Section **58-63-503** is amended to read:

5525 **58-63-503. Penalties.**

5526 (1) Unless Subsection (2) applies, an individual who commits an act of unlawful  
5527 conduct under Section **58-63-501** or who fails to comply with a citation issued under this  
5528 section after it becomes final is guilty of a class A misdemeanor.

5529 (2) The division may immediately suspend a license issued under this chapter of a  
5530 person who is given a citation for violating Subsection **58-63-501**(1), (2), (4), or (5).

5531 (3) (a) If upon inspection or investigation, the division determines that a person has  
5532 violated Subsection **58-63-501**(1), (2), (4), or (5) or any rule made or order issued under those  
5533 subsections, and that disciplinary action is warranted, the director or the director's designee  
5534 within the division shall promptly issue a citation to the person and:

5535 (i) attempt to negotiate a stipulated settlement; or

5536 (ii) notify the person to appear for an adjudicative proceeding conducted under Title  
5537 63G, Chapter 4, Administrative Procedures Act.

5538 (b) (i) The division may fine a person who violates Subsection **58-63-501**(1), (2), (4),  
5539 or (5), as evidenced by an uncontested citation, a stipulated settlement, or a finding of a  
5540 violation in an adjudicative proceeding held under Subsection (3)(a)(ii), or order the person to  
5541 cease and desist from the violation, or do both.

5542 (ii) Except for a cease and desist order, the division may not impose the licensure  
5543 sanctions listed in Section **58-63-401** through the issuance of a citation under this section.

5544 (c) The written citation shall:

5545 (i) describe the nature of the violation, including a reference to the allegedly violated

5546 statute, rule, or order;

5547 (ii) state the recipient must notify the division in writing within 20 calendar days of  
5548 issuance of the citation if the recipient wants to contest the citation at the adjudicative  
5549 proceeding referred to in Subsection (3)(a)(ii); and

5550 (iii) explain the consequences of failure to timely contest the citation or to make  
5551 payment of a fine assessed under the citation with the time specified in the citation.

5552 (d) (i) The division may serve a citation issued under this section, or a copy of the  
5553 citation, upon an individual who is subject to service of a summons under the Utah Rules of  
5554 Civil Procedure.

5555 (ii) (A) The division may serve the individual personally or serve the individual's  
5556 agent.

5557 (B) The division may serve the summons by a division investigator, by a person  
5558 designated by the director, or by mail.

5559 (e) (i) If within 20 days from the service of a citation the person to whom the citation  
5560 was issued fails to request a hearing to contest the citation, the citation becomes the final order  
5561 of the division and is not subject to further agency review.

5562 (ii) The division may grant an extension of the 20-day period for cause.

5563 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation  
5564 the license of a licensee who fails to comply with a citation after it becomes final.

5565 (g) The division may not issue a citation for an alleged violation under this section  
5566 after the expiration of [~~six months following the occurrence of the alleged violation~~] one year  
5567 following the date on which the violation that is the subject of the citation is reported to the  
5568 division.

5569 (h) The director or the director's designee may assess fines under this section as  
5570 follows:

5571 (i) for a first offense under Subsection (3)(a), a fine of up to \$1,000;

5572 (ii) for a second offense under Subsection (3)(a), a fine of up to \$2,000; and

5573 (iii) for a subsequent offense under Subsection (3)(a), a fine of up to \$2,000 for each

5574 day of continued violation.

5575 (i) (i) For purposes of issuing a final order under this section and assessing a fine under  
5576 Subsection (3)(h), an offense is a second or subsequent offense if:

5577 (A) the division previously issued a final order determining that a person committed a  
5578 first or second offense in violation of Subsection 58-63-501(1) or (4); or

5579 (B) (I) the division initiated an action for a first or second offense;

5580 (II) no final order has been issued by the division in an action initiated under  
5581 Subsection (3)(i)(i)(B)(I);

5582 (III) the division determines during an investigation that occurred after the initiation of  
5583 the action under Subsection (3)(i)(i)(B)(I) that the person committed a second or subsequent  
5584 violation of Subsection 58-63-501(1) or (4); and

5585 (IV) after determining that the person committed a second or subsequent offense under  
5586 Subsection (3)(i)(i)(B)(III), the division issues a final order on the action initiated under  
5587 Subsection (3)(i)(i)(B)(I).

5588 (ii) In issuing a final order for a second or subsequent offense under Subsection  
5589 (3)(i)(i), the division shall comply with the requirements of this section.

5590 (4) (a) The division shall deposit a fine imposed by the director under Subsection (3)(h)  
5591 in the General Fund as a dedicated credit for use by the division for the purposes listed in  
5592 Section 58-63-103.

5593 (b) The director may collect a fine that is not paid by:

5594 (i) referring the matter to a collection agency; or

5595 (ii) bringing an action in the district court of the county where the person against whom  
5596 the penalty is imposed resides or in the county where the office of the director is located.

5597 (c) A county attorney or the attorney general of the state shall provide legal assistance  
5598 and advice to the director in an action to collect a penalty.

5599 (d) A court shall award reasonable attorney fees and costs to the prevailing party in an  
5600 action brought by the division to collect a penalty.

5601 Section 94. Section 58-64-302 is amended to read:



5602           **58-64-302. Qualifications for licensure.**

5603           (1) Each applicant for licensure as a deception detection examiner:

5604           (a) shall submit an application in a form prescribed by the division;

5605           (b) shall pay a fee determined by the department under Section [63J-1-504](#);

5606           (c) [~~shall be of good moral character in that the applicant has not~~] may not have been  
5607 convicted of a felony, a misdemeanor involving moral turpitude, or any other crime [~~which~~]  
5608 that when considered with the duties and responsibilities of a deception detection examiner is  
5609 considered by the division and the board to indicate that the best interests of the public will not  
5610 be served by granting the applicant a license;

5611           (d) may not have been declared by any court of competent jurisdiction incompetent by  
5612 reason of mental defect or disease and not been restored;

5613           (e) may not be currently suffering from habitual drunkenness or from drug addiction or  
5614 dependence;

5615           (f) shall have completed one of the following:

5616           (i) have earned a bachelor's degree from a four year university or college meeting  
5617 standards established by the division by rule in collaboration with the board;

5618           (ii) have completed not less than 8,000 hours of investigation experience approved by  
5619 the division in collaboration with the board; or

5620           (iii) have completed a combination of university or college education and investigation  
5621 experience, as defined by rule by the division in collaboration with the board as being  
5622 equivalent to the requirements under Subsection (1)(f)(i) or (1)(f)(ii);

5623           (g) shall have successfully completed a training program in detection deception  
5624 meeting criteria established by rule by the division in collaboration with the board; and

5625           (h) shall have performed satisfactorily as a licensed deception detection intern for a  
5626 period of not less than one year and shall have satisfactorily conducted not less than 100  
5627 deception detection examinations under the supervision of a licensed deception detection  
5628 examiner.

5629           (2) Each applicant for licensure as a deception detection intern:

- 5630 (a) shall submit an application in a form prescribed by the division;
- 5631 (b) shall pay a fee determined by the department under Section 63J-1-504;
- 5632 (c) ~~[shall be of good moral character in that the applicant has not]~~ may not have been  
5633 convicted of a felony, a misdemeanor involving moral turpitude, or any other crime ~~[which]~~  
5634 that when considered with the duties and responsibilities of a deception detection intern is  
5635 considered by the division and the board to indicate that the best interests of the public will not  
5636 be served by granting the applicant a license;
- 5637 (d) may not have been declared by any court of competent jurisdiction incompetent by  
5638 reason of mental defect or disease and not been restored;
- 5639 (e) may not be currently suffering from habitual drunkenness or from drug addiction or  
5640 dependence;
- 5641 (f) shall have completed one of the following:
- 5642 (i) have earned a bachelor's degree from a four year university or college meeting  
5643 standards established by the division by rule in collaboration with the board;
- 5644 (ii) have completed not less than 8,000 hours of investigation experience approved by  
5645 the division in collaboration with the board; or
- 5646 (iii) have completed a combination of university or college education and investigation  
5647 experience, as defined by rule by the division in collaboration with the board as being  
5648 equivalent to the requirements under Subsection (2)(f)(i) or (2)(f)(ii);
- 5649 (g) shall have successfully completed a training program in detection deception  
5650 meeting criteria established by rule by the division in collaboration with the board; and
- 5651 (h) shall provide the division with an intern supervision agreement in a form prescribed  
5652 by the division under which:
- 5653 (i) a licensed deception detection examiner agrees to supervise the intern; and  
5654 (ii) the applicant agrees to be supervised by that licensed deception detection examiner.
- 5655 (3) Each applicant for licensure as a deception detection examination administrator:
- 5656 (a) shall submit an application in a form prescribed by the division;
- 5657 (b) shall pay a fee determined by the department under Section 63J-1-504;

5658 (c) [~~shall be of good moral character in that the applicant has not~~] may not have been  
5659 convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when  
5660 considered with the duties and responsibilities of a deception detection examination  
5661 administrator is considered by the division and the board to indicate that the best interests of  
5662 the public will not be served by granting the applicant a license;

5663 (d) may not have been declared by a court of competent jurisdiction incompetent by  
5664 reason of mental defect or disease and not been restored;

5665 (e) may not be currently suffering from habitual drunkenness or from drug addiction or  
5666 dependence;

5667 (f) shall have earned an associate degree from a state-accredited university or college or  
5668 have an equivalent number of years' work experience; and

5669 (g) shall have successfully completed a training program and have obtained  
5670 certification in deception detection examination administration provided by the manufacturer  
5671 of a scientific or technology-based software application solution that is approved by the  
5672 director.

5673 (4) To determine if an applicant meets the qualifications of Subsection (1)(c), (2)(c), or  
5674 (3)(c) the division shall provide an appropriate number of copies of fingerprint cards to the  
5675 Department of Public Safety with the division's request to:

5676 (a) conduct a search of records of the Department of Public Safety for criminal history  
5677 information relating to each applicant for licensure under this chapter; and

5678 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant  
5679 requiring a check of records of the F.B.I. for criminal history information under this section.

5680 (5) The Department of Public Safety shall send to the division:

5681 (a) a written record of criminal history, or certification of no criminal history record, as  
5682 contained in the records of the Department of Public Safety in a timely manner after receipt of  
5683 a fingerprint card from the division and a request for review of Department of Public Safety  
5684 records; and

5685 (b) the results of the F.B.I. review concerning an applicant in a timely manner after

5686 receipt of information from the F.B.I.

5687 (6) (a) The division shall charge each applicant a fee, in accordance with Section  
5688 [63J-1-504](#), equal to the cost of performing the records reviews under this section.

5689 (b) The division shall pay the Department of Public Safety the costs of all records  
5690 reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews  
5691 under this chapter.

5692 (7) Information obtained by the division from the reviews of criminal history records of  
5693 the Department of Public Safety and the F.B.I. shall be used or disseminated by the division  
5694 only for the purpose of determining if an applicant for licensure under this chapter is qualified  
5695 for licensure.

5696 Section 95. Section **58-67-302** is amended to read:

5697 **58-67-302. Qualifications for licensure.**

5698 (1) An applicant for licensure as a physician and surgeon, except as set forth in  
5699 Subsection (2), shall:

5700 (a) submit an application in a form prescribed by the division, which may include:

5701 (i) submissions by the applicant of information maintained by practitioner data banks,  
5702 as designated by division rule, with respect to the applicant;

5703 (ii) a record of professional liability claims made against the applicant and settlements  
5704 paid by or on behalf of the applicant; and

5705 (iii) authorization to use a record coordination and verification service approved by the  
5706 division in collaboration with the board;

5707 (b) pay a fee determined by the department under Section [63J-1-504](#);

5708 [~~(c)~~ be of good moral character;]

5709 [~~(d)~~ (c) if the applicant is applying to participate in the Interstate Medical Licensure  
5710 Compact under Chapter 67b, Interstate Medical Licensure Compact, consent to a criminal  
5711 background check in accordance with Section [58-67-302.1](#) and any requirements established by  
5712 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

5713 [~~(e)~~ (d) provide satisfactory documentation of having successfully completed a

5714 program of professional education preparing an individual as a physician and surgeon, as  
5715 evidenced by:

5716 (i) having received an earned degree of doctor of medicine from an LCME accredited  
5717 medical school or college; or

5718 (ii) if the applicant graduated from a medical school or college located outside the  
5719 United States or its territories, submitting a current certification by the Educational  
5720 Commission for Foreign Medical Graduates or any successor organization approved by the  
5721 division in collaboration with the board;

5722 [~~(f)~~] (e) satisfy the division and board that the applicant:

5723 (i) has successfully completed 24 months of progressive resident training in a program  
5724 approved by the ACGME, the Royal College of Physicians and Surgeons, the College of  
5725 Family Physicians of Canada, or any similar body in the United States or Canada approved by  
5726 the division in collaboration with the board; or

5727 (ii) (A) has successfully completed 12 months of resident training in an ACGME  
5728 approved program after receiving a degree of doctor of medicine as required under Subsection  
5729 (1)~~(e)~~(d);

5730 (B) has been accepted in and is successfully participating in progressive resident  
5731 training in an ACGME approved program within Utah, in the applicant's second or third year  
5732 of postgraduate training; and

5733 (C) has agreed to surrender to the division the applicant's license as a physician and  
5734 surgeon without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act,  
5735 and has agreed the applicant's license as a physician and surgeon will be automatically revoked  
5736 by the division if the applicant fails to continue in good standing in an ACGME approved  
5737 progressive resident training program within the state;

5738 [~~(g)~~] (f) pass the licensing examination sequence required by division rule made in  
5739 collaboration with the board;

5740 [~~(h)~~] (g) be able to read, write, speak, understand, and be understood in the English  
5741 language and demonstrate proficiency to the satisfaction of the board if requested by the board;

5742           ~~[(f)]~~ (h) meet with the board and representatives of the division, if requested, for the  
5743 purpose of evaluating the applicant's qualifications for licensure;

5744           ~~[(f)]~~ (i) designate:

5745           (i) a contact person for access to medical records in accordance with the federal Health  
5746 Insurance Portability and Accountability Act; and

5747           (ii) an alternate contact person for access to medical records, in the event the original  
5748 contact person is unable or unwilling to serve as the contact person for access to medical  
5749 records; and

5750           ~~[(k)]~~ (j) establish a method for notifying patients of the identity and location of the  
5751 contact person and alternate contact person, if the applicant will practice in a location with no  
5752 other persons licensed under this chapter.

5753           (2) An applicant for licensure as a physician and surgeon by endorsement who is  
5754 currently licensed to practice medicine in any state other than Utah, a district or territory of the  
5755 United States, or Canada shall:

5756           (a) be currently licensed with a full unrestricted license in good standing in any state,  
5757 district, or territory of the United States, or Canada;

5758           (b) have been actively engaged in the legal practice of medicine in any state, district, or  
5759 territory of the United States, or Canada for not less than 6,000 hours during the five years  
5760 immediately preceding the date of application for licensure in Utah;

5761           (c) comply with the requirements for licensure under Subsections (1)(a) through ~~[(e)]~~  
5762 (d), (1)~~[(f)]~~(e)(i), and (1)~~[(h)]~~(g) through ~~[(k)]~~ (j);

5763           (d) have passed the licensing examination sequence required in Subsection ~~[(f)]~~(f)  
5764 (1)(e) or another medical licensing examination sequence in another state, district or territory of  
5765 the United States, or Canada that the division in collaboration with the board by rulemaking  
5766 determines is equivalent to its own required examination;

5767           (e) not have any investigation or action pending against any health care license of the  
5768 applicant, not have a health care license that was suspended or revoked in any state, district or  
5769 territory of the United States, or Canada, and not have surrendered a health care license in lieu

5770 of a disciplinary action, unless:

5771 (i) the license was subsequently reinstated as a full unrestricted license in good  
5772 standing; or

5773 (ii) the division in collaboration with the board determines to its satisfaction, after full  
5774 disclosure by the applicant, that:

5775 (A) the conduct has been corrected, monitored, and resolved; or

5776 (B) a mitigating circumstance exists that prevents its resolution, and the division in  
5777 collaboration with the board is satisfied that, but for the mitigating circumstance, the license  
5778 would be reinstated;

5779 (f) submit to a records review, a practice history review, and comprehensive  
5780 assessments, if requested by the division in collaboration with the board; and

5781 (g) produce satisfactory evidence that the applicant meets the requirements of this  
5782 Subsection (2) to the satisfaction of the division in collaboration with the board.

5783 (3) An applicant for licensure by endorsement may engage in the practice of medicine  
5784 under a temporary license while the applicant's application for licensure is being processed by  
5785 the division, provided:

5786 (a) the applicant submits a complete application required for temporary licensure to the  
5787 division;

5788 (b) the applicant submits a written document to the division from:

5789 (i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility  
5790 Licensing and Inspection Act, stating that the applicant is practicing under the:

5791 (A) invitation of the health care facility; and

5792 (B) the general supervision of a physician practicing at the facility; or

5793 (ii) two individuals licensed under this chapter, whose license is in good standing and  
5794 who practice in the same clinical location, both stating that:

5795 (A) the applicant is practicing under the invitation and general supervision of the  
5796 individual; and

5797 (B) the applicant will practice at the same clinical location as the individual;

5798 (c) the applicant submits a signed certification to the division that the applicant meets  
5799 the requirements of Subsection (2);

5800 (d) the applicant does not engage in the practice of medicine until the division has  
5801 issued a temporary license;

5802 (e) the temporary license is only issued for and may not be extended or renewed  
5803 beyond the duration of one year from issuance; and

5804 (f) the temporary license expires immediately and prior to the expiration of one year  
5805 from issuance, upon notification from the division that the applicant's application for licensure  
5806 by endorsement is denied.

5807 (4) The division shall issue a temporary license under Subsection (3) within 15  
5808 business days after the applicant satisfies the requirements of Subsection (3).

5809 (5) The division may not require the following requirements for licensure:

5810 (a) a post-residency board certification; or

5811 (b) a cognitive test when the physician reaches a specified age, unless:

5812 (i) the screening is based on evidence of cognitive changes associated with aging that  
5813 are relevant to physician performance;

5814 (ii) the screening is based on principles of medical ethics;

5815 (iii) physicians are involved in the development of standards for assessing competency;

5816 (iv) guidelines, procedures, and methods of assessment, which may include cognitive  
5817 screening, are relevant to physician practice and to the physician's ability to perform the tasks  
5818 specifically required in the physician's practice environment;

5819 (v) the primary driver for establishing assessment results is the ethical obligation of the  
5820 profession to the health of the public and patient safety;

5821 (vi) the goal of the assessment is to optimize physician competency and performance  
5822 through education, remediation, and modifications to a physician's practice environment or  
5823 scope;

5824 (vii) a credentialing committee determines that public health or patient safety is  
5825 directly threatened, the screening permits a physician to retain the right to modify the



5826 physician's practice environment to allow the physician to continue to provide safe and  
5827 effective care;

5828 (viii) guidelines, procedures, and methods of assessment are transparent to physicians  
5829 and physicians' representatives, if requested by a physician or a physician's representative, and  
5830 physicians are made aware of the specific methods used, performance expectations and  
5831 standards against which performance will be judged, and the possible outcomes of the  
5832 screening or assessment;

5833 (ix) education or remediation practices that result from screening or assessment  
5834 procedures are:

5835 (A) supportive of physician wellness;

5836 (B) ongoing; and

5837 (C) proactive; and

5838 (x) procedures and screening mechanisms that are distinctly different from for cause  
5839 assessments do not result in undue cost or burden to senior physicians providing patient care.

5840 Section 96. Section **58-67-302.5** is amended to read:

5841 **58-67-302.5. Licensing of graduates of foreign medical schools.**

5842 (1) Notwithstanding any other provision of law to the contrary, an individual enrolled  
5843 in a medical school outside the United States, its territories, the District of Columbia, or  
5844 Canada is eligible for licensure as a physician and surgeon in this state if the individual has  
5845 satisfied the following requirements:

5846 (a) meets all the requirements of Subsection [58-67-302\(1\)](#), except for Subsection  
5847 [58-67-302\(1\)\(~~e~~\)\(d\)](#);

5848 (b) has studied medicine in a medical school located outside the United States which is  
5849 recognized by an organization approved by the division;

5850 (c) has completed all of the formal requirements of the foreign medical school except  
5851 internship or social service;

5852 (d) has attained a passing score on the educational commission for foreign medical  
5853 graduates examination or other qualifying examinations such as the United States Medical

5854 Licensing Exam parts I and II, which are approved by the division or a medical school  
5855 approved by the division;

5856 (e) has satisfactorily completed one calendar year of supervised clinical training under  
5857 the direction of a United States medical education setting accredited by the liaison committee  
5858 for graduate medical education and approved by the division;

5859 (f) has completed the postgraduate hospital training required by Subsection  
5860 [58-67-302\(1\)\(f\)\(i\)](#); and

5861 (g) has passed the examination required by the division of all applicants for licensure.

5862 (2) Satisfaction of the requirements of Subsection (1) is in lieu of:

5863 (a) the completion of any foreign internship or social service requirements; and

5864 (b) the certification required by Subsection [58-67-302\(1\)\(e\)\(d\)](#).

5865 (3) Individuals who satisfy the requirements of Subsections (1)(a) through (g) shall be  
5866 eligible for admission to graduate medical education programs within the state, including  
5867 internships and residencies, which are accredited by the liaison committee for graduate medical  
5868 education.

5869 (4) A document issued by a medical school located outside the United States shall be  
5870 considered the equivalent of a degree of doctor of medicine for the purpose of licensure as a  
5871 physician and surgeon in this state if:

5872 (a) the foreign medical school is recognized by an organization approved by the  
5873 division;

5874 (b) the document granted by the foreign medical school is issued after the completion  
5875 of all formal requirements of the medical school except internship or social service; and

5876 (c) the foreign medical school certifies that the person to whom the document was  
5877 issued has satisfactorily completed the requirements of Subsection (1)(c).

5878 (5) The division may not require as a requirement for licensure a cognitive test when  
5879 the physician reaches a specified age, unless the test reflects the standards described in  
5880 Subsections [58-67-302\(5\)\(b\)\(i\)](#) through (x).

5881 (6) The provisions for licensure under this section shall be known as the "fifth pathway

5882 program."

5883 Section 97. Section **58-67-302.7** is amended to read:

5884 **58-67-302.7. Licensing of physician-educators.**

5885 (1) As used in this section:

5886 (a) "Foreign country" means a country other than the United States, its territories, or  
5887 Canada.

5888 (b) "Foreign medical school" means a medical school that is outside the United States,  
5889 its territories, and Canada.

5890 (2) Notwithstanding any provision of law to the contrary, an individual may receive a  
5891 type I foreign teaching license if the individual:

5892 (a) submits an application in a form prescribed by the division, which may include:

5893 (i) submission by the applicant of information maintained in a practitioner data bank,  
5894 as designated by division rule, with respect to the applicant;

5895 (ii) a record of professional liability claims made against the applicant and settlements  
5896 paid by or on behalf of the applicant; and

5897 (iii) the applicant's curriculum vitae;

5898 (b) is a graduate of a foreign medical school that is accepted for certification by the  
5899 Educational Commission for Foreign Medical Graduates;

5900 (c) is licensed in good standing in a foreign country, the United States, its territories, or  
5901 Canada;

5902 (d) does not have an investigation or action pending against the physician's healthcare  
5903 license, does not have a healthcare license that was suspended or revoked, and has not  
5904 surrendered a healthcare license in lieu of disciplinary action, unless:

5905 (i) the license was subsequently reinstated in good standing; or

5906 (ii) the division in collaboration with the board determines to its satisfaction, after full  
5907 disclosure by the applicant and full consideration by the division in collaboration with the  
5908 board, that:

5909 (A) the conduct has been corrected, monitored, and resolved; or

5910 (B) a mitigating circumstance exists that prevents resolution, and the division in  
5911 collaboration with the board is satisfied that but for the mitigating circumstance, the license  
5912 would be reinstated;

5913 (e) submits documentation of legal status to work in the United States;

5914 (f) meets at least three of the following qualifications:

5915 (i) (A) published original results of clinical research, within 10 years before the day on  
5916 which the application is submitted, in a medical journal listed in the Index Medicus or an  
5917 equivalent scholarly publication; and

5918 (B) submits the publication to the Board in English or in a foreign language with a  
5919 verifiable, certified English translation;

5920 (ii) held an appointment at a medical school approved by the LCME or at any medical  
5921 school listed in the World Health Organization directory at the level of associate or full  
5922 professor, or its equivalent, for at least five years;

5923 (iii) (A) developed a treatment modality, surgical technique, or other verified original  
5924 contribution to the field of medicine within 10 years before the day on which the application is  
5925 submitted; and

5926 (B) has the treatment modality, surgical technique, or other verified original  
5927 contribution attested to by the dean of an LCME accredited school of medicine in Utah;

5928 (iv) actively practiced medicine cumulatively for 10 years; or

5929 (v) is board certified in good standing of a board of the American Board of Medical  
5930 Specialities or equivalent specialty board;

5931 [~~(g) is of good moral character;~~]

5932 [~~(h)~~] (g) is able to read, write, speak, understand, and be understood in the English  
5933 language and demonstrates proficiency to the satisfaction of the division in collaboration with  
5934 the board, if requested;

5935 [~~(i)~~] (h) is invited by an LCME accredited medical school in Utah to serve as a  
5936 full-time member of the medical school's academic faculty, as evidenced by written  
5937 certification from:

5938 (i) the dean of the medical school, stating that the applicant has been appointed to a  
5939 full-time faculty position, that because the applicant has unique expertise in a specific field of  
5940 medicine the medical school considers the applicant to be a valuable member of the faculty,  
5941 and that the applicant is qualified by knowledge, skill, and ability to practice medicine in the  
5942 state; and

5943 (ii) the head of the department to which the applicant is to be appointed, stating that the  
5944 applicant will be under the direction of the head of the department and will be permitted to  
5945 practice medicine only as a necessary part of the applicant's duties, providing detailed evidence  
5946 of the applicant's qualifications and competence, including the nature and location of the  
5947 applicant's proposed responsibilities, reasons for any limitations of the applicant's practice  
5948 responsibilities, and the degree of supervision, if any, under which the applicant will function;

5949 ~~[(f)]~~ (i) pays a licensing fee set by the division under Section 63J-1-504; and

5950 ~~[(k)]~~ (j) has practiced medicine for at least 10 years as an attending physician.

5951 (3) Notwithstanding any provision of law to the contrary, an individual may receive a  
5952 type II foreign teaching license if the individual:

5953 (a) satisfies the requirements of Subsections (2)(a) through (e) and (g) through ~~[(f)]~~ (i);

5954 (b) has delivered clinical care to patients cumulatively for five years after graduation  
5955 from medical school; and

5956 (c) (i) will be completing a clinical fellowship while employed at the medical school  
5957 described in Subsection (2)~~[(f)]~~(h); or

5958 (ii) has already completed a medical residency accredited by the Royal College of  
5959 Physicians and Surgeons of Canada, the United Kingdom, Australia, or New Zealand, or a  
5960 comparable accreditation organization as determined by the division in collaboration with the  
5961 board.

5962 (4) After an initial term of one year, a type I license may be renewed for periods of two  
5963 years if the licensee continues to satisfy the requirements described in Subsection (2) and  
5964 completes the division's continuing education renewal requirements established under Section  
5965 58-67-303.

5966 (5) A type II license may be renewed on an annual basis, up to four times, if the  
5967 licensee continues to satisfy the requirements described in Subsection (3) and completes the  
5968 division's continuing education renewal requirements established under Section 58-67-303.

5969 (6) A license issued under this section:

5970 (a) authorizes the licensee to practice medicine:

5971 (i) within the scope of the licensee's employment at the medical school described in  
5972 Subsection (2)(~~†~~)(h) and the licensee's academic position; and

5973 (ii) at a hospital or clinic affiliated with the medical school described in Subsection  
5974 (2)(~~†~~)(h) for the purpose of teaching, clinical care, or pursuing research;

5975 (b) shall list the limitations described in Subsection (6)(a); and

5976 (c) shall expire on the earlier of:

5977 (i) one year after the day on which the type I or type II license is initially issued, unless  
5978 the license is renewed;

5979 (ii) for a type I license, two years after the day on which the license is renewed;

5980 (iii) for a type II license, one year after the day on which the license is renewed; or

5981 (iv) the day on which employment at the medical school described in Subsection  
5982 (2)(~~†~~)(h) ends.

5983 (7) A person who holds a type I license for five consecutive years may apply for  
5984 licensure as a physician and surgeon in this state and shall be licensed if the individual satisfies  
5985 the requirements described in Subsection (8). If the person fails to obtain licensure as a  
5986 physician and surgeon in this state, the person may apply for a renewal of the type I license  
5987 under Subsection (2).

5988 (8) An individual who holds a type I or type II license for five consecutive years is  
5989 eligible for licensure as a physician and surgeon in this state if the individual:

5990 (a) worked an average of at least 40 hours per month at the level of an attending  
5991 physician during the time the individual held the type I or type II license;

5992 (b) holds the rank of associate professor or higher at the medical school described in  
5993 Subsection (2)(~~†~~)(h);

5994 (c) obtains certification from the Educational Commission for Foreign Medical  
5995 Graduates or any successor organization approved by the division in collaboration with the  
5996 board;

5997 (d) spent a cumulative 20 hours per year while holding a type I or type II license:

5998 (i) teaching or lecturing to medical students or house staff;

5999 (ii) participating in educational department meetings or conferences that are not  
6000 certified to meet the continuing medical education license renewal requirement; or

6001 (iii) attending continuing medical education classes in addition to the requirements for  
6002 continuing education described in Subsections (4) and (5);

6003 (e) obtains a passing score on the final step of the licensing examination sequence  
6004 required by division rule made in collaboration with the board; and

6005 (f) satisfies the requirements described in Subsections 58-67-302(1)(a) through [~~(d)~~;  
6006 ~~(f)~~, and ~~(j)~~] (c), (h), and (i).

6007 (9) If a person who holds a type II license fails to obtain licensure as a physician and  
6008 surgeon in this state after applying under the procedures described in Subsection (8), the person  
6009 may not:

6010 (a) reapply for or renew a type II license; or

6011 (b) apply for a type I license.

6012 (10) The division or the board may require an applicant for licensure under this section  
6013 to meet with the board and representatives of the division for the purpose of evaluating the  
6014 applicant's qualifications for licensure.

6015 (11) The division in collaboration with the board may withdraw a license under this  
6016 section at any time for material misrepresentation or unlawful or unprofessional conduct.

6017 Section 98. Section 58-67-302.8 is amended to read:

6018 **58-67-302.8. Restricted licensing of an associate physician.**

6019 (1) An individual may apply for a restricted license as an associate physician if the  
6020 individual:

6021 (a) meets the requirements described in Subsections 58-67-302(1)(a) through [~~(d)~~;

6022 ~~(1)(e)(i), and (1)(h) through (k)]~~ (c), (1)(d)(i), and (1)(g) through (j);

6023 (b) successfully completes Step 1 and Step 2 of the United States Medical Licensing  
6024 Examination or the equivalent steps of another board-approved medical licensing examination:

6025 (i) within three years after the day on which the applicant graduates from a program  
6026 described in Subsection ~~58-67-302~~~~(1)(e)(i)]~~ (1)(d)(i); and

6027 (ii) within two years before applying for a restricted license as an associate physician;  
6028 and

6029 (c) is not currently enrolled in and has not completed a residency program.

6030 (2) Before a licensed associate physician may engage in the practice of medicine as  
6031 described in Subsection (3), the licensed associate physician shall:

6032 (a) enter into a collaborative practice arrangement described in Section ~~58-67-807~~  
6033 within six months after the associate physician's initial licensure; and

6034 (b) receive division approval of the collaborative practice arrangement.

6035 (3) An associate physician's scope of practice is limited to primary care services to  
6036 medically underserved populations or in medically underserved areas within the state.

6037 Section 99. Section ~~58-67-304~~ is amended to read:

6038 **58-67-304. License renewal requirements.**

6039 (1) As a condition precedent for license renewal, each licensee shall, during each  
6040 two-year licensure cycle or other cycle defined by division rule:

6041 (a) complete qualified continuing professional education requirements in accordance  
6042 with the number of hours and standards defined by division rule made in collaboration with the  
6043 board;

6044 (b) appoint a contact person for access to medical records and an alternate contact  
6045 person for access to medical records in accordance with Subsection ~~58-67-302~~~~(1)(j)]~~(i);

6046 (c) if the licensee practices medicine in a location with no other persons licensed under  
6047 this chapter, provide some method of notice to the licensee's patients of the identity and  
6048 location of the contact person and alternate contact person for the licensee; and

6049 (d) if the licensee is an associate physician licensed under Section ~~58-67-302.8,~~



6050 successfully complete the educational methods and programs described in Subsection  
6051 58-67-807(4).

6052 (2) If a renewal period is extended or shortened under Section 58-67-303, the  
6053 continuing education hours required for license renewal under this section are increased or  
6054 decreased proportionally.

6055 (3) An application to renew a license under this chapter shall:

6056 (a) require a physician to answer the following question: "Do you perform elective  
6057 abortions in Utah in a location other than a hospital?"; and

6058 (b) immediately following the question, contain the following statement: "For purposes  
6059 of the immediately preceding question, elective abortion means an abortion other than one of  
6060 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is  
6061 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of  
6062 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a  
6063 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where  
6064 the woman is pregnant as a result of rape or incest."

6065 (4) In order to assist the Department of Health in fulfilling its responsibilities relating  
6066 to the licensing of an abortion clinic and the enforcement of Title 76, Chapter 7, Part 3,  
6067 Abortion, if a physician responds positively to the question described in Subsection (3)(a), the  
6068 division shall, within 30 days after the day on which it renews the physician's license under this  
6069 chapter, inform the Department of Health in writing:

6070 (a) of the name and business address of the physician; and

6071 (b) that the physician responded positively to the question described in Subsection  
6072 (3)(a).

6073 (5) The division shall accept and apply toward the hour requirement in Subsection  
6074 (1)(a) any continuing education that a physician completes in accordance with Sections  
6075 26-61a-106, 26-61a-403, and 26-61a-602.

6076 Section 100. Section 58-67-403 is amended to read:

6077 **58-67-403. Revocation of license -- Nondisciplinary.**

6078 Revocation by the division of a license under Subsection 58-67-302(1)(~~f~~)(e) for  
6079 failure to continue on a resident training program for reasons other than unprofessional or  
6080 unlawful conduct is a nondisciplinary action and may not be reported by the division as a  
6081 disciplinary action against the licensee.

6082 Section 101. Section 58-67-503 is amended to read:

6083 **58-67-503. Penalties and administrative actions for unlawful and unprofessional**  
6084 **conduct.**

6085 (1) Any person who violates the unlawful conduct provisions of Section 58-67-501 or  
6086 Section 58-1-501 is guilty of a third degree felony.

6087 (2) (a) Subject to Subsection (4), the division may punish unprofessional or unlawful  
6088 conduct by:

6089 (i) assessing administrative penalties; or

6090 (ii) taking other appropriate administrative action.

6091 (b) A monetary administrative penalty imposed under this section shall be deposited in  
6092 the Physician Education Fund created in Section 58-67a-1.

6093 (3) If a licensee has been convicted of unlawful conduct, described in Section  
6094 58-67-501, before an administrative proceeding regarding the same conduct, the division may  
6095 not assess an additional administrative fine under this chapter for the same conduct.

6096 (4) (a) If the division concludes that an individual has violated provisions of Section  
6097 58-67-501, Section 58-67-502, Chapter 1, Division of Occupational and Professional Licensing  
6098 Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with respect to  
6099 these provisions, and disciplinary action is appropriate, the director or director's designee shall:

6100 (i) issue a citation to the individual;

6101 (ii) attempt to negotiate a stipulated settlement; or

6102 (iii) notify the individual that an adjudicative proceeding conducted under Title 63G,  
6103 Chapter 4, Administrative Procedures Act, will be commenced and the individual is invited to  
6104 appear.

6105 (b) The division may take the following action against an individual who is in violation

6106 of a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a  
6107 stipulated settlement, or a finding of violation in an adjudicative proceeding:

6108 (i) assess a fine of up to \$10,000 per single violation or up to \$2,000 per day of  
6109 ongoing violation, whichever is greater, in accordance with a fine schedule established by rule;

6110 or

6111 (ii) order to cease and desist from the behavior that constitutes a violation of the  
6112 provisions described in Subsection (4)(a).

6113 (c) An individual's license may not be suspended or revoked through a citation.

6114 (d) Each citation issued under this section shall:

6115 (i) be in writing;

6116 (ii) clearly describe or explain:

6117 (A) the nature of the violation, including a reference to the provision of the chapter,  
6118 rule, or order alleged to have been violated;

6119 (B) that the recipient must notify the division in writing within 20 calendar days from  
6120 the day on which the citation is served if the recipient wishes to contest the citation at a hearing  
6121 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

6122 (C) the consequences of failure to timely contest the citation or pay the fine assessed by  
6123 the citation within the time specified in the citation; and

6124 (iii) be served in accordance with the Utah Rules of Civil Procedure.

6125 (e) If the individual to whom the citation is issued fails to request a hearing to contest  
6126 the citation within 20 calendar days from the day on which the citation is served, the citation  
6127 becomes the final order of the division and is not subject to further agency review. The period  
6128 to contest the citation may be extended by the division for cause.

6129 (f) The division may refuse to issue or renew or suspend, revoke, or place on probation  
6130 the license of an individual who fails to comply with a citation after the citation becomes final.

6131 (g) The failure of an applicant for licensure to comply with a citation after it becomes  
6132 final is a ground for denial of license.

6133 (h) No citation may be issued under this section after ~~[six months from the day on~~

6134 ~~which the violation last occurred]~~ the expiration of one year following the date on which the  
 6135 violation that is the subject of the citation is reported to the division.

6136 (5) (a) The director may collect a penalty imposed under this section that is not paid by:

6137 (i) referring the matter to a collection agency; or

6138 (ii) bringing an action in the district court of the county where the person against whom  
 6139 the penalty is imposed resides or in the county where the office of the director is located.

6140 (b) A county attorney or the attorney general of the state shall provide legal assistance  
 6141 and advice to the director in an action to collect a penalty.

6142 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an  
 6143 action brought by the division to collect a penalty.

6144 Section 102. Section **58-68-302** is amended to read:

6145 **58-68-302. Qualifications for licensure.**

6146 (1) An applicant for licensure as an osteopathic physician and surgeon, except as set  
 6147 forth in Subsection (2), shall:

6148 (a) submit an application in a form prescribed by the division, which may include:

6149 (i) submissions by the applicant of information maintained by practitioner data banks,  
 6150 as designated by division rule, with respect to the applicant;

6151 (ii) a record of professional liability claims made against the applicant and settlements  
 6152 paid by or on behalf of the applicant; and

6153 (iii) authorization to use a record coordination and verification service approved by the  
 6154 division in collaboration with the board;

6155 (b) pay a fee determined by the department under Section [63J-1-504](#);

6156 ~~[(e) be of good moral character;]~~

6157 ~~[(d)]~~ (c) if the applicant is applying to participate in the Interstate Medical Licensure  
 6158 Compact under Chapter 67b, Interstate Medical Licensure Compact, consent to a criminal  
 6159 background check in accordance with Section [58-68-302.1](#) and any requirements established by  
 6160 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

6161 ~~[(e)]~~ (d) provide satisfactory documentation of having successfully completed a

6162 program of professional education preparing an individual as an osteopathic physician and  
6163 surgeon, as evidenced by:

6164 (i) having received an earned degree of doctor of osteopathic medicine from an AOA  
6165 approved medical school or college; or

6166 (ii) submitting a current certification by the Educational Commission for Foreign  
6167 Medical Graduates or any successor organization approved by the division in collaboration  
6168 with the board, if the applicant is graduated from an osteopathic medical school or college  
6169 located outside of the United States or its territories which at the time of the applicant's  
6170 graduation, met criteria for accreditation by the AOA;

6171 ~~(f)~~ (e) satisfy the division and board that the applicant:

6172 (i) has successfully completed 24 months of progressive resident training in an  
6173 ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine  
6174 required under Subsection (1)~~(e)~~(d); or

6175 (ii) (A) has successfully completed 12 months of resident training in an ACGME or  
6176 AOA approved program after receiving a degree of doctor of osteopathic medicine as required  
6177 under Subsection (1)~~(e)~~(d);

6178 (B) has been accepted in and is successfully participating in progressive resident  
6179 training in an ACGME or AOA approved program within Utah, in the applicant's second or  
6180 third year of postgraduate training; and

6181 (C) has agreed to surrender to the division the applicant's license as an osteopathic  
6182 physician and surgeon without any proceedings under Title 63G, Chapter 4, Administrative  
6183 Procedures Act, and has agreed the applicant's license as an osteopathic physician and surgeon  
6184 will be automatically revoked by the division if the applicant fails to continue in good standing  
6185 in an ACGME or AOA approved progressive resident training program within the state;

6186 ~~(g)~~ (f) pass the licensing examination sequence required by division rule, as made in  
6187 collaboration with the board;

6188 ~~(h)~~ (g) be able to read, write, speak, understand, and be understood in the English  
6189 language and demonstrate proficiency to the satisfaction of the board, if requested by the board;

6190           ~~(f)~~ (h) meet with the board and representatives of the division, if requested for the  
6191 purpose of evaluating the applicant's qualifications for licensure;

6192           ~~(j)~~ (i) designate:

6193           (i) a contact person for access to medical records in accordance with the federal Health  
6194 Insurance Portability and Accountability Act; and

6195           (ii) an alternate contact person for access to medical records, in the event the original  
6196 contact person is unable or unwilling to serve as the contact person for access to medical  
6197 records; and

6198           ~~(k)~~ (j) establish a method for notifying patients of the identity and location of the  
6199 contact person and alternate contact person, if the applicant will practice in a location with no  
6200 other persons licensed under this chapter.

6201           (2) An applicant for licensure as an osteopathic physician and surgeon by endorsement  
6202 who is currently licensed to practice osteopathic medicine in any state other than Utah, a  
6203 district or territory of the United States, or Canada shall:

6204           (a) be currently licensed with a full unrestricted license in good standing in any state,  
6205 district or territory of the United States, or Canada;

6206           (b) have been actively engaged in the legal practice of osteopathic medicine in any  
6207 state, district or territory of the United States, or Canada for not less than 6,000 hours during  
6208 the five years immediately preceding the day on which the applicant applied for licensure in  
6209 Utah;

6210           (c) comply with the requirements for licensure under Subsections (1)(a) through ~~(e)~~;  
6211 ~~(f)(i), and (f)(h) through (k)~~ (d), (1)(e)(i), and (1)(g) through (j);

6212           (d) have passed the licensing examination sequence required in Subsection (1)~~(g)~~(f)  
6213 or another medical licensing examination sequence in another state, district or territory of the  
6214 United States, or Canada that the division in collaboration with the board by rulemaking  
6215 determines is equivalent to its own required examination;

6216           (e) not have any investigation or action pending against any health care license of the  
6217 applicant, not have a health care license that was suspended or revoked in any state, district or

6218 territory of the United States, or Canada, and not have surrendered a health care license in lieu  
6219 of a disciplinary action, unless:

6220 (i) the license was subsequently reinstated as a full unrestricted license in good  
6221 standing; or

6222 (ii) the division in collaboration with the board determines, after full disclosure by the  
6223 applicant, that:

6224 (A) the conduct has been corrected, monitored, and resolved; or

6225 (B) a mitigating circumstance exists that prevents its resolution, and the division in  
6226 collaboration with the board is satisfied that, but for the mitigating circumstance, the license  
6227 would be reinstated;

6228 (f) submit to a records review, a practice review history, and physical and  
6229 psychological assessments, if requested by the division in collaboration with the board; and

6230 (g) produce evidence that the applicant meets the requirements of this Subsection (2) to  
6231 the satisfaction of the division in collaboration with the board.

6232 (3) An applicant for licensure by endorsement may engage in the practice of medicine  
6233 under a temporary license while the applicant's application for licensure is being processed by  
6234 the division, provided:

6235 (a) the applicant submits a complete application required for temporary licensure to the  
6236 division;

6237 (b) the applicant submits a written document to the division from:

6238 (i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility  
6239 Licensing and Inspection Act, stating that the applicant is practicing under the:

6240 (A) invitation of the health care facility; and

6241 (B) the general supervision of a physician practicing at the health care facility; or

6242 (ii) two individuals licensed under this chapter, whose license is in good standing and  
6243 who practice in the same clinical location, both stating that:

6244 (A) the applicant is practicing under the invitation and general supervision of the  
6245 individual; and

- 6246 (B) the applicant will practice at the same clinical location as the individual;
- 6247 (c) the applicant submits a signed certification to the division that the applicant meets  
6248 the requirements of Subsection (2);
- 6249 (d) the applicant does not engage in the practice of medicine until the division has  
6250 issued a temporary license;
- 6251 (e) the temporary license is only issued for and may not be extended or renewed  
6252 beyond the duration of one year from issuance; and
- 6253 (f) the temporary license expires immediately and prior to the expiration of one year  
6254 from issuance, upon notification from the division that the applicant's application for licensure  
6255 by endorsement is denied.
- 6256 (4) The division shall issue a temporary license under Subsection (3) within 15  
6257 business days after the applicant satisfies the requirements of Subsection (3).
- 6258 (5) The division may not require a:
- 6259 (a) post-residency board certification[-]; or
- 6260 (b) a cognitive test when the physician reaches a specified age, unless the test reflects  
6261 the standards described in Subsections 58-67-302(5)(b)(i) through (x).
- 6262 Section 103. Section **58-68-302.5** is amended to read:
- 6263 **58-68-302.5. Restricted licensing of an associate physician.**
- 6264 (1) An individual may apply for a restricted license as an associate physician if the  
6265 individual:
- 6266 (a) meets the requirements described in Subsections 58-68-302(1)(a) through ~~[(d);~~  
6267 ~~(1)(e)(i), and (1)(h) through (k)] (c), (1)(d)(i), and (1)(g) through (j);~~
- 6268 (b) successfully completes Step 1 and Step 2 of the United States Medical Licensing  
6269 Examination or the equivalent steps of another board-approved medical licensing examination:
- 6270 (i) within three years after the day on which the applicant graduates from a program  
6271 described in Subsection 58-68-302(1)~~[(e)(i)](d)(i);~~ and
- 6272 (ii) within two years before applying for a restricted license as an associate physician;  
6273 and



6274 (c) is not currently enrolled in and has not completed a residency program.  
6275 (2) Before a licensed associate physician may engage in the practice of medicine as  
6276 described in Subsection (3), the licensed associate physician shall:

6277 (a) enter into a collaborative practice arrangement described in Section 58-68-807  
6278 within six months after the associate physician's initial licensure; and

6279 (b) receive division approval of the collaborative practice arrangement.

6280 (3) An associate physician's scope of practice is limited to primary care services to  
6281 medically underserved populations or in medically underserved areas within the state.

6282 Section 104. Section 58-68-304 is amended to read:

6283 **58-68-304. License renewal requirements.**

6284 (1) As a condition precedent for license renewal, each licensee shall, during each  
6285 two-year licensure cycle or other cycle defined by division rule:

6286 (a) complete qualified continuing professional education requirements in accordance  
6287 with the number of hours and standards defined by division rule in collaboration with the  
6288 board;

6289 (b) appoint a contact person for access to medical records and an alternate contact  
6290 person for access to medical records in accordance with Subsection 58-68-302(1)(~~f~~)(i);

6291 (c) if the licensee practices osteopathic medicine in a location with no other persons  
6292 licensed under this chapter, provide some method of notice to the licensee's patients of the  
6293 identity and location of the contact person and alternate contact person for access to medical  
6294 records for the licensee in accordance with Subsection 58-68-302(1)(~~k~~)(i); and

6295 (d) if the licensee is an associate physician licensed under Section 58-68-302.5,  
6296 successfully complete the educational methods and programs described in Subsection  
6297 58-68-807(4).

6298 (2) If a renewal period is extended or shortened under Section 58-68-303, the  
6299 continuing education hours required for license renewal under this section are increased or  
6300 decreased proportionally.

6301 (3) An application to renew a license under this chapter shall:

6302 (a) require a physician to answer the following question: "Do you perform elective  
6303 abortions in Utah in a location other than a hospital?"; and

6304 (b) immediately following the question, contain the following statement: "For purposes  
6305 of the immediately preceding question, elective abortion means an abortion other than one of  
6306 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is  
6307 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of  
6308 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a  
6309 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where  
6310 the woman is pregnant as a result of rape or incest."

6311 (4) In order to assist the Department of Health in fulfilling its responsibilities relating  
6312 to the licensing of an abortion clinic, if a physician responds positively to the question  
6313 described in Subsection (3)(a), the division shall, within 30 days after the day on which it  
6314 renews the physician's license under this chapter, inform the Department of Health in writing:

6315 (a) of the name and business address of the physician; and

6316 (b) that the physician responded positively to the question described in Subsection  
6317 (3)(a).

6318 (5) The division shall accept and apply toward the hour requirement in Subsection  
6319 (1)(a) any continuing education that a physician completes in accordance with Sections  
6320 [26-61a-106](#), [26-61a-403](#), and [26-61a-602](#).

6321 Section 105. Section **58-68-403** is amended to read:

6322 **58-68-403. Revocation of license -- Nondisciplinary.**

6323 Revocation by the division of a license under Subsection [58-68-302\(1\)\(f\)](#)~~(f)~~(e) for  
6324 failure to continue on a resident training program for reasons other than unprofessional or  
6325 unlawful conduct is a nondisciplinary action and may not be reported by the division as a  
6326 disciplinary action against the licensee.

6327 Section 106. Section **58-68-503** is amended to read:

6328 **58-68-503. Penalties and administrative actions for unlawful and unprofessional**  
6329 **conduct.**

6330 (1) Any person who violates the unlawful conduct provisions of Section 58-68-501 or  
6331 Section 58-1-501 is guilty of a third degree felony.

6332 (2) (a) Subject to Subsection (4), the division may punish unprofessional or unlawful  
6333 conduct by:

- 6334 (i) assessing administrative penalties; or
- 6335 (ii) taking any other appropriate administrative action.

6336 (b) A monetary administrative penalty imposed under this section shall be deposited in  
6337 the Physician Education Fund described in Section 58-67a-1.

6338 (3) If a licensee is convicted of unlawful conduct, described in Section 58-68-501,  
6339 before an administrative proceeding regarding the same conduct, the licensee may not be  
6340 assessed an administrative fine under this chapter for the same conduct.

6341 (4) (a) If the division concludes that an individual has violated the provisions of  
6342 Section 58-68-501, Section 58-68-502, Chapter 1, Division of Occupational and Professional  
6343 Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with  
6344 respect to these provisions, and disciplinary action is appropriate, the director or director's  
6345 designee shall:

- 6346 (i) issue a citation to the individual;
- 6347 (ii) attempt to negotiate a stipulated settlement; or
- 6348 (iii) notify the individual that an adjudicative proceeding conducted under Title 63G,  
6349 Chapter 4, Administrative Procedures Act, will be commenced and the individual is invited to  
6350 appear.

6351 (b) The division may take the following action against an individual who is in violation  
6352 of a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a  
6353 stipulated settlement, or a finding of violation in an adjudicative proceeding:

- 6354 (i) assess a fine of up to \$10,000 per single violation or \$2,000 per day of ongoing  
6355 violation, whichever is greater, in accordance with a fine schedule established by rule; or
- 6356 (ii) order to cease and desist from the behavior that constitutes a violation of provisions  
6357 described in Subsection (4)(a).

6358 (c) Except for an administrative fine and a cease and desist order, the licensure  
6359 sanctions cited in Section 58-1-401 may not be assessed through a citation.

6360 (d) Each citation issued under this section shall:

6361 (i) be in writing;

6362 (ii) clearly describe or explain:

6363 (A) the nature of the violation, including a reference to the provision of the chapter,  
6364 rule, or order alleged to have been violated;

6365 (B) that the recipient must notify the division in writing within 20 calendar days from  
6366 the day on which the citation is served if the recipient wishes to contest the citation at a hearing  
6367 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

6368 (C) the consequences of failure to timely contest the citation or pay the fine assessed by  
6369 the citation within the time specified in the citation; and

6370 (iii) be served in accordance with the requirements of the Utah Rules of Civil  
6371 Procedure.

6372 (e) If the individual to whom the citation is issued fails to request a hearing to contest  
6373 the citation within 20 calendar days from the day on which the citation is served, the citation  
6374 becomes the final order of the division and is not subject to further agency review. The period  
6375 to contest the citation may be extended by the division for cause.

6376 (f) The division may refuse to issue or renew or suspend, revoke, or place on probation  
6377 the license of an individual who fails to comply with a citation after the citation becomes final.

6378 (g) The failure of an applicant for licensure to comply with a citation after it becomes  
6379 final is a ground for denial of a license.

6380 (h) No citation may be issued under this section after [~~six months from the day on~~  
6381 ~~which the last violation occurred~~] the expiration of one year following the date on which the  
6382 violation that is the subject of the citation is reported to the division.

6383 (5) (a) The director may collect a penalty imposed under this section that is not paid by:

6384 (i) referring the matter to a collection agency; or

6385 (ii) bringing an action in the district court of the county where the person against whom

6386 the penalty is imposed resides or in the county where the office of the director is located.

6387 (b) A county attorney or the attorney general of the state shall provide legal assistance  
6388 and advice to the director in an action to collect a penalty.

6389 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an  
6390 action brought by the division to collect a penalty.

6391 Section 107. Section **58-69-302** is amended to read:

6392 **58-69-302. Qualifications -- Licensure as a dentist -- Licensure as a dental**  
6393 **hygienist.**

6394 (1) An applicant for licensure as a dentist, except as provided in Subsection (2), shall:

6395 (a) submit an application in a form as prescribed by the division;

6396 (b) pay a fee as determined by the department under Section [63J-1-504](#);

6397 [~~(c)~~] ~~be of good moral character;~~

6398 [~~(d)~~] (c) provide satisfactory documentation of having successfully completed a  
6399 program of professional education preparing an individual as a dentist as evidenced by having  
6400 received an earned doctor's degree in dentistry from a dental school accredited by the  
6401 Commission on Dental Accreditation of the American Dental Association;

6402 [~~(e)~~] (d) pass the National Board Dental Examinations as administered by the Joint  
6403 Commission on National Dental Examinations of the American Dental Association;

6404 [~~(f)~~] (e) pass any regional dental clinical licensure examination approved by division  
6405 rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah  
6406 Administrative Rulemaking Act;

6407 [~~(g)~~] (f) pass any other examinations regarding applicable law, rules, or ethics as  
6408 established by division rule made in collaboration with the board and in accordance with Title  
6409 63G, Chapter 3, Utah Administrative Rulemaking Act;

6410 [~~(h)~~] (g) be able to read, write, speak, understand, and be understood in the English  
6411 language and demonstrate proficiency to the satisfaction of the board if requested by the board;  
6412 and

6413 [~~(i)~~] (h) meet with the board if requested by the board or division for the purpose of

6414 examining the applicant's qualifications for licensure.

6415 (2) An applicant for licensure as a dentist qualifying under the endorsement provision  
6416 of Section 58-1-302 shall:

6417 (a) be currently licensed in good standing with an unrestricted license in another  
6418 jurisdiction described in Section 58-1-302;

6419 (b) document having met all requirements for licensure under Subsection (1) except  
6420 Subsection ~~[(1)(d)]~~ (1)(c); and

6421 (c) document having been successfully engaged in clinical practice as a dentist for not  
6422 less than 6,000 hours in the five years immediately preceding the date of application for  
6423 licensure.

6424 (3) An applicant for licensure as a dental hygienist, except as set forth in Subsection  
6425 (4), shall:

6426 (a) submit an application in a form as prescribed by the division;

6427 (b) pay a fee as determined by the department pursuant to Section 63J-1-504;

6428 ~~[(c) be of good moral character;]~~

6429 ~~[(d)]~~ (c) be a graduate holding a certificate or degree in dental hygiene from a school  
6430 accredited by the Commission on Dental Accreditation of the American Dental Association;

6431 ~~[(e)]~~ (d) pass the National Board Dental Hygiene Examination as administered by the  
6432 Joint Commission on National Dental Examinations of the American Dental Association;

6433 ~~[(f)]~~ (e) pass an examination consisting of practical demonstrations in the practice of  
6434 dental hygiene and written or oral examination in the theory and practice of dental hygiene as  
6435 established by division rule made in collaboration with the board;

6436 ~~[(g)]~~ (f) pass any other examinations regarding applicable law, rules, and ethics as  
6437 established by rule by division rule made in collaboration with the board;

6438 ~~[(h)]~~ (g) be able to read, write, speak, understand, and be understood in the English  
6439 language and demonstrate proficiency to the satisfaction of the board if requested by the board;

6440 and

6441 ~~[(i)]~~ (h) meet with the board if requested by the board or division for the purpose of

6442 examining the applicant's qualifications for licensure.

6443 (4) An applicant for licensure as a dental hygienist qualifying under the endorsement  
6444 provision of Section 58-1-302 shall:

6445 (a) be currently licensed in another jurisdiction set forth in Section 58-1-302;

6446 (b) (i) document having met all requirements for licensure under Subsection (3) except,  
6447 an applicant having received licensure in another state or jurisdiction prior to 1962, the year  
6448 when the National Board Dental Hygiene Examinations were first administered, shall  
6449 document having passed a state administered examination acceptable to the division in  
6450 collaboration with the board; or

6451 (ii) document having obtained licensure in another state or jurisdiction upon which  
6452 licensure by endorsement is based by meeting requirements which were equal to licensure  
6453 requirements in Utah at the time the applicant obtained licensure in the other state or  
6454 jurisdiction; and

6455 (c) document having been successfully engaged in practice as a dental hygienist for not  
6456 less than 2,000 hours in the two years immediately preceding the date of application for  
6457 licensure.

6458 Section 108. Section 58-70a-302 is amended to read:

6459 **58-70a-302. Qualifications for licensure.**

6460 Each applicant for licensure as a physician assistant shall:

6461 (1) submit an application in a form prescribed by the division;

6462 (2) pay a fee determined by the department under Section 63J-1-504;

6463 [~~3~~] be of good moral character;

6464 [~~4~~] (3) have successfully completed a physician assistant program accredited by the:

6465 (a) Accreditation Review Commission on Education for the Physician Assistant; or

6466 (b) if prior to January 1, 2001, either the:

6467 (i) Committee on Accreditation of Allied Health Education Programs; or

6468 (ii) Committee on Allied Health Education and Accreditation;

6469 [~~5~~] (4) have passed the licensing examinations required by division rule made in

6470 collaboration with the board;

6471           ~~[(6)]~~ (5) meet with the board and representatives of the division, if requested, for the  
6472 purpose of evaluating the applicant's qualifications for licensure; and

6473           ~~[(7)]~~ (6) (a) if the applicant desires to practice in Utah, complete a form provided by  
6474 the division indicating:

6475           (i) the applicant has completed a delegation of services agreement signed by the  
6476 physician assistant and the supervising physician; and

6477           (ii) the agreement is on file at the Utah practice sites; or

6478           (b) complete a form provided by the division indicating the applicant is not practicing  
6479 in Utah and, prior to practicing in Utah, the applicant will meet the requirements of Subsection  
6480 ~~[(7)]~~ (6)(a).

6481           Section 109. Section **58-70a-306** is amended to read:

6482           **58-70a-306. Temporary license.**

6483           (1) An applicant for licensure as a physician assistant who has met all qualifications for  
6484 licensure except passing an examination component as required in Section **58-70a-302**, may  
6485 apply for and be granted a temporary license to practice under Subsection (2).

6486           (2) (a) The applicant shall submit to the division evidence of completion of a physician  
6487 assistant program as defined in Subsection **58-70a-302**~~[(4)]~~(3).

6488           (b) (i) The temporary license shall be issued for a period not to exceed 120 days to  
6489 allow the applicant to pass the Physician Assistant National Certifying Examination.

6490           (ii) The temporary license may not be renewed or extended.

6491           (c) A physician assistant holding a temporary license may work only under the direct  
6492 supervision of an approved supervising or substitute supervising physician in accordance with  
6493 a delegation of services agreement, and all patient charts shall be reviewed and countersigned  
6494 by the supervising or substitute supervising physician.

6495           Section 110. Section **58-71-302** is amended to read:

6496           **58-71-302. Qualifications for licensure.**

6497           (1) An applicant for licensure as a naturopathic physician, except as set forth in



6498 Subsection (2), shall:

6499 (a) submit an application in a form prescribed by the division, which may include:

6500 (i) submissions by the applicant of information maintained by practitioner data banks,  
6501 as designated by division rule, with respect to the applicant; and

6502 (ii) a record of professional liability claims made against the applicant and settlements  
6503 paid by or in behalf of the applicant;

6504 (b) pay a fee determined by the department under Section 63J-1-504;

6505 [~~(c)~~ be of good moral character;]

6506 [~~(d)~~ (c) provide satisfactory documentation of having successfully completed a  
6507 program of professional education preparing an individual as a naturopathic physician, as  
6508 evidenced by having received an earned degree of doctor of naturopathic medicine from:

6509 (i) a naturopathic medical school or college accredited by the Council of Naturopathic  
6510 Medical Education or its successor organization approved by the division;

6511 (ii) a naturopathic medical school or college that is a candidate for accreditation by the  
6512 Council of Naturopathic Medical Education or its successor organization, and is approved by  
6513 the division in collaboration with the board, upon a finding there is reasonable expectation the  
6514 school or college will be accredited; or

6515 (iii) a naturopathic medical school or college which, at the time of the applicant's  
6516 graduation, met current criteria for accreditation by the Council of Naturopathic Medical  
6517 Education or its successor organization approved by the division;

6518 [~~(e)~~ (d) provide satisfactory documentation of having successfully completed, after  
6519 successful completion of the education requirements set forth in Subsection [~~(1)~~(d)] (1)(c), 12  
6520 months of clinical experience in naturopathic medicine in a residency program recognized by  
6521 the division and associated with an accredited school or college of naturopathic medicine, and  
6522 under the preceptorship of a licensed naturopathic physician, physician and surgeon, or  
6523 osteopathic physician;

6524 [~~(f)~~ (e) pass the licensing examination sequence required by division rule established  
6525 in collaboration with the board;

6526           ~~[(g)]~~ (f) be able to read, write, speak, understand, and be understood in the English  
6527 language and demonstrate proficiency to the satisfaction of the board if requested by the board;  
6528 and

6529           ~~[(h)]~~ (g) meet with the board and representatives of the division, if requested, for the  
6530 purpose of evaluating the applicant's qualifications for licensure.

6531           (2) (a) In accordance with Subsection (2)(b), an applicant for licensure as a  
6532 naturopathic physician under the endorsement provision of Section 58-1-302 shall:

6533           (i) meet the requirements of Section 58-1-302;

6534           (ii) document having met all requirements for licensure under Subsection (1) except  
6535 the clinical experience requirement of Subsection ~~[(1)(e)]~~ (1)(d);

6536           (iii) have passed the examination requirements established under Subsection ~~[(1)(f)]~~  
6537 ~~which~~ (1)(e) that:

6538           (A) the applicant has not passed in connection with licensure in another state or  
6539 jurisdiction; and

6540           (B) are available to the applicant to take without requiring additional professional  
6541 education;

6542           (iv) have been actively engaged in the practice of a naturopathic physician for not less  
6543 than 6,000 hours during the five years immediately preceding the date of application for  
6544 licensure in Utah; and

6545           (v) meet with the board and representatives of the division for the purpose of  
6546 evaluating the applicant's qualifications for licensure.

6547           (b) The division may rely, either wholly or in part, on one or more credentialing  
6548 associations designated by division rule, made in collaboration with the board, to document  
6549 and certify in writing to the satisfaction of the division that an applicant has met each of the  
6550 requirements of this Subsection (2), including the requirements of Section 58-1-302, and that:

6551           (i) the applicant holds a current license;

6552           (ii) the education, experience, and examination requirements of the foreign country or  
6553 the state, district, or territory of the United States that issued the applicant's license are, or were

6554 at the time the license was issued, equal to those of this state for licensure as a naturopathic  
6555 physician; and

6556 (iii) the applicant has produced evidence satisfactory to the division of the applicant's  
6557 qualifications, identity, and good standing as a naturopathic physician.

6558 Section 111. Section **58-72-302** is amended to read:

6559 **58-72-302. Qualifications for licensure.**

6560 An applicant for licensure as a licensed acupuncturist shall:

6561 (1) submit an application in a form prescribed by the division;

6562 (2) pay a fee determined by the department under Section [63J-1-504](#);

6563 [~~(3) be of good moral character;~~]

6564 [~~(4)~~] (3) meet the requirements for current active certification in acupuncture under  
6565 guidelines established by the National Commission for the Certification of Acupuncture and  
6566 Oriental Medicine (NCCAOM) as demonstrated through a current certificate or other  
6567 appropriate documentation;

6568 [~~(5)~~] (4) pass the examination required by the division by rule;

6569 [~~(6)~~] (5) establish procedures, as defined by rule, which shall enable patients to give  
6570 informed consent to treatment; and

6571 [~~(7)~~] (6) meet with the board, if requested, for the purpose of evaluating the applicant's  
6572 qualifications for licensure.

6573 Section 112. Section **58-73-302** is amended to read:

6574 **58-73-302. Qualifications for licensure.**

6575 (1) Each applicant for licensure as a chiropractic physician, other than those applying  
6576 for a license based on licensure as a chiropractor or chiropractic physician in another  
6577 jurisdiction, shall:

6578 (a) submit an application in a form prescribed by the division;

6579 (b) pay a fee determined by the department under Section [63J-1-504](#);

6580 [~~(c) be of good moral character;~~]

6581 [~~(d)~~] (c) demonstrate satisfactory completion of at least two years of general study in a

6582 college or university;

6583           ~~[(e)]~~ (d) demonstrate having earned a degree of doctor of chiropractic from a  
6584 chiropractic college or university that at the time the degree was conferred was accredited by  
6585 the Council on Chiropractic Education, Inc., or an equivalent chiropractic accrediting body  
6586 recognized by the United States Department of Education and by the division rule made in  
6587 collaboration with the board;

6588           ~~[(f)]~~ (e) demonstrate successful completion of:

6589           (i) the National Chiropractic Boards:

6590           (A) Parts I and II;

6591           (B) Written Clinical Competency Examination; and

6592           (C) Physical Therapy;

6593           (ii) the Utah Chiropractic Law and Rules Examination; and

6594           (iii) a practical examination approved by the division in collaboration with the board;

6595 and

6596           ~~[(g)]~~ (f) meet with the board, if requested, for the purpose of reviewing the applicant's  
6597 qualifications for licensure.

6598           (2) Each applicant for licensure as a chiropractic physician based on licensure as a  
6599 chiropractor or chiropractic physician in another jurisdiction shall:

6600           (a) submit an application in the form prescribed by the division;

6601           (b) pay a fee determined by the department under Section [63J-1-504](#);

6602           ~~[(e) be of good moral character;]~~

6603           ~~[(d)]~~ (c) demonstrate having obtained licensure as a chiropractor or chiropractic  
6604 physician in another state under education requirements which were equivalent to the education  
6605 requirements in this state to obtain a chiropractor or chiropractic physician license at the time  
6606 the applicant obtained the license in the other state;

6607           ~~[(e)]~~ (d) demonstrate successful completion of:

6608           (i) the Utah Chiropractic Law and Rules Examination; and

6609           (ii) the Special Purposes Examination for Chiropractic (SPEC) of the National Board

6610 of Chiropractic Examiners;  
6611        ~~[(f)]~~ (e) have been actively engaged in the practice of chiropractic for not less than two  
6612 years immediately preceding application for licensure in this state; and  
6613        ~~[(g)]~~ (f) meet with the board, if requested, for the purpose of reviewing the applicant's  
6614 qualifications for licensure.

6615        Section 113. Section **58-74-102** is amended to read:

6616        **58-74-102. Definitions.**

6617        In addition to the definitions in Section **58-1-102**, as used in this chapter:

- 6618        (1) "Practice of court reporting" means the making of a verbatim record, by  
6619 stenography or voice writing, of any trial, legislative public hearing, state agency public  
6620 hearing, deposition, examination before trial, hearing or proceeding before any grand jury,  
6621 referee, board, commission, master or arbitrator, or other sworn testimony given under oath.  
6622        (2) "State certified court reporter" means a person who engages in the practice of court  
6623 reporting and has met the requirements for state certification as a state certified court reporter.  
6624        (3) "Unlawful conduct" means the same as that term is defined in Sections **58-1-501**  
6625 and **58-74-501**.  
6626        (4) "Unprofessional conduct" means the same as that term is defined in ~~[Section]~~  
6627 Sections 58-1-501 and 58-74-502 and as may be further defined by rule.

6628        Section 114. Section **58-74-302** is amended to read:

6629        **58-74-302. Qualifications for state certification.**

- 6630        (1) Each applicant for state certification as a state certified court reporter under this  
6631 chapter shall:  
6632        (a) be at least 18 years of age;  
6633        (b) be a citizen of the United States and a resident of the state;  
6634        (c) submit an application in a form prescribed by the division;  
6635        (d) pay a fee determined by the department under Section **63J-1-504**;  
6636        (e) possess a high degree of skill and ability in the art of court reporting; and  
6637        ~~[(f) produce satisfactory evidence of good moral character; and]~~

6638           ~~[(g)]~~ (f) submit evidence that the applicant has completed and passed the Registered  
 6639 Professional Reporter Examination of the National Court Reporters Association or the  
 6640 Certified Verbatim Reporter Examination of the National Verbatim Reporters Association.

6641           (2) ~~[Any]~~ A person granted a certificate to practice as a state certified court reporter  
 6642 may use the abbreviation "C.C.R." or "C.V.R." as long as the person's certificate is current and  
 6643 valid.

6644           Section 115. Section **58-75-302** is amended to read:

6645           **58-75-302. Qualifications for licensure -- Temporary license.**

6646           (1) Except as provided in Subsection (2), each applicant for licensure as a genetic  
 6647 counselor under this chapter shall:

6648           (a) submit an application in a form prescribed by the division;

6649           (b) pay a fee determined by the department under Section [63J-1-504](#);

6650           ~~[(c) be of good moral character;]~~

6651           ~~[(d)]~~ (c) provide satisfactory documentation of having earned:

6652           (i) a master's degree from a genetic counseling training program that is accredited by  
 6653 the American Board of Genetic Counseling or an equivalent as determined by the division; or

6654           (ii) a doctoral degree from a medical genetics training program that is accredited by the  
 6655 American Board of Medical Genetics or an equivalent as determined by the division; and

6656           ~~[(e)]~~ (d) meet the examination requirement for certification as:

6657           (i) a genetic counselor by the American Board of Genetic Counseling or the American  
 6658 Board of Medical Genetics; or

6659           (ii) a medical geneticist by the American Board of Medical Genetics.

6660           (2) The division may issue a temporary license, in accordance with Section [58-1-303](#)  
 6661 and any other conditions established by rule, to an applicant who meets all of the requirements  
 6662 for licensure except the examination requirement of Subsection ~~[(1)(e)]~~ (1)(d).

6663           Section 116. Section **58-76-302** is amended to read:

6664           **58-76-302. Qualifications for licensure.**

6665           Each applicant for licensure as a professional geologist shall:

- 6666 (1) submit an application in a form as prescribed by the division;
- 6667 (2) pay a fee as determined by the department under Section 63J-1-504;
- 6668 [~~(3)~~ be of good moral character;]
- 6669 [~~(4)~~ (3) provide satisfactory evidence of:
- 6670 (a) a bachelors or graduate degree in the geosciences granted through an institution of
- 6671 higher education that is accredited by a regional or national accrediting agency with a minimum
- 6672 of 30 semester or 45 quarter hours of course work in the geosciences; or
- 6673 (b) completion of other equivalent educational requirements as determined by the
- 6674 division in collaboration with the board;
- 6675 [~~(5)~~ (4) provide satisfactory evidence of:
- 6676 (a) with a bachelors degree, a specific record of five years of active professional
- 6677 practice in geological work of a character satisfactory to the division, indicating the applicant is
- 6678 competent to be placed in a responsible charge of the work;
- 6679 (b) with a masters degree, a specific record of three years of active professional
- 6680 practice in geological work of a character satisfactory to the division, indicating the applicant is
- 6681 competent to be placed in a responsible charge of the work; or
- 6682 (c) with a doctorate degree, a specific record of one year of active professional practice
- 6683 in geological work of a character satisfactory to the division, indicating the applicant is
- 6684 competent to be placed in a responsible charge of the work; and
- 6685 [~~(6)~~ (5) after January 1, 2004, meet the examination requirement established by rule
- 6686 by the division in collaboration with the board.
- 6687 Section 117. Section **58-76-502** is amended to read:
- 6688 **58-76-502. Penalty for unlawful conduct.**
- 6689 (1) (a) If, upon inspection or investigation, the division concludes that a person has
- 6690 violated Section 58-76-501 or any rule or order issued with respect to Section 58-76-501, and
- 6691 that disciplinary action is appropriate, the director or the director's designee from within the
- 6692 division shall promptly issue a citation to the person according to this chapter and any pertinent
- 6693 rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an

6694 adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

6695 (i) A person who violates Subsections 58-1-501(1)(a) through (d) or Section 58-76-501  
6696 or any rule or order issued with respect to Section 58-76-501, as evidenced by an uncontested  
6697 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may  
6698 be assessed a fine pursuant to this Subsection (1) and may, in addition to or in lieu of, be  
6699 ordered to cease and desist from violating Subsections 58-1-501(1)(a) through (d) or Section  
6700 58-76-501 or any rule or order issued with respect to this section.

6701 (ii) Except for a cease and desist order, the licensure sanctions cited in Section  
6702 58-76-401 may not be assessed through a citation.

6703 (b) A citation shall:

6704 (i) be in writing;

6705 (ii) describe with particularity the nature of the violation, including a reference to the  
6706 provision of the chapter, rule, or order alleged to have been violated;

6707 (iii) clearly state that the recipient must notify the division in writing within 20  
6708 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing  
6709 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

6710 (iv) clearly explain the consequences of failure to timely contest the citation or to make  
6711 payment of any fines assessed by the citation within the time specified in the citation.

6712 (c) The division may issue a notice in lieu of a citation.

6713 (d) Each citation issued under this section, or a copy of each citation, may be served  
6714 upon any person upon whom a summons may be served in accordance with the Utah Rules of  
6715 Civil Procedure and may be made personally or upon the person's agent by a division  
6716 investigator or by any person specially designated by the director or by mail.

6717 (e) If within 20 calendar days from the service of the citation, the person to whom the  
6718 citation was issued fails to request a hearing to contest the citation, the citation becomes the  
6719 final order of the division and is not subject to further agency review. The period to contest a  
6720 citation may be extended by the division for cause.

6721 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation



6722 the license of a licensee who fails to comply with a citation after it becomes final.

6723 (g) The failure of an applicant for licensure to comply with a citation after it becomes  
6724 final is a ground for denial of license.

6725 (h) No citation may be issued under this section after the expiration of [~~six months~~  
6726 ~~following the occurrence of any violation~~] one year following the date on which the violation  
6727 that is the subject of the citation is reported to the division.

6728 (i) The director or the director's designee shall assess fines according to the following:

6729 (i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to \$1,000;

6730 (ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000;

6731 and

6732 (iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to  
6733 \$2,000 for each day of continued offense.

6734 (2) An action initiated for a first or second offense which has not yet resulted in a final  
6735 order of the division shall not preclude initiation of any subsequent action for a second or  
6736 subsequent offense during the pendency of any preceding action. The final order on a  
6737 subsequent action shall be considered a second or subsequent offense, respectively, provided  
6738 the preceding action resulted in a first or second offense, respectively.

6739 (3) (a) The director may collect a penalty that is not paid by:

6740 (i) referring the matter to a collection agency; or

6741 (ii) bringing an action in the district court of the county where the person against whom  
6742 the penalty is imposed resides or in the county where the office of the director is located.

6743 (b) A county attorney or the attorney general of the state shall provide legal assistance  
6744 and advice to the director in an action to collect a penalty.

6745 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an  
6746 action brought by the division to collect a penalty.

6747 Section 118. Section **58-77-302** is amended to read:

6748 **58-77-302. Qualifications for licensure.**

6749 Each applicant for licensure as a licensed direct-entry midwife shall:

- 6750 (1) submit an application in a form prescribed by the division;
- 6751 (2) pay a fee as determined by the department under Section 63J-1-504;
- 6752 [~~(3) be of good moral character;~~]
- 6753 [~~(4)~~] (3) hold a Certified Professional Midwife certificate in good standing with the
- 6754 North American Registry of Midwives or equivalent certification approved by the division in
- 6755 collaboration with the board;
- 6756 [~~(5)~~] (4) hold current adult and infant CPR and newborn resuscitation certifications
- 6757 through an organization approved by the division in collaboration with the board; and
- 6758 [~~(6)~~] (5) provide documentation of successful completion of an approved
- 6759 pharmacology course as defined by division rule.

6760 Section 119. Section 58-78-302 is amended to read:

6761 **58-78-302. Qualifications for licensure -- Licensure by credential.**

6762 (1) Except as provided in Subsection (2), an applicant for licensure as a vocational

6763 rehabilitation counselor under this chapter shall:

- 6764 (a) submit an application in a form as prescribed by the division;
- 6765 (b) pay a fee determined by the department under Section 63J-1-504 to recover the
- 6766 costs of administering licensing requirements relating to vocational rehabilitation counselors;

6767 [~~(c) be of good moral character;~~]

6768 [~~(d)~~] (c) provide satisfactory evidence of having earned a master's degree in

6769 rehabilitation counseling or a related field;

6770 [~~(e)~~] (d) provide satisfactory evidence of having 4,000 hours of disability related work

6771 experience under the supervision of a licensed vocational rehabilitation counselor, except as

6772 otherwise provided in Subsection (2); and

6773 [~~(f)~~] (e) meet the examination requirement established by rule by the division in

6774 collaboration with the board.

6775 (2) The division may issue a license under this chapter to an individual who is licensed

6776 in another state or jurisdiction to practice vocational rehabilitation counseling if the division

6777 finds that the other state or jurisdiction has substantially the same or higher licensure

6778 requirements as this state.

6779 Section 120. Section **58-79-302** is amended to read:

6780 **58-79-302. Qualifications for licensure.**

6781 (1) An applicant for licensure as a hunting guide shall:

6782 (a) submit an application in a form prescribed by the division;

6783 (b) pay a fee determined by the department under Section [63J-1-504](#);

6784 [~~(c) produce satisfactory evidence of good moral character;~~]

6785 [~~(d)~~] (c) possess a high degree of skill and ability as a hunting guide;

6786 [~~(e)~~] (d) successfully complete basic education and training requirements established

6787 by rule by the division in collaboration with the board; and

6788 [~~(f)~~] (e) meet with the division and board if requested by the division or board.

6789 (2) An applicant for licensure as an outfitter shall:

6790 (a) submit an application in a form prescribed by the division;

6791 (b) pay a fee determined by the department under Section [63J-1-504](#);

6792 [~~(c) produce satisfactory evidence of good moral character;~~]

6793 [~~(d)~~] (c) possess a high degree of skill and ability as an outfitter;

6794 [~~(e)~~] (d) successfully complete basic education and training requirements established

6795 by rule by the division in collaboration with the board; and

6796 [~~(f)~~] (e) meet with the division and board if requested by the division or board.

6797 Section 121. Section **58-84-201** is amended to read:

6798 **58-84-201. Qualifications for state certification.**

6799 (1) The division shall grant state certification to a person who qualifies under this  
6800 chapter to engage in the practice of music therapy as a state certified music therapist.

6801 (2) Each applicant for state certification as a state certified music therapist shall:

6802 (a) submit an application in a form prescribed by the division;

6803 (b) pay a fee determined by the department under Section [63J-1-504](#); and

6804 [~~(c) be of good moral character; and~~]

6805 [~~(d)~~] (c) provide satisfactory documentation that the applicant is board certified by, and

6806 in good standing with, the Certification Board for Music Therapists, or an equivalent board as  
6807 determined by division rule.

6808 Section 122. Section **58-86-202** is amended to read:

6809 **58-86-202. Qualifications for state certification.**

6810 Each applicant for state certification as a state certified commercial interior designer  
6811 shall:

6812 (1) submit an application in a form prescribed by the division;

6813 (2) pay a fee determined by the department under Section [63J-1-504](#); and

6814 (3) provide satisfactory evidence of [~~:(a) good moral character; and (b)~~] having

6815 qualified to take and having passed the examination of the National Council for Interior Design

6816 Qualification, or an equivalent body as determined by division rule.

6817 Section 123. Section **58-86-302** is amended to read:

6818 **58-86-302. Penalty for unlawful conduct.**

6819 (1) If upon inspection or investigation the division concludes that a person has violated  
6820 Subsections [58-1-501](#)(1)(a) through (d), Section [58-86-301](#), or a rule or order issued with  
6821 respect to Section [58-86-301](#), and that disciplinary action is appropriate, the director or the  
6822 director's designee may:

6823 (a) issue a citation to the person according to this chapter and any pertinent rules;

6824 (b) attempt to negotiate a stipulated settlement; or

6825 (c) notify the person to appear at an adjudicative proceeding conducted under Title  
6826 [63G](#), Chapter 4, Administrative Procedures Act.

6827 (2) A person who violates Subsections [58-1-501](#)(1)(a) through (d), Section [58-86-301](#),  
6828 or a rule or order issued with respect to Section [58-86-301](#), as evidenced by an uncontested  
6829 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may  
6830 be assessed a fine pursuant to this chapter and may, in addition to or in lieu of the fine, be  
6831 ordered to cease and desist from violating Subsections [58-1-501](#)(1)(a) through (d), Section  
6832 [58-86-301](#), or a rule or order issued with respect to Section [58-86-301](#).

6833 (3) A citation issued under this chapter shall:

- 6834 (a) be in writing;
- 6835 (b) describe with particularity the nature of the violation, including a reference to the  
6836 provision of the chapter, rule, or order alleged to have been violated;
- 6837 (c) clearly state that the recipient must notify the division in writing within 20 calendar  
6838 days of service of the citation if the recipient wishes to contest the citation at a hearing  
6839 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and
- 6840 (d) clearly explain the consequences of failure to timely contest the citation or to make  
6841 payment of any fines assessed by the citation within the time specified in the citation.
- 6842 (4) The division may issue a notice in lieu of a citation.
- 6843 (5) A citation issued under this section, or a copy of the citation, may be served upon a  
6844 person upon whom a summons may be served in accordance with the Utah Rules of Civil  
6845 Procedure and may be made by mail or may be made personally or upon the person's agent by a  
6846 division investigator or by a person specially designated by the director.
- 6847 (6) (a) If within 20 calendar days from the service of the citation the person to whom  
6848 the citation was issued fails to request a hearing to contest the citation, the citation becomes the  
6849 final order of the division and is not subject to further agency review.
- 6850 (b) The period to contest a citation may be extended by the division for cause.
- 6851 (7) The division may refuse to issue or renew or may suspend, revoke, or place on  
6852 probation the state certification of a state certified commercial interior designer who fails to  
6853 comply with a citation after the citation becomes final.
- 6854 (8) The failure of an applicant for state certification to comply with a citation after the  
6855 citation becomes final is a ground for denial of state certification.
- 6856 (9) No citation may be issued under this section after the expiration of ~~six months~~  
6857 ~~following the occurrence of a violation]~~ one year following the date on which the violation that  
6858 is the subject of the citation is reported to the division.
- 6859 (10) The director or the director's designee shall assess fines according to the  
6860 following:
- 6861 (a) for a first offense handled pursuant to this section, a fine of up to \$1,000;

6862 (b) for a second offense handled pursuant to this section, a fine of up to \$2,000; and  
6863 (c) for any subsequent offense handled pursuant to this section, a fine of up to \$2,000  
6864 for each day of continued offense.

6865 (11) An action initiated for a first or second offense that has not yet resulted in a final  
6866 order of the division does not preclude initiation of a subsequent action for a second or  
6867 subsequent offense during the pendency of a preceding action.

6868 (12) (a) A penalty that is not paid may be collected by the director by either referring  
6869 the matter to a collection agency or by bringing an action in the district court of the county in  
6870 which the person against whom the penalty is imposed resides or in the county where the office  
6871 of the director is located.

6872 (b) A county attorney or the attorney general of the state shall provide legal assistance  
6873 and advice to the director in an action to collect the penalty.

6874 (c) In an action brought to enforce the provisions of this section, reasonable attorney  
6875 fees and costs shall be awarded to the division.

6876 Section 124. Section **63G-2-305** is amended to read:

6877 **63G-2-305. Protected records.**

6878 The following records are protected if properly classified by a governmental entity:

6879 (1) trade secrets as defined in Section [13-24-2](#) if the person submitting the trade secret  
6880 has provided the governmental entity with the information specified in Section [63G-2-309](#);

6881 (2) commercial information or nonindividual financial information obtained from a  
6882 person if:

6883 (a) disclosure of the information could reasonably be expected to result in unfair  
6884 competitive injury to the person submitting the information or would impair the ability of the  
6885 governmental entity to obtain necessary information in the future;

6886 (b) the person submitting the information has a greater interest in prohibiting access  
6887 than the public in obtaining access; and

6888 (c) the person submitting the information has provided the governmental entity with  
6889 the information specified in Section [63G-2-309](#);

6890 (3) commercial or financial information acquired or prepared by a governmental entity  
6891 to the extent that disclosure would lead to financial speculations in currencies, securities, or  
6892 commodities that will interfere with a planned transaction by the governmental entity or cause  
6893 substantial financial injury to the governmental entity or state economy;

6894 (4) records, the disclosure of which could cause commercial injury to, or confer a  
6895 competitive advantage upon a potential or actual competitor of, a commercial project entity as  
6896 defined in Subsection [11-13-103\(4\)](#);

6897 (5) test questions and answers to be used in future license, certification, registration,  
6898 employment, or academic examinations;

6899 (6) records, the disclosure of which would impair governmental procurement  
6900 proceedings or give an unfair advantage to any person proposing to enter into a contract or  
6901 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this  
6902 Subsection (6) does not restrict the right of a person to have access to, after the contract or  
6903 grant has been awarded and signed by all parties:

6904 (a) a bid, proposal, application, or other information submitted to or by a governmental  
6905 entity in response to:

- 6906 (i) an invitation for bids;
- 6907 (ii) a request for proposals;
- 6908 (iii) a request for quotes;
- 6909 (iv) a grant; or
- 6910 (v) other similar document; or

6911 (b) an unsolicited proposal, as defined in Section [63G-6a-712](#);

6912 (7) information submitted to or by a governmental entity in response to a request for  
6913 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict  
6914 the right of a person to have access to the information, after:

6915 (a) a contract directly relating to the subject of the request for information has been  
6916 awarded and signed by all parties; or

6917 (b) (i) a final determination is made not to enter into a contract that relates to the

6918 subject of the request for information; and

6919 (ii) at least two years have passed after the day on which the request for information is  
6920 issued;

6921 (8) records that would identify real property or the appraisal or estimated value of real  
6922 or personal property, including intellectual property, under consideration for public acquisition  
6923 before any rights to the property are acquired unless:

6924 (a) public interest in obtaining access to the information is greater than or equal to the  
6925 governmental entity's need to acquire the property on the best terms possible;

6926 (b) the information has already been disclosed to persons not employed by or under a  
6927 duty of confidentiality to the entity;

6928 (c) in the case of records that would identify property, potential sellers of the described  
6929 property have already learned of the governmental entity's plans to acquire the property;

6930 (d) in the case of records that would identify the appraisal or estimated value of  
6931 property, the potential sellers have already learned of the governmental entity's estimated value  
6932 of the property; or

6933 (e) the property under consideration for public acquisition is a single family residence  
6934 and the governmental entity seeking to acquire the property has initiated negotiations to acquire  
6935 the property as required under Section [78B-6-505](#);

6936 (9) records prepared in contemplation of sale, exchange, lease, rental, or other  
6937 compensated transaction of real or personal property including intellectual property, which, if  
6938 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value  
6939 of the subject property, unless:

6940 (a) the public interest in access is greater than or equal to the interests in restricting  
6941 access, including the governmental entity's interest in maximizing the financial benefit of the  
6942 transaction; or

6943 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of  
6944 the value of the subject property have already been disclosed to persons not employed by or  
6945 under a duty of confidentiality to the entity;



6946 (10) records created or maintained for civil, criminal, or administrative enforcement  
6947 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if  
6948 release of the records:

6949 (a) reasonably could be expected to interfere with investigations undertaken for  
6950 enforcement, discipline, licensing, certification, or registration purposes;

6951 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement  
6952 proceedings;

6953 (c) would create a danger of depriving a person of a right to a fair trial or impartial  
6954 hearing;

6955 (d) reasonably could be expected to disclose the identity of a source who is not  
6956 generally known outside of government and, in the case of a record compiled in the course of  
6957 an investigation, disclose information furnished by a source not generally known outside of  
6958 government if disclosure would compromise the source; or

6959 (e) reasonably could be expected to disclose investigative or audit techniques,  
6960 procedures, policies, or orders not generally known outside of government if disclosure would  
6961 interfere with enforcement or audit efforts;

6962 (11) records the disclosure of which would jeopardize the life or safety of an  
6963 individual;

6964 (12) records the disclosure of which would jeopardize the security of governmental  
6965 property, governmental programs, or governmental recordkeeping systems from damage, theft,  
6966 or other appropriation or use contrary to law or public policy;

6967 (13) records that, if disclosed, would jeopardize the security or safety of a correctional  
6968 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere  
6969 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

6970 (14) records that, if disclosed, would reveal recommendations made to the Board of  
6971 Pardons and Parole by an employee of or contractor for the Department of Corrections, the  
6972 Board of Pardons and Parole, or the Department of Human Services that are based on the  
6973 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's

6974 jurisdiction;

6975 (15) records and audit workpapers that identify audit, collection, and operational  
6976 procedures and methods used by the State Tax Commission, if disclosure would interfere with  
6977 audits or collections;

6978 (16) records of a governmental audit agency relating to an ongoing or planned audit  
6979 until the final audit is released;

6980 (17) records that are subject to the attorney client privilege;

6981 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,  
6982 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,  
6983 quasi-judicial, or administrative proceeding;

6984 (19) (a) (i) personal files of a state legislator, including personal correspondence to or  
6985 from a member of the Legislature; and

6986 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of  
6987 legislative action or policy may not be classified as protected under this section; and

6988 (b) (i) an internal communication that is part of the deliberative process in connection  
6989 with the preparation of legislation between:

6990 (A) members of a legislative body;

6991 (B) a member of a legislative body and a member of the legislative body's staff; or

6992 (C) members of a legislative body's staff; and

6993 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of  
6994 legislative action or policy may not be classified as protected under this section;

6995 (20) (a) records in the custody or control of the Office of Legislative Research and  
6996 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated  
6997 legislation or contemplated course of action before the legislator has elected to support the  
6998 legislation or course of action, or made the legislation or course of action public; and

6999 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the  
7000 Office of Legislative Research and General Counsel is a public document unless a legislator  
7001 asks that the records requesting the legislation be maintained as protected records until such

7002 time as the legislator elects to make the legislation or course of action public;

7003           (21) research requests from legislators to the Office of Legislative Research and

7004 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared

7005 in response to these requests;

7006           (22) drafts, unless otherwise classified as public;

7007           (23) records concerning a governmental entity's strategy about:

7008           (a) collective bargaining; or

7009           (b) imminent or pending litigation;

7010           (24) records of investigations of loss occurrences and analyses of loss occurrences that

7011 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the

7012 Uninsured Employers' Fund, or similar divisions in other governmental entities;

7013           (25) records, other than personnel evaluations, that contain a personal recommendation

7014 concerning an individual if disclosure would constitute a clearly unwarranted invasion of

7015 personal privacy, or disclosure is not in the public interest;

7016           (26) records that reveal the location of historic, prehistoric, paleontological, or

7017 biological resources that if known would jeopardize the security of those resources or of

7018 valuable historic, scientific, educational, or cultural information;

7019           (27) records of independent state agencies if the disclosure of the records would

7020 conflict with the fiduciary obligations of the agency;

7021           (28) records of an institution within the state system of higher education defined in

7022 Section [53B-1-102](#) regarding tenure evaluations, appointments, applications for admissions,

7023 retention decisions, and promotions, which could be properly discussed in a meeting closed in

7024 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of

7025 the final decisions about tenure, appointments, retention, promotions, or those students

7026 admitted, may not be classified as protected under this section;

7027           (29) records of the governor's office, including budget recommendations, legislative

7028 proposals, and policy statements, that if disclosed would reveal the governor's contemplated

7029 policies or contemplated courses of action before the governor has implemented or rejected

7030 those policies or courses of action or made them public;

7031 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,  
7032 revenue estimates, and fiscal notes of proposed legislation before issuance of the final  
7033 recommendations in these areas;

7034 (31) records provided by the United States or by a government entity outside the state  
7035 that are given to the governmental entity with a requirement that they be managed as protected  
7036 records if the providing entity certifies that the record would not be subject to public disclosure  
7037 if retained by it;

7038 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a  
7039 public body except as provided in Section 52-4-206;

7040 (33) records that would reveal the contents of settlement negotiations but not including  
7041 final settlements or empirical data to the extent that they are not otherwise exempt from  
7042 disclosure;

7043 (34) memoranda prepared by staff and used in the decision-making process by an  
7044 administrative law judge, a member of the Board of Pardons and Parole, or a member of any  
7045 other body charged by law with performing a quasi-judicial function;

7046 (35) records that would reveal negotiations regarding assistance or incentives offered  
7047 by or requested from a governmental entity for the purpose of encouraging a person to expand  
7048 or locate a business in Utah, but only if disclosure would result in actual economic harm to the  
7049 person or place the governmental entity at a competitive disadvantage, but this section may not  
7050 be used to restrict access to a record evidencing a final contract;

7051 (36) materials to which access must be limited for purposes of securing or maintaining  
7052 the governmental entity's proprietary protection of intellectual property rights including patents,  
7053 copyrights, and trade secrets;

7054 (37) the name of a donor or a prospective donor to a governmental entity, including an  
7055 institution within the state system of higher education defined in Section 53B-1-102, and other  
7056 information concerning the donation that could reasonably be expected to reveal the identity of  
7057 the donor, provided that:

- 7058 (a) the donor requests anonymity in writing;
- 7059 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be  
7060 classified protected by the governmental entity under this Subsection (37); and
- 7061 (c) except for an institution within the state system of higher education defined in  
7062 Section [53B-1-102](#), the governmental unit to which the donation is made is primarily engaged  
7063 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority  
7064 over the donor, a member of the donor's immediate family, or any entity owned or controlled  
7065 by the donor or the donor's immediate family;
- 7066 (38) accident reports, except as provided in Sections [41-6a-404](#), [41-12a-202](#), and  
7067 [73-18-13](#);
- 7068 (39) a notification of workers' compensation insurance coverage described in Section  
7069 [34A-2-205](#);
- 7070 (40) (a) the following records of an institution within the state system of higher  
7071 education defined in Section [53B-1-102](#), which have been developed, discovered, disclosed to,  
7072 or received by or on behalf of faculty, staff, employees, or students of the institution:
- 7073 (i) unpublished lecture notes;
- 7074 (ii) unpublished notes, data, and information:
- 7075 (A) relating to research; and
- 7076 (B) of:
- 7077 (I) the institution within the state system of higher education defined in Section  
7078 [53B-1-102](#); or
- 7079 (II) a sponsor of sponsored research;
- 7080 (iii) unpublished manuscripts;
- 7081 (iv) creative works in process;
- 7082 (v) scholarly correspondence; and
- 7083 (vi) confidential information contained in research proposals;
- 7084 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public  
7085 information required pursuant to Subsection [53B-16-302\(2\)\(a\)](#) or (b); and

- 7086 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
- 7087 (41) (a) records in the custody or control of the Office of Legislative Auditor General
- 7088 that would reveal the name of a particular legislator who requests a legislative audit prior to the
- 7089 date that audit is completed and made public; and
- 7090 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
- 7091 Office of the Legislative Auditor General is a public document unless the legislator asks that
- 7092 the records in the custody or control of the Office of Legislative Auditor General that would
- 7093 reveal the name of a particular legislator who requests a legislative audit be maintained as
- 7094 protected records until the audit is completed and made public;
- 7095 (42) records that provide detail as to the location of an explosive, including a map or
- 7096 other document that indicates the location of:
- 7097 (a) a production facility; or
- 7098 (b) a magazine;
- 7099 (43) information:
- 7100 (a) contained in the statewide database of the Division of Aging and Adult Services
- 7101 created by Section [62A-3-311.1](#); or
- 7102 (b) received or maintained in relation to the Identity Theft Reporting Information
- 7103 System (IRIS) established under Section [67-5-22](#);
- 7104 (44) information contained in the Management Information System and Licensing
- 7105 Information System described in Title 62A, Chapter 4a, Child and Family Services;
- 7106 (45) information regarding National Guard operations or activities in support of the
- 7107 National Guard's federal mission;
- 7108 (46) records provided by any pawn or secondhand business to a law enforcement
- 7109 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
- 7110 Secondhand Merchandise Transaction Information Act;
- 7111 (47) information regarding food security, risk, and vulnerability assessments performed
- 7112 by the Department of Agriculture and Food;
- 7113 (48) except to the extent that the record is exempt from this chapter pursuant to Section

7114 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or  
7115 prepared or maintained by the Division of Emergency Management, and the disclosure of  
7116 which would jeopardize:

- 7117 (a) the safety of the general public; or
- 7118 (b) the security of:
  - 7119 (i) governmental property;
  - 7120 (ii) governmental programs; or
  - 7121 (iii) the property of a private person who provides the Division of Emergency  
7122 Management information;
- 7123 (49) records of the Department of Agriculture and Food that provides for the  
7124 identification, tracing, or control of livestock diseases, including any program established under  
7125 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control  
7126 of Animal Disease;
- 7127 (50) as provided in Section [26-39-501](#):
  - 7128 (a) information or records held by the Department of Health related to a complaint  
7129 regarding a child care program or residential child care which the department is unable to  
7130 substantiate; and
  - 7131 (b) information or records related to a complaint received by the Department of Health  
7132 from an anonymous complainant regarding a child care program or residential child care;
- 7133 (51) unless otherwise classified as public under Section [63G-2-301](#) and except as  
7134 provided under Section [41-1a-116](#), an individual's home address, home telephone number, or  
7135 personal mobile phone number, if:
  - 7136 (a) the individual is required to provide the information in order to comply with a law,  
7137 ordinance, rule, or order of a government entity; and
  - 7138 (b) the subject of the record has a reasonable expectation that this information will be  
7139 kept confidential due to:
    - 7140 (i) the nature of the law, ordinance, rule, or order; and
    - 7141 (ii) the individual complying with the law, ordinance, rule, or order;

7142 (52) the portion of the following documents that contains a candidate's residential or  
7143 mailing address, if the candidate provides to the filing officer another address or phone number  
7144 where the candidate may be contacted:

7145 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,  
7146 described in Section [20A-9-201](#), [20A-9-202](#), [20A-9-203](#), [20A-9-404](#), [20A-9-405](#), [20A-9-408](#),  
7147 [20A-9-408.5](#), [20A-9-502](#), or [20A-9-601](#);

7148 (b) an affidavit of impecuniosity, described in Section [20A-9-201](#); or

7149 (c) a notice of intent to gather signatures for candidacy, described in Section  
7150 [20A-9-408](#);

7151 (53) the name, home address, work addresses, and telephone numbers of an individual  
7152 that is engaged in, or that provides goods or services for, medical or scientific research that is:

7153 (a) conducted within the state system of higher education, as defined in Section  
7154 [53B-1-102](#); and

7155 (b) conducted using animals;

7156 (54) in accordance with Section [78A-12-203](#), any record of the Judicial Performance  
7157 Evaluation Commission concerning an individual commissioner's vote on whether or not to  
7158 recommend that the voters retain a judge including information disclosed under Subsection  
7159 [78A-12-203\(5\)\(e\)](#);

7160 (55) information collected and a report prepared by the Judicial Performance  
7161 Evaluation Commission concerning a judge, unless Section [20A-7-702](#) or Title 78A, Chapter  
7162 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,  
7163 the information or report;

7164 (56) records contained in the Management Information System created in Section  
7165 [62A-4a-1003](#);

7166 (57) records provided or received by the Public Lands Policy Coordinating Office in  
7167 furtherance of any contract or other agreement made in accordance with Section [63J-4-603](#);

7168 (58) information requested by and provided to the 911 Division under Section  
7169 [63H-7a-302](#);



7170 (59) in accordance with Section 73-10-33:

7171 (a) a management plan for a water conveyance facility in the possession of the Division

7172 of Water Resources or the Board of Water Resources; or

7173 (b) an outline of an emergency response plan in possession of the state or a county or

7174 municipality;

7175 (60) the following records in the custody or control of the Office of Inspector General

7176 of Medicaid Services, created in Section 63A-13-201:

7177 (a) records that would disclose information relating to allegations of personal

7178 misconduct, gross mismanagement, or illegal activity of a person if the information or

7179 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services

7180 through other documents or evidence, and the records relating to the allegation are not relied

7181 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation

7182 report or final audit report;

7183 (b) records and audit workpapers to the extent they would disclose the identity of a

7184 person who, during the course of an investigation or audit, communicated the existence of any

7185 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or

7186 regulation adopted under the laws of this state, a political subdivision of the state, or any

7187 recognized entity of the United States, if the information was disclosed on the condition that

7188 the identity of the person be protected;

7189 (c) before the time that an investigation or audit is completed and the final

7190 investigation or final audit report is released, records or drafts circulated to a person who is not

7191 an employee or head of a governmental entity for the person's response or information;

7192 (d) records that would disclose an outline or part of any investigation, audit survey

7193 plan, or audit program; or

7194 (e) requests for an investigation or audit, if disclosure would risk circumvention of an

7195 investigation or audit;

7196 (61) records that reveal methods used by the Office of Inspector General of Medicaid

7197 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or

7198 abuse;

7199 (62) information provided to the Department of Health or the Division of Occupational  
7200 and Professional Licensing under [~~Subsection~~] Subsections 58-67-304(3) and (4) and  
7201 Subsections 58-68-304(3) [~~or~~] and (4);

7202 (63) a record described in Section 63G-12-210;

7203 (64) captured plate data that is obtained through an automatic license plate reader  
7204 system used by a governmental entity as authorized in Section 41-6a-2003;

7205 (65) any record in the custody of the Utah Office for Victims of Crime relating to a  
7206 victim, including:

7207 (a) a victim's application or request for benefits;

7208 (b) a victim's receipt or denial of benefits; and

7209 (c) any administrative notes or records made or created for the purpose of, or used to,  
7210 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim  
7211 Reparations Fund;

7212 (66) an audio or video recording created by a body-worn camera, as that term is  
7213 defined in Section 77-7a-103, that records sound or images inside a hospital or health care  
7214 facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care  
7215 provider, as that term is defined in Section 78B-3-403, or inside a human service program as  
7216 that term is defined in Section 62A-2-101, except for recordings that:

7217 (a) depict the commission of an alleged crime;

7218 (b) record any encounter between a law enforcement officer and a person that results in  
7219 death or bodily injury, or includes an instance when an officer fires a weapon;

7220 (c) record any encounter that is the subject of a complaint or a legal proceeding against  
7221 a law enforcement officer or law enforcement agency;

7222 (d) contain an officer involved critical incident as defined in Subsection  
7223 76-2-408(1)(d); or

7224 (e) have been requested for reclassification as a public record by a subject or  
7225 authorized agent of a subject featured in the recording;

7226 (67) a record pertaining to the search process for a president of an institution of higher  
7227 education described in Section 53B-2-102, except for application materials for a publicly  
7228 announced finalist; and

7229 (68) an audio recording that is:

7230 (a) produced by an audio recording device that is used in conjunction with a device or  
7231 piece of equipment designed or intended for resuscitating an individual or for treating an  
7232 individual with a life-threatening condition;

7233 (b) produced during an emergency event when an individual employed to provide law  
7234 enforcement, fire protection, paramedic, emergency medical, or other first responder service:

7235 (i) is responding to an individual needing resuscitation or with a life-threatening  
7236 condition; and

7237 (ii) uses a device or piece of equipment designed or intended for resuscitating an  
7238 individual or for treating an individual with a life-threatening condition; and

7239 (c) intended and used for purposes of training emergency responders how to improve  
7240 their response to an emergency situation;

7241 (69) records submitted by or prepared in relation to an applicant seeking a  
7242 recommendation by the Research and General Counsel Subcommittee, the Budget  
7243 Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an  
7244 employment position with the Legislature;

7245 (70) work papers as defined in Section 31A-2-204;

7246 (71) a record made available to Adult Protective Services or a law enforcement agency  
7247 under Section 61-1-206;

7248 (72) a record submitted to the Insurance Department in accordance with Section  
7249 31A-37-201; and

7250 (73) a record described in Section 31A-37-503.

7251 (74) any record created by the Division of Occupational and Professional Licensing as  
7252 a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii); and

7253 (75) a record described in Section 72-16-306 that relates to the reporting of an injury

7254 involving an amusement ride.

7255 Section 125. Section **78B-3-416** is amended to read:

7256 **78B-3-416. Division to provide panel -- Exemption -- Procedures -- Statute of**  
7257 **limitations tolled -- Composition of panel -- Expenses -- Division authorized to set license**  
7258 **fees.**

7259 (1) (a) The division shall provide a hearing panel in alleged medical liability cases  
7260 against health care providers as defined in Section **78B-3-403**, except dentists.

7261 (b) (i) The division shall establish procedures for prelitigation consideration of medical  
7262 liability claims for damages arising out of the provision of or alleged failure to provide health  
7263 care.

7264 (ii) The division may establish rules necessary to administer the process and  
7265 procedures related to prelitigation hearings and the conduct of prelitigation hearings in  
7266 accordance with Sections **78B-3-416** through **78B-3-420**.

7267 (c) The proceedings are informal, nonbinding, and are not subject to Title 63G, Chapter  
7268 4, Administrative Procedures Act, but are compulsory as a condition precedent to commencing  
7269 litigation.

7270 (d) Proceedings conducted under authority of this section are confidential, privileged,  
7271 and immune from civil process.

7272 (e) The division may not provide more than one hearing panel for each alleged medical  
7273 liability case against a health care provider.

7274 (2) (a) The party initiating a medical liability action shall file a request for prelitigation  
7275 panel review with the division within 60 days after the service of a statutory notice of intent to  
7276 commence action under Section **78B-3-412**.

7277 (b) The request shall include a copy of the notice of intent to commence action. The  
7278 request shall be mailed to all health care providers named in the notice and request.

7279 (3) (a) The filing of a request for prelitigation panel review under this section tolls the  
7280 applicable statute of limitations until the later of:

7281 (i) 60 days following the division's issuance of:

- 7282 (A) an opinion by the prelitigation panel; or
- 7283 (B) a certificate of compliance under Section 78B-3-418; or
- 7284 (ii) the expiration of the time for holding a hearing under Subsection (3)(b)(ii).
- 7285 (b) The division shall:
- 7286 (i) send any opinion issued by the panel to all parties by regular mail; and
- 7287 (ii) complete a prelitigation hearing under this section within:
- 7288 (A) 180 days after the filing of the request for prelitigation panel review; or
- 7289 (B) any longer period as agreed upon in writing by all parties to the review.
- 7290 (c) If the prelitigation hearing has not been completed within the time limits
- 7291 established in Subsection (3)(b)(ii), the claimant shall:
- 7292 (i) file an affidavit of merit under the provisions of Section 78B-3-423; or
- 7293 (ii) file an affidavit with the division within 180 days of the request for pre-litigation
- 7294 review, in accordance with Subsection (3)(d), alleging that the respondent has failed to
- 7295 reasonably cooperate in scheduling the hearing.
- 7296 (d) If the claimant files an affidavit under Subsection (3)(c)(ii):
- 7297 (i) within 15 days of the filing of the affidavit under Subsection (3)(c)(ii), the division
- 7298 shall determine whether either the respondent or the claimant failed to reasonably cooperate in
- 7299 the scheduling of a pre-litigation hearing; and
- 7300 (ii) (A) if the determination is that the respondent failed to reasonably cooperate in the
- 7301 scheduling of a hearing, and the claimant did not fail to reasonably cooperate, the division
- 7302 shall, issue a certificate of compliance for the claimant in accordance with Section 78B-3-418;
- 7303 or
- 7304 (B) if the division makes a determination other than the determination in Subsection
- 7305 (3)(d)(ii)(A), the claimant shall file an affidavit of merit in accordance with Section 78B-3-423,
- 7306 within 30 days of the determination of the division under this Subsection (3).
- 7307 (e) (i) The claimant and any respondent may agree by written stipulation that no useful
- 7308 purpose would be served by convening a prelitigation panel under this section.
- 7309 (ii) When the stipulation is filed with the division, the division shall within 10 days

7310 after receipt issue a certificate of compliance under Section 78B-3-418, as it concerns the  
7311 stipulating respondent, and stating that the claimant has complied with all conditions precedent  
7312 to the commencement of litigation regarding the claim.

7313 (4) The division shall provide for and appoint an appropriate panel or panels to hear  
7314 complaints of medical liability and damages, made by or on behalf of any patient who is an  
7315 alleged victim of medical liability. The panels are composed of:

7316 (a) one member who is a resident lawyer currently licensed and in good standing to  
7317 practice law in this state and who shall serve as chairman of the panel, who is appointed by the  
7318 division from among qualified individuals who have registered with the division indicating a  
7319 willingness to serve as panel members, and a willingness to comply with the rules of  
7320 professional conduct governing lawyers in the state, and who has completed division training  
7321 regarding conduct of panel hearings;

7322 (b) (i) one ~~[member who is a]~~ or more members who are licensed health care ~~[provider]~~  
7323 providers listed under Section 78B-3-403, who ~~[is]~~ are practicing and knowledgeable in the  
7324 same specialty as the proposed defendant, and who ~~[is]~~ are appointed by the division in  
7325 accordance with Subsection (5); or

7326 (ii) in claims against only ~~[hospitals or their]~~ a health care facility or the facility's  
7327 employees, one member who is an individual currently serving in a ~~[hospital]~~ health care  
7328 facility administration position directly related to ~~[hospital]~~ health care facility operations or  
7329 conduct that includes responsibility for the area of practice that is the subject of the liability  
7330 claim, and who is appointed by the division; and

7331 (c) a lay panelist who is not a lawyer, doctor, hospital employee, or other health care  
7332 provider, and who is a responsible citizen of the state, selected and appointed by the division  
7333 from among individuals who have completed division training with respect to panel hearings.

7334 (5) (a) Each person listed as a health care provider in Section 78B-3-403 and practicing  
7335 under a license issued by the state, is obligated as a condition of holding that license to  
7336 participate as a member of a medical liability prelitigation panel at reasonable times, places,  
7337 and intervals, upon issuance, with advance notice given in a reasonable time frame, by the

7338 division of an Order to Participate as a Medical Liability Prelitigation Panel Member.

7339 (b) A licensee may be excused from appearance and participation as a panel member  
7340 upon the division finding participation by the licensee will create an unreasonable burden or  
7341 hardship upon the licensee.

7342 (c) A licensee whom the division finds failed to appear and participate as a panel  
7343 member when so ordered, without adequate explanation or justification and without being  
7344 excused for cause by the division, may be assessed an administrative fine not to exceed \$5,000.

7345 (d) A licensee whom the division finds intentionally or repeatedly failed to appear and  
7346 participate as a panel member when so ordered, without adequate explanation or justification  
7347 and without being excused for cause by the division, may be assessed an administrative fine not  
7348 to exceed \$5,000, and is guilty of unprofessional conduct.

7349 (e) All fines collected under Subsections (5)(c) and (d) shall be deposited in the  
7350 Physicians Education Fund created in Section [58-67a-1](#).

7351 (f) The director of the division may collect a fine that is not paid by:

7352 (i) referring the matter to a collection agency; or

7353 (ii) bringing an action in the district court of the county where the person against whom  
7354 the penalty is imposed resides or in the county where the office of the director is located.

7355 (g) A county attorney or the attorney general of the state shall provide legal assistance  
7356 and advice to the director in an action to collect a fine.

7357 (h) A court shall award reasonable attorney fees and costs to the prevailing party in an  
7358 action brought by the division to collect a fine.

7359 (6) Each person selected as a panel member shall certify, under oath, that he has no  
7360 bias or conflict of interest with respect to any matter under consideration.

7361 (7) A member of the prelitigation hearing panel may not receive compensation or  
7362 benefits for the member's service, but may receive per diem and travel expenses in accordance  
7363 with:

7364 (a) Section [63A-3-106](#);

7365 (b) Section [63A-3-107](#); and

7366 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
7367 63A-3-107.

7368 (8) (a) In addition to the actual cost of administering the licensure of health care  
7369 providers, the division may set license fees of health care providers within the limits  
7370 established by law equal to their proportionate costs of administering prelitigation panels.

7371 (b) The claimant bears none of the costs of administering the prelitigation panel except  
7372 under Section 78B-3-420.