

SB0023S02 compared with SB0023S01

~~deleted text~~ shows text that was in SB0023S01 but was deleted in SB0023S02.

inserted text shows text that was not in SB0023S01 but was inserted into SB0023S02.

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Senator Curtis S. Bramble proposes the following substitute bill:

DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: James A. Dunnigan

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;

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

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

15A-1-203, as last amended by Laws of Utah 2019, Chapters 20 and 119

38-11-102, as last amended by Laws of Utah 2018, Chapter 229

58-1-301.3, as enacted by Laws of Utah 2018, Chapter 331

58-1-301.5, as last amended by Laws of Utah 2018, Chapter 318

58-1-301.7, as last amended by Laws of Utah 2013, Chapter 262

58-1-302, as last amended by Laws of Utah 2019, Chapter 215

58-1-307, as last amended by Laws of Utah 2019, Chapters 136 and 349

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58-1-501, as last amended by Laws of Utah 2019, Chapter 198
58-1-502, as last amended by Laws of Utah 2018, Chapter 318
58-3a-105, as enacted by Laws of Utah 2019, Chapter 215
58-3a-302, as last amended by Laws of Utah 2009, Chapter 183
58-3a-304, as last amended by Laws of Utah 2016, Chapter 268
58-3a-502, as last amended by Laws of Utah 2018, Chapter 318
58-5a-302, as last amended by Laws of Utah 2017, Chapter 244
58-11a-102, as last amended by Laws of Utah 2017, Chapters 215 and 342
58-11a-302, as last amended by Laws of Utah 2018, Chapters 415 and 445
58-11a-304, as last amended by Laws of Utah 2018, Chapter 318
58-11a-306, as last amended by Laws of Utah 2018, Chapter 318
58-11a-502, as last amended by Laws of Utah 2016, Chapters 249 and 274
58-11a-503, as last amended by Laws of Utah 2018, Chapter 318
58-15-11, as last amended by Laws of Utah 1993, Chapter 297
58-16a-102, as last amended by Laws of Utah 2012, Chapters 256 and 362
58-16a-302, as last amended by Laws of Utah 2016, Chapter 238
58-16a-501, as last amended by Laws of Utah 2012, Chapter 256
58-16a-503, as last amended by Laws of Utah 2000, Chapter 160
58-17b-303, as last amended by Laws of Utah 2012, Chapter 93
58-17b-304, as last amended by Laws of Utah 2013, Chapter 166
58-17b-305, as last amended by Laws of Utah 2013, Chapter 166
58-17b-305.1, as enacted by Laws of Utah 2014, Chapter 385
58-17b-308, as last amended by Laws of Utah 2017, Chapter 384
58-17b-504, as last amended by Laws of Utah 2018, Chapter 318
58-17b-614, as last amended by Laws of Utah 2007, Chapter 279
58-20b-302, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
58-22-102, as last amended by Laws of Utah 2017, Chapter 218
58-22-104, as enacted by Laws of Utah 2019, Chapter 215
58-22-302, as last amended by Laws of Utah 2017, Chapter 382
58-22-305, as last amended by Laws of Utah 2013, Chapter 262
58-22-503, as last amended by Laws of Utah 2018, Chapter 318

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- 58-24b-302, as last amended by Laws of Utah 2019, Chapter 101
- 58-26a-302, as last amended by Laws of Utah 2017, Chapter 229
- 58-26a-305, as last amended by Laws of Utah 2008, Chapter 265
- 58-26a-306, as last amended by Laws of Utah 2019, Chapter 122
- 58-28-301, as enacted by Laws of Utah 2006, Chapter 109
- 58-28-302, as last amended by Laws of Utah 2009, Chapter 183
- 58-28-304, as renumbered and amended by Laws of Utah 2006, Chapter 109
- 58-31b-503, as last amended by Laws of Utah 2018, Chapter 318
- 58-31b-803, as last amended by Laws of Utah 2019, Chapter 233
- 58-37f-203, as last amended by Laws of Utah 2019, Chapter 59
- 58-37f-301, as last amended by Laws of Utah 2018, Chapter 123
- 58-37f-302, as enacted by Laws of Utah 2010, Chapter 287
- 58-37f-303, as enacted by Laws of Utah 2016, Chapter 112
- 58-40-302, as last amended by Laws of Utah 2015, Chapter 77
- 58-40-501, as enacted by Laws of Utah 2012, Chapter 82
- 58-41-5, as last amended by Laws of Utah 2010, Chapter 397
- 58-42a-302, as last amended by Laws of Utah 2015, Chapters 28, 432 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 28
- 58-42a-501, as repealed and reenacted by Laws of Utah 2015, Chapter 432
- 58-46a-302, as last amended by Laws of Utah 2013, Chapter 87
- 58-47b-302, as last amended by Laws of Utah 2009, Chapter 183
- 58-49-4, as last amended by Laws of Utah 1989, Chapter 225
- 58-49-5, as enacted by Laws of Utah 1986, Chapter 192
- 58-49-9, as enacted by Laws of Utah 1986, Chapter 192
- 58-53-502, as last amended by Laws of Utah 2018, Chapter 318
- 58-54-302, as last amended by Laws of Utah 2012, Chapter 369
- 58-55-103, as last amended by Laws of Utah 2016, Chapter 25
- 58-55-106, as enacted by Laws of Utah 2019, Chapter 215
- 58-55-201, as last amended by Laws of Utah 2019, Chapter 215
- 58-55-302, as last amended by Laws of Utah 2019, Chapter 215
- 58-55-305, as last amended by Laws of Utah 2019, Chapters 136 and 215

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58-55-308, as last amended by Laws of Utah 2019, Chapter 340
58-55-401, as last amended by Laws of Utah 2011, Chapter 413
58-55-501, as last amended by Laws of Utah 2018, Chapter 318
58-55-503, as last amended by Laws of Utah 2018, Chapter 318
58-56-9.5, as last amended by Laws of Utah 2018, Chapters 229 and 318
58-57-4, as last amended by Laws of Utah 2009, Chapter 183
58-60-109, as last amended by Laws of Utah 2015, Chapter 323
58-60-115, as last amended by Laws of Utah 2012, Chapter 179
58-60-117, as last amended by Laws of Utah 2018, Chapter 318
58-60-205, as last amended by Laws of Utah 2019, Chapter 393
58-60-207, as last amended by Laws of Utah 2019, Chapter 393
58-60-305.5, as last amended by Laws of Utah 2009, Chapter 183
58-60-305, as last amended by Laws of Utah 2019, Chapter 393
58-60-308, as last amended by Laws of Utah 2019, Chapter 393
58-60-405, as last amended by Laws of Utah 2015, Chapter 77
58-60-407, as last amended by Laws of Utah 2019, Chapter 393
58-60-506, as last amended by Laws of Utah 2015, Chapter 77
58-61-304, as last amended by Laws of Utah 2013, Chapters 16 and 262
58-61-501, as last amended by Laws of Utah 2001, Chapter 281
58-61-704, as enacted by Laws of Utah 2015, Chapter 367
58-61-705, as enacted by Laws of Utah 2015, Chapter 367
58-63-302, as last amended by Laws of Utah 2018, Chapter 177
58-63-306, as last amended by Laws of Utah 2008, Chapter 246
58-63-503, as last amended by Laws of Utah 2018, Chapter 318
58-64-302, as last amended by Laws of Utah 2016, Chapter 201
58-67-503, as last amended by Laws of Utah 2018, Chapter 318
58-67-302, as last amended by Laws of Utah 2019, Chapter 445
58-67-302.5, as last amended by Laws of Utah 2019, Chapter 445
58-67-302.7, as last amended by Laws of Utah 2018, Chapter 318
58-67-302.8, as last amended by Laws of Utah 2018, Chapter 318
58-67-304, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

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58-67-403, as last amended by Laws of Utah 2018, Chapter 318
58-68-302, as last amended by Laws of Utah 2019, Chapter 445
58-68-302.5, as last amended by Laws of Utah 2018, Chapter 318
58-68-304, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
58-68-403, as last amended by Laws of Utah 2018, Chapter 318
58-68-503, as last amended by Laws of Utah 2018, Chapter 318
58-69-302, as last amended by Laws of Utah 2018, Chapter 66
58-70a-302, as last amended by Laws of Utah 2017, Chapter 309
58-70a-306, as last amended by Laws of Utah 2010, Chapter 37
58-71-302, as last amended by Laws of Utah 2009, Chapter 183
58-72-302, as last amended by Laws of Utah 2019, Chapter 485
58-73-302, as last amended by Laws of Utah 2009, Chapter 183
58-74-102, as last amended by Laws of Utah 2019, Chapter 379
58-74-302, as last amended by Laws of Utah 2019, Chapter 379
58-75-302, as last amended by Laws of Utah 2009, Chapter 183
58-76-302, as last amended by Laws of Utah 2009, Chapter 183
58-76-502, as last amended by Laws of Utah 2018, Chapter 318
58-77-302, as last amended by Laws of Utah 2009, Chapter 183
58-78-302, as last amended by Laws of Utah 2011, Chapter 367
58-79-302, as enacted by Laws of Utah 2009, Chapter 52
58-84-201, as enacted by Laws of Utah 2014, Chapter 340
58-86-202, as enacted by Laws of Utah 2016, Chapter 294
58-86-302, as enacted by Laws of Utah 2016, Chapter 294
63G-2-305, as last amended by Laws of Utah 2019, Chapters 128, 193, 244, and 277
78B-3-416, as last amended by Laws of Utah 2018, Chapter 318

ENACTS:

58-61-304.1, Utah Code Annotated 1953

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

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

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

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Council.

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

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

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

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

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

(d) one member shall be a licensed architect;

(e) one member shall be a fire official;

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

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

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

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

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

(4) (a) Except as required by Subsection (4)(b), as terms of commission members expire, the executive director shall appoint each new commission member or reappointed commission member to a four-year term.

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

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

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

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

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

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

(a) Section 63A-3-106;

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

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

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

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

(10) The commission shall:

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

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

~~[(c)]~~ (b) act as an appeals board as provided in Section 15A-1-207;

~~[(d)]~~ (c) establish advisory peer committees on either a standing or ad hoc basis to advise the commission with respect to matters related to a code, including a committee to advise the commission regarding health matters related to a plumbing code; and

~~[(e)]~~ (d) assist the division in overseeing code-related training in accordance with Section 15A-1-209.

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

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

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

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

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

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

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

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

38-11-102. Definitions.

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

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

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

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

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

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

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

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

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

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

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

(12) "Fund" means the Residence Lien Recovery Fund established under Section

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38-11-201.

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

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

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

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

(17) "Owner" means a person who:

(a) contracts with a person who is licensed as a contractor or is exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction on an owner-occupied residence upon real property that the person:

(i) owns; or

(ii) purchases after the person enters into a contract described in this Subsection (17)(a) and before completion of the owner-occupied residence;

(b) contracts with a real estate developer to buy a residence upon completion of the construction on the owner-occupied residence; or

(c) purchases a residence from a real estate developer after completion of the construction on the owner-occupied residence.

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

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

(a) provides qualified services;

(b) pays necessary fees required under this chapter; and

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(c) registers with the division:

(i) as a licensed contractor under Subsection 38-11-301(1) or (2), if that person seeks recovery from the fund as a licensed contractor; or

(ii) as a person providing qualified services other than as a licensed contractor under Subsection 38-11-301(3) if the person seeks recovery from the fund in a capacity other than as a licensed contractor.

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

(i) contractor services provided by a contractor licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act;

(ii) architectural services provided by an architect licensed under Title 58, Chapter 3a, Architects Licensing Act;

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

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

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

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

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

(viii) renting equipment or materials;

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

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

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

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

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

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

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

- (i) a primary or secondary detached single-family dwelling; or
 - (ii) a multifamily dwelling up to and including duplexes.
- (b) "Residence" includes factory built housing.

(23) "Subsequent owner" means a person who purchases a residence from an owner within 180 days after the day on which the construction on the residence is completed.

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

58-1-301.3. Waiver of licensing fees.

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

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

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

- (a) the Family Employment Program described in Section 35A-3-302; or
- (b) General Assistance described in Section 35A-3-401.

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

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

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

- (a) Section 58-17b-307 of Title 58, Chapter 17b, Pharmacy Practice Act;
- (b) Sections 58-24b-302 and 58-24b-302.1 of Title 58, Chapter 24b, Physical Therapy

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Practice Act;

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

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

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

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

Licensing Act;

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

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

Licensing Act;

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

Practice Act; and

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

Medical Practice Act.

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

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

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

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

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

58-1-301.7. Change of information.

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

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

(c) In addition to providing a mailing address, an applicant, licensee, or certificate holder ~~[may]~~ shall provide to the division, in a form ~~[required]~~ approved by the division, an

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email address [~~and may designate email as the preferred method of receiving notifications from the division~~].

(2) An applicant, licensee, or certificate holder is considered to have received a notification that has been sent to the most recent:

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

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

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

58-1-302. License by endorsement.

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

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

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

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

and

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

~~{ (c) the person has no previous or pending disciplinary actions related to the person's license.~~

~~†~~ (2) (a) The division, in consultation with the applicable licensing board, may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the requirements of Subsection (1).

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(b) Notwithstanding the provisions of Subsection (1), the division may refuse to issue a license to a person as described in Subsection (1), if:

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

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

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

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

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

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

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

58-1-307. Exemptions from licensure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) (a) A practitioner temporarily in this state who is exempted from licensure under

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Subsection (1) shall comply with each requirement of the licensing jurisdiction from which the practitioner derives authority to practice.

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

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

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

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

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

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

(ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter 31e, Nurse Licensure Compact - Revised;

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

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

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

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

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

(c) suspend the requirements for licensure under this title and modify the scope of practice in the circumstances described in this Subsection (4) and Subsection (5) for medical

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services personnel or paramedics required to be licensed under Section 26-8a-302;

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

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

(f) exempt or modify the requirement for licensure of an individual who is registered as a volunteer health practitioner as provided in Title 26, Chapter 49, Uniform Emergency Volunteer Health Practitioners Act~~[-];~~ and

(g) in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, exempt or modify the requirements for licensure of an individual engaged in one or more of the construction trades described in Chapter 55, Utah Construction Trades Licensing Act.

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

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

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

(c) must be employed by or volunteering for:

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

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

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

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

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

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

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

(A) a pharmacy;

(B) a prescribing practitioner;

(C) a licensed health care facility;

(D) a federally qualified community health clinic; or

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

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

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

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

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

(a) coordinate the distribution of:

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

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

(b) authorize the dispensing, administration, or distribution of a vaccine, an antiviral,

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an antibiotic, or other prescription medication that is not a controlled substance to the contact of a patient without a patient-practitioner relationship, if the contact's condition is the same as that of the physician's or physician assistant's patient; and

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

(i) is working in a triage situation;

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

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

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

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

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

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

58-1-501. Unlawful and unprofessional conduct.

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

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

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

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

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

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

(c) knowingly employing any other person to practice or engage in or attempt to

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practice or engage in any occupation or profession licensed under this title if the employee is not licensed to do so under this title;

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

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

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

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

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

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

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

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

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

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

(c) engaging in conduct that results in conviction, a plea of nolo contendere, or a plea

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of guilty or nolo contendere which is held in abeyance pending the successful completion of probation with respect to a crime of moral turpitude or any other crime that, when considered with the functions and duties of the occupation or profession for which the license was issued or is to be issued, bears a substantial relationship to the licensee's or applicant's ability to safely or competently practice the occupation or profession;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) attempt to negotiate a stipulated settlement; or

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

(b) (i) The division may assess a fine under this Subsection (2) against a person who

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violates Subsection 58-1-501(1)(a), (1)(c), (1)(g), or (2)(o), or a rule or order issued with respect to those subsections, as evidenced by:

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

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

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

(d) A citation shall:

(i) be in writing;

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

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

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

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

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

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

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

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

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

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reported to the division.

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

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

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

and

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

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

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

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

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

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

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

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

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

58-3a-105. Surcharge fee.

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

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

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

58-3a-302. Qualifications for licensure.

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

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

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

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

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

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

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

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

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

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

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

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

~~[(d)]~~ (c) submit satisfactory evidence of:

(i) current licensure in good standing in a jurisdiction recognized by rule by the division in collaboration with the board; and

(ii) current certification from the National Council of Architectural Registration Boards; or

(iii) current license in good standing in a jurisdiction recognized by rule by the division in collaboration with the board; and

(iv) full-time employment as a licensed architect as a principal for at least five of the last seven years immediately preceding the date of the application;

~~[(e)]~~ (d) have successfully passed any examination established by rule by the division in collaboration with the board; and

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

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

58-3a-304. Exemptions from licensure.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following may engage in the stated limited acts or practices without being licensed under this chapter:

(a) a person offering to render architectural services in this state when not licensed under this chapter if the person:

(i) holds a current and valid architect license issued by a licensing authority recognized by rule by the division in collaboration with the board;

(ii) discloses in writing to the potential client the fact that the architect:

(A) is not licensed in the state;

(B) may not provide architectural services in the state until the architect is licensed in the state; and

(C) that such condition may cause a delay in the ability of the architect to provide architectural services in the state;

(iii) notifies the division in writing of his intent to offer to render architectural services in the state; and

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

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

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

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

(e) a person preparing a plan or specification for, or supervising the alteration of or repair to, an existing building affecting an area not exceeding 3,000 square feet when structural

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elements of a building are not changed, such as foundations, beams, columns, and structural slabs, joists, bearing walls, and trusses; and

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

(i) the organization employs a principal; and

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

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

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

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

(1) (a) If upon inspection or investigation, the division concludes that a person has violated Subsections 58-1-501(1)(a) through (d) or Section 58-3a-501 or any rule or order issued with respect to Section 58-3a-501, and that disciplinary action is appropriate, the director or the director's designee from within the division for each alternative respectively, shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

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

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

(b) A citation shall:

(i) be in writing;

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

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

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

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

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

(e) If within 20 calendar days from the service of the citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review. The period to contest a citation may be extended by the division for cause.

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

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

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

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

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

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

and

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

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

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the preceding action resulted in a first or second offense, respectively.

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

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

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

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

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

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

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

An applicant for licensure to practice podiatry shall:

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

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

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

~~[(4)]~~ (3) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a podiatric physician, as evidenced by having received an earned degree of doctor of podiatric medicine from a podiatry school or college accredited by the Council on Podiatric Medical Education;

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

(a) has successfully completed 24 months of resident training in a program approved by the Council on Podiatric Medical Education; or

(b) (i) has successfully completed 12 months of resident training in a program approved by the Council on Podiatric Medical Education after receiving a degree of doctor of podiatric medicine as required under Subsection ~~[(4)]~~ (3);

(ii) has been accepted in, and is successfully participating in, progressive resident training in a Council on Podiatric Medical Education approved program within Utah, in the applicant's second or third year of postgraduate training; and

(iii) has agreed to surrender to the division the applicant's license as a podiatric physician without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act,

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and has agreed the applicant's license as a podiatric physician will be automatically revoked by the division if the applicant fails to continue in good standing in a Council on Podiatric Medical Education approved progressive resident training program within the state; and

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

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

58-11a-102. Definitions.

As used in this chapter:

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

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

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

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

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

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

~~[(6)]~~ (7) "Barber instructor" means a barber who is licensed under this chapter to

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engage in the practice of barbering instruction.

~~[(7)]~~ (8) "Board" means the Cosmetology and Associated Professions Licensing Board created in Section 58-11a-201.

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

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

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

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

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

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

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

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

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

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

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

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

- (i) African-style braiding;
- (ii) box braids;
- (iii) cornrows;
- (iv) dreadlocks;
- (v) french braids;

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- (vi) invisible braids;
- (vii) micro braids;
- (viii) single braids;
- (ix) single plaits;
- (x) twists;
- (xi) visible braids;
- (xii) the use of lock braids; and
- (xiii) the use of decorative beads, accessories, and nonhair extensions.

(c) "Hair braiding" does not include:

(i) the use of:

- (A) wefts;
- (B) synthetic tape;
- (C) synthetic glue;
- (D) keratin bonds;
- (E) fusion bonds; or
- (F) heat tools;

(ii) the cutting of human hair; or

(iii) the application of heat, dye, a reactive chemical, or other preparation to:

- (A) alter the color of the hair; or
- (B) straighten, curl, or alter the structure of the hair.

~~[(19)]~~ (20) "Hair designer" means a person who is licensed under this chapter to engage in the practice of hair design.

~~[(20)]~~ (21) "Hair designer instructor" means a hair designer who is licensed under this chapter to engage in the practice of hair design instruction.

~~[(21)]~~ (22) "Licensed barber or cosmetology/barber school" means a barber or cosmetology/barber school licensed under this chapter.

~~[(22)]~~ (23) "Licensed electrology school" means an electrology school licensed under this chapter.

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

~~[(24)]~~ (25) "Licensed hair design school" means a hair design school licensed under

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this chapter.

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

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

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

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

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

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

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

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

and

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

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

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

(a) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays, or masks, manual extraction, including a comedone extractor, depilatories, waxes, tweezing, the application of eyelash or eyebrow extensions, natural nail manicures or pedicures, or callous removal by buffing or filing;

(b) limited chemical exfoliation as defined by rule;

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

(d) other esthetic preparations or procedures with the use of the hands, a

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high-frequency or galvanic electrical apparatus, or a heat lamp for cosmetic purposes and not for the treatment of medical, physical, or mental ailments;

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

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

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

(ii) anti-aging resurfacing enhancements;

(iii) photo rejuvenation; or

(iv) tattoo removal.

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

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

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

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

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

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

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

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

(i) the practice of barbering;

(ii) the practice of basic esthetics; and

(iii) the practice of nail technology.

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

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

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

(b) for an approved cosmetologist/barber apprenticeship.

~~(34)~~ (35) "Practice of electrology" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (A) body wraps as defined by rule;
- (B) hydrotherapy as defined by rule;
- (C) chemical exfoliation as defined by rule;
- (D) advanced pedicures as defined by rule;
- (E) sanding, including microdermabrasion;
- (F) advanced extraction;
- (G) other esthetic preparations or procedures with the use of:

(I) the hands; or

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

(H) cosmetic laser procedures under the supervision of a cosmetic supervisor with a physician's evaluation before the procedure, as needed, unless specifically required under Section 58-1-506, and limited to the following:

- (I) superfluous hair removal;
- (II) anti-aging resurfacing enhancements;
- (III) photo rejuvenation; or

(IV) tattoo removal with a physician's, advanced practice nurse's, or physician assistant's evaluation before the tattoo removal procedure, as required by Subsection 58-1-506(3)(a); and

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

(b) Notwithstanding the provisions of Subsection [~~(39)(a)~~] (40)(a), a master-level esthetician may perform procedures listed in Subsection [~~(39)(a)(i)(H)~~] (40)(a)(i)(H) if done under the supervision of a cosmetic supervisor acting within the scope of the cosmetic supervisor license.

(c) The term "practice of master-level esthetics" includes the practice of esthetics, but an individual is not required to be licensed as an esthetician or master-level esthetician to engage in the practice of threading.

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

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massage, or enhance the appearance of the hands, feet, and nails of an individual by the use of hands, mechanical, or electrical preparation, antiseptic, lotions, or creams, including the application and removal of sculptured or artificial nails.

~~[(41)]~~ (42) "Practice of nail technology instruction" means teaching the practice of nail technology at a licensed nail technician school, at a licensed cosmetology/barber school, or for an approved nail technician apprenticeship.

~~[(42)]~~ (43) "Recognized barber school" means a barber school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

~~[(43)]~~ (44) "Recognized cosmetology/barber school" means a cosmetology/barber school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

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

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

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

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

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

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

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

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

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58-11a-302. Qualifications for licensure.

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

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

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

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

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

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

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

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

(iii) completion of an approved barber apprenticeship; and

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

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

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

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

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

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

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

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

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

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(iii) a minimum of 2,000 hours of experience as a barber; and
[~~(f)~~] (e) meet the examination requirement established by rule.

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

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

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

(c) provide satisfactory documentation:

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

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

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

rule; and

(iv) that the applicant meets:

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

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

(4) Each applicant for licensure as a cosmetologist/barber shall:

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

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

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

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

(i) graduation from a licensed or recognized cosmetology/barber school whose curriculum consists of a minimum of 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours;

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

(B) practice as a licensed cosmetologist/barber in a state other than Utah for not less than the number of hours required to equal 1,600 total hours when added to the hours of instruction described in Subsection [~~(4)(d)(ii)(A)~~] (4)(c)(ii)(A); or

(iii) completion of an approved cosmetology/barber apprenticeship; and

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

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(5) Each applicant for licensure as a cosmetologist/barber instructor shall:

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

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

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

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

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

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

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

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

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

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

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

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

(c) provide satisfactory documentation:

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

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

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

(iv) that the applicant meets:

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

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

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

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

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

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

~~[(d)]~~ (c) provide satisfactory documentation of having graduated from a licensed or recognized electrology school after completing a curriculum of 600 hours of instruction or the equivalent number of credit hours; and

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

(8) Each applicant for licensure as an electrologist instructor shall:

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

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

(c) provide satisfactory documentation that the applicant is currently licensed as an electrologist;

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

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

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 150 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 150 hours or the equivalent number of credit hours; or

(iii) a minimum of 1,000 hours of experience as an electrologist; and

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

(9) Each applicant for licensure as an electrologist school shall:

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

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

(c) provide satisfactory documentation:

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

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

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

(iv) that the applicant meets:

(A) the standards for electrologist schools, including staff, curriculum, and

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accreditation requirements, established by rule; and

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

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

- (a) submit an application in a form prescribed by the division;
- (b) pay a fee determined by the department under Section 63J-1-504;

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

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

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

(ii) completion of an approved esthetician apprenticeship; or

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

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

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

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

- (a) submit an application in a form prescribed by the division;
- (b) pay a fee determined by the department under Section 63J-1-504;

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

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

(i) completion of at least 1,200 hours of training, or the equivalent number of credit hours, at a licensed or recognized esthetics school, except that up to 600 hours toward the 1,200 hours may have been completed:

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

(B) at a licensed or recognized cosmetology/barber school located in a state other than

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Utah, if the applicant graduated from the school and its curriculum contained full flexibility within its hours of instruction; or

(ii) completion of an approved master esthetician apprenticeship;

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

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

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

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

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

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

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

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

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

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

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

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

(13) Each applicant for licensure as an esthetics school shall:

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

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

(c) provide satisfactory documentation:

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

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

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

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(iv) that the applicant meets:

(A) the standards for esthetics schools, including staff, curriculum, and accreditation requirements, established by division rule made in collaboration with the board; and

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

(14) Each applicant for licensure as a hair designer shall:

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

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

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

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

(i) graduation from a licensed or recognized cosmetology/barber, hair design, or barbering school whose curriculum consists of a minimum of 1,200 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours;

(ii) (A) graduation from a recognized cosmetology/barber, hair design, or barbering school located in a state other than Utah whose curriculum consists of less than 1,200 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber or hair designer in a state other than Utah for not less than the number of hours required to equal 1,200 total hours when added to the hours of instruction described in Subsection ~~[(14)(d)(ii)(A); or]~~ (14)(c)(ii)(A);

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

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

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

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

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

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

(c) provide satisfactory documentation that the applicant is currently licensed as a hair designer or as a cosmetologist/barber;

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

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

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

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

(iii) a minimum of 2,500 hours of experience as a hair designer or as a cosmetologist/barber; and

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

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

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

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

(c) provide satisfactory documentation:

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

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

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

(iv) that the applicant meets:

(A) the standards for a hair design school, including staff and accreditation requirements, established by rule; and

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

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

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

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

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

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

(i) graduation from a licensed or recognized nail technology school, or a licensed or recognized cosmetology/barber school, whose curriculum consists of not less than 300 hours of instruction, or the equivalent number of credit hours;

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

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than Utah whose curriculum consists of less than 300 hours of instruction or the equivalent number of credit hours; and

(B) practice as a licensed nail technician in a state other than Utah for not less than the number of hours required to equal 300 total hours when added to the hours of instruction described in Subsection ~~[(17)(d)(ii)(A)]~~ (17)(c)(ii)(A); or

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

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

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

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

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

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

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

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

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 75 hours or the equivalent number of credit hours;

(ii) an on-the-job instructor training program conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 75 hours or the equivalent number of credit hours; or

(iii) a minimum of 600 hours of experience in nail technology; and

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

(19) Each applicant for licensure as a nail technology school shall:

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

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

(c) provide satisfactory documentation:

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

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

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

(iv) that the applicant meets:

(A) the standards for nail technology schools, including staff, curriculum, and

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accreditation requirements, established by rule; and

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

(20) Each applicant for licensure under this chapter whose education in the field for which a license is sought was completed at a foreign school may satisfy the educational requirement for licensure by demonstrating, to the satisfaction of the division, the educational equivalency of the foreign school education with a licensed school under this chapter.

(21) (a) A licensed or recognized school under this section shall accept credit hours towards graduation for documented, relevant, and substantially equivalent coursework previously completed by:

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

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

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

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

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

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

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

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

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

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

58-11a-304. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology, or nail technology without being licensed under this chapter:

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

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

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

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

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

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

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

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

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

(ii) the instructor receives no compensation;

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

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

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

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

(11) a person who:

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

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

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

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

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

(12) a person who:

(a) engages in hair braiding; and

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

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

58-11a-306. Apprenticeship.

(1) An approved barber apprenticeship shall:

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- (a) consist of not less than 1,250 hours of training [~~in not less than eight months~~]; and
- (b) be conducted by a supervisor who:
 - (i) is licensed under this chapter as a barber instructor or a cosmetology/barber instructor; and
 - (ii) provides one-on-one direct supervision of the barber apprentice during the apprenticeship program.

(2) An approved cosmetologist/barber apprenticeship shall:

- (a) consist of not less than 2,500 hours of training [~~in not less than 15 months~~]; and
- (b) be conducted by a supervisor who:
 - (i) is licensed under this chapter as a cosmetologist/barber instructor; and
 - (ii) provides one-on-one direct supervision of the cosmetologist/barber apprentice during the apprenticeship program.

(3) An approved hair designer apprenticeship shall:

- (a) consist of not less than 1,600 hours of training; and
- (b) be conducted by a supervisor who:
 - (i) is licensed under this chapter as a hair designer instructor or a cosmetologist/barber instructor; and
 - (ii) provides one-on-one direct supervision of the hair designer apprentice during the apprenticeship program.

~~[(3)]~~ (4) An approved esthetician apprenticeship shall:

- (a) consist of not less than 800 hours of training [~~in not less than five months~~]; and
- (b) be conducted by a supervisor who:
 - (i) is licensed under this chapter as an esthetician instructor; and
 - (ii) provides one-on-one direct supervision of the esthetician apprentice during the apprenticeship program.

~~[(4)]~~ (5) An approved master esthetician apprenticeship shall:

- (a) consist of not less than 1,500 hours of training [~~in not less than 10 months~~]; and
- (b) be conducted by a supervisor who:
 - (i) is licensed under this chapter as a master-level esthetician instructor; and
 - (ii) provides one-on-one direct supervision of the master esthetician apprentice during the apprenticeship program.

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

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

(b) be conducted by a supervisor who:

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

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

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

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

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

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

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

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

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

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

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

58-11a-502. Unlawful conduct.

Unlawful conduct includes:

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

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

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

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

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

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

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

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

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

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

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

(b) the attendee is required to obtain licensure under this chapter before performing the service for compensation; or

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

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

58-11a-503. Penalties.

(1) Unless Subsection (2) applies, an individual who commits an act of unlawful

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conduct under Section 58-11a-502 or who fails to comply with a citation issued under this section after it is final is guilty of a class A misdemeanor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) for a first offense under Subsection (4)(a), a fine of up to \$1,000;

(ii) for a second offense under Subsection (4)(a), a fine of up to \$2,000; and

(iii) for any subsequent offense under Subsection (4)(a), a fine of up to \$2,000 for each day of continued offense.

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

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

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

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

(III) the division determines during an investigation that occurred after the initiation of the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent

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violation of Subsection 58-11a-502(1), ~~[(2), (4), (5), (6), or (7)]~~ [(3), (4), (5), or (6)]; and

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

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

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

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

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

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

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

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

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

58-15-11. Exemptions to chapter.

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

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

(b) the superintendent of the Utah State Developmental Center described in Section 62A-5-201.

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

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

58-16a-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

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- (1) "Board" means the Optometrist Licensing Board created in Section 58-16a-201.
- (2) "Contact lens" means any lens that:
 - (a) has a spherical, cylindrical, or prismatic power or curvature;
 - (b) is made pursuant to a current prescription; and
 - (c) is intended to be worn on the surface of the eye.
- (3) (a) "Contact lens prescription" means a written or verbal order for contact lenses that includes:
 - (i) the commencement date of the prescription;
 - (ii) the base curve, power, diameter, material or brand name, and expiration date;
 - (iii) for a written order, the signature of the prescribing optometrist or physician; and
 - (iv) for a verbal order, a record maintained by the recipient of:
 - (A) the name of the prescribing optometrist or physician; and
 - (B) the date when the prescription was issued or ordered.
 - (b) A prescription may include:
 - (i) a limit on the quantity of lenses that may be ordered under the prescription if required for medical reasons documented in the patient's files; and
 - (ii) the expiration date of the prescription, which shall be two years from the commencement date, unless documented medical reasons require otherwise.
 - (c) When a provider prescribes a private label contact lens for a patient the prescription shall include:
 - (i) the name of the manufacturer;
 - (ii) the trade name of the private label brand; and
 - (iii) if applicable, the trade name of the equivalent national brand.
- (4) "Contact lens prescription verification" means a written request from a person who sells or provides contact lenses that:
 - (a) is sent to the prescribing optometrist or physician; and
 - (b) seeks the confirmation of the accuracy of a patient's prescription.
- (5) "Eye and its adnexa" means the human eye and all structures situated within the orbit, including the conjunctiva, lids, lashes, and lacrimal system.
- (6) "Fitting of a contact lens" means:
 - (a) the using of a keratometer to measure the human eye;

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(b) utilizing refractive data provided by a licensed optometrist or ophthalmologist; and
(c) trial fitting of contact lenses, which includes a period of time for evaluation for fit and performance, to determine a tentative contact lens prescription for a patient if the patient:

- (i) has not worn contact lenses before; or
- (ii) has changed to a different type or base curve.

(7) "Laser surgery" means surgery in which human tissue is cut, burned, or vaporized by means of laser or ionizing radiation.

(8) "Ophthalmic lens" means any lens used to treat the eye and that:

- (a) has a spherical, cylindrical, or prismatic power;
- (b) is made pursuant to an unexpired prescription; and
- (c) is intended to be used in eyeglasses or spectacles.

(9) "Optometric assistant" means an unlicensed individual:

- (a) working under the direct and immediate supervision of a licensed optometrist; and
- (b) engaged in specific tasks assigned by the licensed optometrist in accordance with the standards and ethics of the profession.

(10) "Optometrist" or "optometric physician" means an individual licensed under this chapter.

(11) "Optometry" and "practice of optometry" mean any one or any combination of the following practices:

- (a) examination of the human eye and its adnexa to detect and diagnose defects or abnormal conditions;

- (b) determination or modification of the accommodative or refractive state of the human eye or its range or power of vision by administration and prescription of pharmaceutical agents or the use of diagnostic instruments;

- (c) prescription, ordering, administration, or adaptation of ophthalmic lenses, contact lenses, ophthalmic devices, pharmaceutical agents, laboratory tests, or ocular exercises to diagnose and treat diseases, defects, or other abnormal conditions of the human eye and its adnexa;

- (d) display of any advertisement, circular, sign, or device offering to:

- (i) examine the eyes;
- (ii) fit glasses or contact lenses; or

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(iii) adjust frames;

(e) removal of a foreign body from the eye or its adnexa, that is not deeper than the anterior 1/2 of the cornea; and

(f) consultation regarding the eye and its adnexa with other appropriate health care providers, including referral to other appropriate health care providers~~[; and]~~.

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

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

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

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

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

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

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

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

58-16a-302. Qualifications for licensure.

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

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

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

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

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

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

~~[(e)]~~ (d) if the applicant graduated from a recognized school of optometry prior to July 1, 1996, have successfully completed a course of study satisfactory to the division, in

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consultation with the board, in general and ocular pharmacology and emergency medical care;

~~[(f)]~~ (e) have passed examinations approved by the division in consultation with the board that include:

- (i) a standardized national optometry examination;
- (ii) a standardized clinical examination; and
- (iii) a standardized national therapeutics examination; and

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

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

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

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

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

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

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

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

58-16a-501. Unlawful conduct.

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

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

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

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

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~~[(4)]~~ (3) representing oneself as or using the title of "optometrist," "optometric physician," "doctor of optometry," or "O.D.," unless currently licensed under this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

An applicant for licensure as a pharmacy intern shall:

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

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

~~[(3) produce satisfactory evidence of good moral character as it relates to the applicant's ability to practice pharmacy;]~~

~~[(4)]~~ (3) complete a criminal background check and be free from criminal convictions as described in Section 58-1-501;

~~[(5)]~~ (4) have no physical or mental condition of a nature which prevents the applicant

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from engaging in the practice of pharmacy with reasonable skill, competency, and safety to the public;

~~[(6)]~~ (5) meet the preliminary educational qualifications required by division rule made in collaboration with the board; and

~~[(7)]~~ (6) meet one of the following educational criteria:

(a) be a current pharmacy student, a resident, or fellow in a program approved by division rule made in collaboration with the board; or

(b) have graduated from a foreign pharmacy school and received certification of equivalency from a credentialing agency approved by division rule made in collaboration with the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Except as provided in Subsection (2), each license issued under this chapter shall be issued in accordance with a two-year renewal cycle established by rule. A renewal period may be extended or shortened by as much as one year to maintain established renewal cycles or to change an established renewal cycle. Each license automatically expires on the expiration date shown on the license unless renewed by the licensee in accordance with Section 58-1-308.

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

(a) one year for a license issued under Subsection ~~[58-17b-304(7)(b)]~~
58-17b-304(6)(b); or

(b) five years for a license issued under Subsection ~~[58-17b-304(7)(a)]~~
58-17b-304(6)(b).

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

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

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

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

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

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

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

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

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

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

(i) assess administrative penalties; and

(ii) take any other appropriate administrative action.

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

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

(5) (a) If upon inspection or investigation, the division concludes that a person has violated the provisions of Section 58-17b-501 or 58-17b-502, Chapter 37, Utah Controlled Substances Act, Chapter 37f, Controlled Substance Database Act, Chapter 1, Division of Occupational and Professional Licensing Act, or any rule or order issued with respect to these provisions, and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to

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appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(b) Any person who is in violation of the provisions of Section 58-17b-501 or 58-17b-502, Chapter 37, Utah Controlled Substances Act, Chapter 37f, Controlled Substance Database Act, Chapter 1, Division of Occupational and Professional Licensing Act, or any rule or order issued with respect to these provisions, as evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (5) of up to \$10,000 per single violation or up to \$2,000 per day of ongoing violation, whichever is greater, in accordance with a fine schedule established by rule, and may, in addition to or in lieu of, be ordered to cease and desist from violating the provisions of Section 58-17b-501 or 58-17b-502, Chapter 37, Utah Controlled Substances Act, Chapter 1, Division of Occupational and Professional Licensing Act, or any rule or order issued with respect to these provisions.

(c) Except for an administrative fine and a cease and desist order, the licensure sanctions cited in Section 58-17b-401 may not be assessed through a citation.

(d) Each citation shall be in writing and specifically describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated. The citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation in order to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act. The citation shall clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(e) Each citation issued under this section, or a copy of each citation, may be served upon any person upon whom a summons may be served:

- (i) in accordance with the Utah Rules of Civil Procedure;
- (ii) personally or upon the person's agent by a division investigator or by any person specially designated by the director; or
- (iii) by mail.

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

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citation may be extended by the division for cause.

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

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

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

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

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

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

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

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

Section 32. Section **58-17b-614** is amended to read:

58-17b-614. Notification.

(1) A pharmacy shall report in writing to the division not later than 10 business days:

(a) before the date of:

~~[(a)]~~ (i) a permanent closure of the pharmacy facility;

~~[(b)]~~ (ii) a change of name or ownership of the pharmacy facility;

~~[(c)]~~ (iii) a change of location of the pharmacy facility;

~~[(d)]~~ (iv) a sale or transfer of any controlled substance as a result of the permanent closing or change of ownership of the pharmacy facility; or

~~[(e)]~~ (v) any matter or occurrence that the [~~board~~] division requires by rule to be reported; or

(b) after the day on which:

~~[(f)]~~ (i) a final administrative disciplinary order is issued against the pharmacy license holder by the regulatory or licensing agency of the state in which the pharmacy is located if the pharmacy is a class D pharmacy; [~~or~~]

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~~[(g)]~~ (ii) a final order against a pharmacist is issued who is designated as the pharmacist-in-charge of the pharmacy by the regulatory or licensing agency of the state in which the pharmacy is located if the pharmacy is a class D pharmacy~~[-]; or~~

(iii) any matter or occurrence that the division requires by rule to be reported.

(2) A pharmacy shall report in writing to the division a disaster, accident, or emergency that may affect the purity or labeling of a drug, medication, device, or other material used in the diagnosis or treatment of injury, illness, or disease immediately upon the occurrence of the disaster, accident, or emergency as defined by rule.

(3) A reporting pharmacy shall maintain a copy of any notification required by this section for two years and make a copy available for inspection.

Section 33. Section **58-20b-302** is amended to read:

58-20b-302. Qualifications for licensure.

(1) Except as provided in Subsection (2), an applicant for licensure as an environmental health scientist shall:

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

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

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

~~[(d)]~~ (c) hold, at a minimum, a bachelor's degree from an accredited program in a university or college, which degree includes completion of specific course work as defined by rule;

~~[(e)]~~ (d) pass an examination as determined by division rule in collaboration with the board; and

~~[(f)]~~ (e) pass the Utah Law and Rules Examination for Environmental Health Scientists administered by the division.

(2) An applicant for licensure as an environmental health scientist-in-training shall:

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

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

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

~~[(d)]~~ (c) hold, at a minimum, a bachelor's degree from an accredited program in a university or college, which degree includes completion of specific course work as defined by rule;

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~~[(e)]~~ (d) pass the Utah Law and Rules Examination for Environmental Health Scientists administered by the division; and

~~[(f)]~~ (e) present evidence acceptable to the division and the board that the applicant, when licensed, will practice as an environmental health scientist-in-training only under the general supervision of a supervising environmental health scientist licensed under this chapter.

Section 34. Section **58-22-102** is amended to read:

58-22-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the Professional Engineers and Professional Land Surveyors Licensing Board created in Section 58-22-201.

(2) "Building" means a structure which has human occupancy or habitation as its principal purpose, and includes the structural, mechanical, and electrical systems, utility services, and other facilities required for the building, and is otherwise governed by the State Construction Code or an approved code under Title 15A, State Construction and Fire Codes Act.

(3) "Complete construction plans" means a final set of plans, specifications, and reports for a building or structure that normally includes:

- (a) floor plans;
- (b) elevations;
- (c) site plans;
- (d) foundation, structural, and framing detail;
- (e) electrical, mechanical, and plumbing design;
- (f) information required by the energy code;
- (g) specifications and related calculations as appropriate; and
- (h) all other documents required to obtain a building permit.

(4) "EAC/ABET" means the Engineering Accreditation Commission/Accreditation Board for Engineering and Technology.

(5) "Fund" means the Professional Engineer, Professional Structural Engineer, and Professional Land Surveyor Education and Enforcement Fund created in Section 58-22-103.

(6) "NCEES" means the National Council of Examiners for Engineering and Surveying.

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(7) "Principal" means a licensed professional engineer, professional structural engineer, or professional land surveyor having responsible charge of an organization's professional engineering, professional structural engineering, or professional land surveying practice.

(8) "Professional engineer" means a person licensed under this chapter as a professional engineer.

(9) (a) "Professional engineering," "the practice of engineering," or "the practice of professional engineering" means a service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to the service or creative work as consultation, investigation, evaluation, planning, design, and design coordination of engineering works and systems, planning the use of land and water, facility programming, performing engineering surveys and studies, and the review of construction for the purpose of monitoring compliance with drawings and specifications; any of which embraces these services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, and including other professional services as may be necessary to the planning, progress, and completion of any engineering services.

(b) "The practice of professional engineering" does not include the practice of architecture as defined in Section 58-3a-102, but a licensed professional engineer may perform architecture work as is incidental to the practice of engineering.

(10) "Professional engineering intern" means a person who:

(a) has completed the education requirements to become a professional engineer;

(b) has passed the fundamentals of engineering examination; and

(c) is engaged in obtaining the four years of qualifying experience for licensure under the direct supervision of a licensed professional engineer.

(11) "Professional land surveying" or "the practice of land surveying" means a service or work, the adequate performance of which requires the application of special knowledge of the principles of mathematics, the related physical and applied sciences, and the relevant requirements of law for adequate evidence to the act of measuring and locating lines, angles, elevations, natural and man-made features in the air, on the surface of the earth, within

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underground workings, and on the beds of bodies of water for the purpose of determining areas and volumes, for the monumenting or locating of property boundaries or points controlling boundaries, and for the platting and layout of lands and subdivisions of lands, including the topography, alignment and grades of streets, and for the preparation and perpetuation of maps, record plats, field notes records, and property descriptions that represent these surveys and other duties as sound surveying practices could direct.

(12) "Professional land surveyor" means an individual licensed under this chapter as a professional land surveyor.

(13) "Professional structural engineer" means a person licensed under this chapter as a professional structural engineer.

(14) (a) "Professional structural engineering" or "the practice of structural engineering" means a service or creative work providing structural engineering services for significant structures, including:

(i) buildings and other structures representing a substantial hazard to human life, which include:

(A) buildings and other structures whose primary occupancy is public assembly with an occupant load greater than 300;

(B) buildings and other structures with elementary school, secondary school, or day care facilities with an occupant load greater than 250;

(C) buildings and other structures with an occupant load greater than 500 for colleges or adult education facilities;

(D) health care facilities with an occupant load of 50 or more resident patients, but not having surgery or emergency treatment facilities;

(E) jails and detention facilities with a gross area greater than 3,000 square feet; and

(F) buildings and other structures with an occupant load greater than 5,000;

(ii) buildings and other structures designated as essential facilities, including:

(A) hospitals and other health care facilities having surgery or emergency treatment facilities with a gross area greater than 3,000 square feet;

(B) fire, rescue, and police stations and emergency vehicle garages with a mean height greater than 24 feet or a gross area greater than 5,000 square feet;

(C) designated earthquake, hurricane, or other emergency shelters with a gross area

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greater than 3,000 square feet;

(D) designated emergency preparedness, communication, and operation centers and other buildings required for emergency response with a mean height more than 24 feet or a gross area greater than 5,000 square feet;

(E) power-generating stations and other public utility facilities required as emergency backup facilities with a gross area greater than 3,000 square feet;

(F) structures with a mean height more than 24 feet or a gross area greater than 5,000 square feet containing highly toxic materials as defined by the division by rule, where the quantity of the material exceeds the maximum allowable quantities set by the division by rule; and

(G) aviation control towers, air traffic control centers, and emergency aircraft hangars at commercial service and cargo air services airports as defined by the Federal Aviation Administration with a mean height greater than 35 feet or a gross area greater than 20,000 square feet; and

(iii) buildings and other structures requiring special consideration, including:

(A) structures or buildings that are normally occupied by human beings and are five stories or more in height;

(B) structures or buildings that are normally occupied by human beings and have an average roof height more than 60 feet above the average ground level measured at the perimeter of the structure; and

(C) buildings that are over 200,000 aggregate gross square feet in area.

(b) "Professional structural engineering" or "the practice of structural engineering":

(i) includes the definition of professional engineering or the practice of professional engineering as provided in Subsection (9); and

(ii) may be further defined by rules made by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(15) "Structure" means that which is built or constructed, an edifice or building of any kind, or a piece of work artificially built up or composed of parts joined together in a definite manner, and as otherwise governed by the State Construction Code or an approved code under Title 15A, State Construction and Fire Codes Act.

(16) "Supervision of an employee, subordinate, associate, or drafter of a licensee"

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means that a licensed professional engineer, professional structural engineer, or professional land surveyor is responsible for and personally reviews, corrects when necessary, and approves work performed by an employee, subordinate, associate, or drafter under the direction of the licensee, and may be further defined by rule by the division in collaboration with the board.

(17) "TAC/ABET" means the Technology Accreditation Commission/Accreditation Board for Engineering and Technology.

(18) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-22-501.

(19) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-22-502.5.

Section 35. Section **58-22-104** is amended to read:

58-22-104. Surcharge fee.

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

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

Section 36. Section **58-22-302** is amended to read:

58-22-302. Qualifications for licensure.

(1) Each applicant for licensure as a professional engineer shall:

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

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

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

~~[(d)]~~ (c) (i) have graduated and received a bachelors or masters degree from an engineering program meeting criteria established by rule by the division in collaboration with the board; or

(ii) have completed the Transportation Engineering Technology and Fundamental Engineering College Program before July 1, 1998, under the direction of the Utah Department

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of Transportation and as certified by the Utah Department of Transportation;

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

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

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

(2) Each applicant for licensure as a professional structural engineer shall:

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

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

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

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

~~[(e)]~~ (d) have successfully completed three years of licensed professional engineering experience established by rule by the division in collaboration with the board, except that prior to January 1, 2009, an applicant for licensure may submit a signed affidavit in a form prescribed by the division stating that the applicant is currently engaged in the practice of structural engineering;

~~[(f)]~~ (e) have successfully passed examinations established by rule by the division in collaboration with the board, except that prior to January 1, 2009, an applicant for licensure may submit a signed affidavit in a form prescribed by the division stating that the applicant is currently engaged in the practice of structural engineering; and

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

(3) Each applicant for licensure as a professional land surveyor shall:

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

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

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

~~[(d)]~~ (c) (i) have graduated and received an associates, bachelors, or masters degree from a land surveying program, or an equivalent land surveying program, such as a program

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offered by a technical college described in Section 53B-2a-105, as approved by the State Board of Regents, established by rule by the division in collaboration with the board, and have successfully completed a program of qualifying experience in land surveying established by rule by the division in collaboration with the board; or

(ii) have successfully completed a program of qualifying experience in land surveying prior to January 1, 2007, in accordance with rules established by the division in collaboration with the board;

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

~~[(f)]~~ (e) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualification for licensure.

(4) Each applicant for licensure by endorsement shall:

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

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

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

~~[(d)]~~ (c) submit satisfactory evidence of:

(i) current licensure in good standing in a jurisdiction recognized by rule by the division in collaboration with the board;

(ii) having successfully passed an examination established by rule by the division in collaboration with the board; and

(iii) full-time employment as a principal for at least five of the last seven years immediately preceding the date of the application as a:

(A) licensed professional engineer for licensure as a professional engineer;

(B) licensed professional structural engineer for licensure as a structural engineer; or

(C) licensed professional land surveyor for licensure as a professional land surveyor;

and

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

(5) The rules made to implement this section shall be in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 37. Section **58-22-305** is amended to read:

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58-22-305. Exemption from licensure.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following may engage in the following acts or practices without being licensed under this chapter:

(a) a person offering to render professional engineering, professional structural engineering, or professional land surveying services in this state when not licensed under this chapter if the person:

(i) holds a current and valid professional engineer, professional structural engineer, or professional land surveyor license issued by a licensing authority recognized by rule by the division in collaboration with the board;

(ii) discloses in writing to the potential client the fact that the professional engineer, professional structural engineer, or professional land surveyor:

(A) is not licensed in the state;

(B) may not provide professional engineering, professional structural engineering, or professional land surveying services in the state until licensed in the state; and

(C) that such condition may cause a delay in the ability of the professional engineer, professional structural engineer, or professional land surveyor to provide licensed services in the state;

(iii) notifies the division in writing of the person's intent to offer to render professional engineering, professional structural engineering, or professional land surveying services in the state; and

(iv) does not provide professional engineering, professional structural engineering, or professional land surveying services, or engage in the practice of professional engineering, professional structural engineering, or professional land surveying in this state until licensed to do so;

(b) a person preparing a plan and specification for a one or two-family residence not exceeding two stories in height;

(c) a person licensed to practice architecture under Title 58, Chapter 3a, Architects Licensing Act, performing architecture acts or incidental engineering or structural engineering practices that do not exceed the scope of the education and training of the person performing engineering or structural engineering;

(d) unlicensed employees, subordinates, associates, or drafters of a person licensed

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under this chapter while preparing plans, maps, sketches, drawings, documents, specifications, plats, and reports under the supervision of a professional engineer, professional structural engineer, or professional land surveyor;

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

(f) an employee of a communications, utility, railroad, mining, petroleum, or manufacturing company, or an affiliate of such a company, if the professional engineering or professional structural engineering work is performed solely in connection with the products or systems of the company and is not offered directly to the public;

(g) an organization engaged in the practice of professional engineering, structural engineering, or professional land surveying, provided that:

(i) the organization employs a principal; and

(ii) all individuals employed by the organization, who are engaged in the practice of professional engineering, structural engineering, or land surveying, are licensed or exempt from licensure under this chapter; and

(h) a person licensed as a professional engineer, a professional structural engineer, or a professional land surveyor in a state other than Utah serving as an expert witness, provided the expert testimony meets one of the following:

(i) oral testimony as an expert witness in an administrative, civil, or criminal proceeding; or

(ii) written documentation included as part of the testimony in a proceeding, including designs, studies, plans, specifications, or similar documentation, provided that the purpose of the written documentation is not to establish specifications, plans, designs, processes, or standards to be used in the future in an industrial process, system, construction, design, or repair.

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

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Section 38. Section **58-22-503** is amended to read:

58-22-503. Penalties and administrative actions for unlawful or unprofessional conduct.

(1) (a) If upon inspection or investigation, the division concludes that a person has violated Section 58-1-501, 58-22-501, or 58-22-502.5, or any rule or order issued with respect to Section 58-22-501 or 58-22-502.5, and that disciplinary action is appropriate, the director or the director's designee from within the division for each alternative respectively, shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(i) A person who violates Section 58-1-501, 58-22-501, or 58-22-502.5, or any rule or order issued with respect to Section 58-22-501 or 58-22-502.5, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (1) and may, in addition to or in lieu of, be ordered to cease and desist from violating Section 58-1-501, 58-22-501, or 58-22-502.5, or any rule or order issued with respect to this section.

(ii) Except for a cease and desist order, the licensure sanctions cited in Section 58-22-401 may not be assessed through a citation.

(b) A citation shall:

(i) be in writing;

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

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

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

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

(d) Each citation issued under this section, or a copy of each citation, may be served upon a person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure and may be made personally or upon the person's agent by a division

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investigator or by any person specially designated by the director or by mail.

(e) If within 20 calendar days from the service of the citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review. The period to contest a citation may be extended by the division for cause.

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

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

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

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

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

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

and

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

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

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

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

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

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

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

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Section 39. Section **58-24b-302** is amended to read:

58-24b-302. Licensure.

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

~~[(a) be of good moral character;]~~

~~[(b)]~~ (a) complete the application process, including payment of fees;

~~[(c)]~~ (b) submit proof of graduation from a professional physical therapist education program that is accredited by a recognized accreditation agency;

~~[(d)]~~ (c) pass a licensing examination:

(i) after complying with Subsection ~~[(1)(c)]~~ (1)(b); or

(ii) if the applicant is in the final term of a professional physical therapist education program that is accredited by a recognized accreditation agency;

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

~~[(f) if the applicant is applying to participate in the Physical Therapy Licensure Compact under Chapter 24c, Physical Therapy Licensure Compact,]~~

(e) consent to a criminal background check in accordance with Section 58-24b-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

~~[(g)]~~ (f) meet any other requirements established by the division, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

~~[(a) be of good moral character;]~~

~~[(b)]~~ (a) complete the application process, including payment of fees set by the division, in accordance with Section 63J-1-504, to recover the costs of administering the licensing requirements relating to physical therapist assistants;

~~[(c)]~~ (b) submit proof of graduation from a physical therapist assistant education program that is accredited by a recognized accreditation agency;

~~[(d)]~~ (c) pass a licensing examination approved by division rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) after the applicant complies with Subsection ~~[(2)(c)]~~ (2)(b); or

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(ii) if the applicant is in the final term of a physical therapist assistant education program that is accredited by a recognized accreditation agency;

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

~~[(f)]~~ (e) submit to, and pass, a criminal background check, in accordance with Section 58-24b-302.1 and standards established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

~~[(g)]~~ (f) meet any other requirements established by the division, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

~~[(a) be of good moral character;]~~

~~[(b)]~~ (a) complete the application process, including payment of fees;

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

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

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

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

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

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

~~[(f) if the applicant is applying to participate in the Physical Therapy Licensure Compact under Chapter 24c, Physical Therapy Licensure Compact,]~~

(e) consent to a criminal background check in accordance with Section 58-24b-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah

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Administrative Rulemaking Act; and

~~[(g)]~~ (f) meet any other requirements established by the division, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

~~[(a) is of good moral character;]~~

~~[(b)]~~ (a) completes the application process, including payment of fees;

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

~~[(d) if the applicant is applying to participate in the Physical Therapy Licensure Compact under Chapter 24c, Physical Therapy Licensure Compact,]~~

(c) consents to a criminal background check in accordance with Section 58-24b-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

~~[(e)]~~ (d) meets any other requirements established by the division, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

(i) certified by the division; or

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

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

Section 40. Section **58-26a-302** is amended to read:

58-26a-302. Qualifications for licensure and registration -- Licensure by endorsement.

(1) Each applicant for licensure under this chapter as a certified public accountant shall:

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

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

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~~[(c) show evidence of good moral character;]~~

~~[(d)]~~ (c) submit a certified transcript of credits from an accredited institution acceptable to the board showing:

(i) successful completion of a total of 150 semester hours or 225 quarter hours of collegiate level education with a concentration in accounting, auditing, and business;

(ii) a baccalaureate degree or its equivalent at a college or university approved by the board; and

(iii) compliance with any other education requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

~~[(e)]~~ (d) submit evidence of one year of accounting experience in a form prescribed by the division;

~~[(f)]~~ (e) submit evidence of having successfully completed the qualifying examinations in accordance with Section 58-26a-306; and

~~[(g)]~~ (f) submit to an interview by the board, if requested, for the purpose of examining the applicant's competence and qualifications for licensure.

(2) (a) The division may issue a license under this chapter to a person who holds a license as a certified public accountant issued by any other state of the United States of America if the applicant for licensure by endorsement:

(i) submits an application in a form prescribed by the division;

(ii) pays a fee determined by the department under Section 63J-1-504;

~~[(iii) shows evidence of good moral character;]~~

~~[(iv)]~~ (iii) submits to an interview by the board, if requested, for the purpose of examining the applicant's competence and qualifications for licensure; and

~~[(v)]~~ (iv) (A) (I) shows evidence of having passed the qualifying examinations; and

(II) (Aa) meets the requirements for licensure which were applicable in this state at the time of the issuance of the applicant's license by the state from which the original licensure by satisfactorily passing the AICPA Uniform CPA Examination was issued; or

(Bb) had four years of professional experience after passing the AICPA Uniform CPA Examination upon which the original license was based, within the 10 years immediately preceding the application for licensure by endorsement; or

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(B) shows evidence that the applicant's education, examination record, and experience are substantially equivalent to the requirements of Subsection (1), as provided by rule.

(b) This Subsection (2) applies only to a person seeking to obtain a license issued by this state and does not apply to a person practicing as a certified public accountant in the state under Subsection 58-26a-305(1).

(3) (a) Each applicant for registration as a Certified Public Accountant firm shall:

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

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

(iii) have, notwithstanding any other provision of law, a simple majority of the ownership of the Certified Public Accountant firm, in terms of financial interests and voting rights of all partners, officers, shareholders, members, or managers, held by individuals who are certified public accountants, licensed under this chapter or another state of the United States of America, and the partners, officers, shareholders, members, or managers, whose principal place of business is in this state, and who perform professional services in this state hold a valid license issued under Subsection 58-26a-301(2) or the corresponding provisions of prior law; and

(iv) meet any other requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) Each separate location of a qualified business entity within the state seeking registration as a Certified Public Accountant firm shall register separately.

(c) A Certified Public Accountant firm may include owners who are not licensed under this chapter as outlined in Subsection (3)(a)(iii), provided that:

(i) the firm designates a licensee of this state who is responsible for the proper registration of the Certified Public Accountant firm and identifies that individual to the division; and

(ii) all nonlicensed owners are active individual participants in the CPA firm.

Section 41. Section **58-26a-305** is amended to read:

58-26a-305. Exemptions from licensure.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following may engage in acts included within the definition of the practice of public accountancy, subject to the stated circumstances and limitations, without being licensed under this chapter:

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(a) a person licensed by any other state, district, or territory of the United States as a certified public accountant or its equivalent under any other title while practicing in this state if:

(i) the person's principal place of business is not in this state; and

(A) the person's license as a certified public accountant is from any state which the National Association of State Boards of Accountancy (NASBA) National Qualification Appraisal Service has verified to be substantially equivalent to the CPA licensure requirements of the Uniform Accountancy Act; or

(B) the person's license as a certified public accountant is from a state which the NASBA National Qualification Appraisal Service has not verified to be substantially equivalent to the CPA licensure requirements of the Uniform Accountancy Act and the person obtains from the NASBA National Qualification Appraisal Service verification that the person's CPA qualifications are substantially equivalent to the CPA licensure requirements of the Uniform Accountancy Act and Subsection [~~58-26a-302(1)(d)(i)~~] 58-26a-302(1)(c)(i); and

(ii) the person consents, as a condition of the grant of this privilege:

(A) to personal and subject matter jurisdiction and disciplinary authority of the division;

(B) to comply with this chapter and the rules made under this chapter;

(C) that in the event the license from the state of the person's principal place of business becomes invalid, the person shall cease offering or rendering professional services in this state both individually and on behalf of the firm; and

(D) to the appointment of the state board which issued the person's license as the person's agent upon whom process may be served in an action or proceeding brought by the division against the licensee;

(b) through December 31, 2012, a person licensed by any other state, district, or territory of the United States as a certified public accountant or its equivalent under another title while practicing in this state if:

(i) the person does not qualify for a practice privilege under Subsection (1)(a);

(ii) the practice is incidental to the person's regular practice outside of this state; and

(iii) the person's temporary practice within the state is in conformity with this chapter and the rules established under this chapter;

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(c) an officer, member, partner, or employee of any entity or organization who signs any statement or report in reference to the financial affairs of the entity or organization with a designation of that person's position within the entity or organization;

(d) a public official or employee while performing his official duties;

(e) a person using accounting or auditing skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports; or

(f) an employee of a CPA firm registered under this chapter or an assistant to a person licensed under this chapter, working under the supervision of a licensee, if:

(i) neither the employee or assistant nor the licensed employer or registered CPA firm represents that the unlicensed person is a certified public accountant; and

(ii) no accounting or financial statements are issued over the unlicensed person's name.

(2) (a) Notwithstanding any other provision of law, a person who qualifies under Subsection (1)(a) has all the privileges of a licensee of this state and may engage in acts included within the definition of the practice of public accountancy, whether in person or by mail, telephone, or electronic means, based on a practice privilege in this state, and no notice, fee, or other submission shall be provided by that person.

(b) The division may revoke, suspend, or restrict an exemption granted under Subsection (1)(a) or (b), or place on probation or issue a public or private reprimand to a person exempted under those subsections for the reasons set forth in Subsection 58-1-401(2).

Section 42. Section **58-26a-306** is amended to read:

58-26a-306. Examination requirements.

(1) Before taking the qualifying examinations, an applicant shall:

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

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

(c) demonstrate completion of at least 120 semester hours or 180 quarter hours of the education requirement described in Subsection [~~58-26a-302(1)(d)~~] 58-26a-302(1)(c); and

(d) be approved by the board, or an organization designated by the board, to take the qualifying examinations.

(2) A person must sit for and meet the conditioning requirements of the AICPA Uniform CPA Examination as established by the AICPA.

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Section 43. Section **58-28-301** is amended to read:

58-28-301. Licensure required.

(1) (a) A license is required to engage in the practice of veterinary medicine, except as specifically provided in Sections 58-1-307 and 58-28-307.

(b) Notwithstanding the provisions of Subsection 58-1-307(1)(c) an individual shall be licensed under this chapter as a veterinary intern in order to engage in a program of indirectly supervised clinical training with a veterinarian licensed under this chapter, and as necessary to meet licensing requirements under Subsection ~~[58-28-302(1)(d)]~~ 58-28-302(1)(c).

(2) The division shall issue to a person who qualifies under this chapter a license in the classification of:

- (a) veterinarian; or
- (b) veterinarian intern.

Section 44. Section **58-28-302** is amended to read:

58-28-302. License qualifications.

(1) Every applicant for a license to practice veterinary medicine, surgery, and dentistry shall:

~~[(a) be of good moral character as it relates to the functions and duties of a licensed veterinarian;]~~

~~[(b)]~~ (a) pass an examination approved by the board on the theory and practice of the science of veterinary medicine, surgery, dentistry, and other subjects determined by the board, knowledge of which is generally required of veterinarians;

~~[(c)]~~ (b) (i) graduate from a veterinary college accredited by the AVMA; or

(ii) obtain a certificate issued by the Educational Commission for Foreign Veterinary Graduates issued by the AVMA;

~~[(d)]~~ (c) (i) have practiced under the supervision of a veterinarian licensed to practice in this state for a period of at least six months;

(ii) have participated in veterinary investigational, educational, or sanitary control work of a nature and duration as to be the equivalent of the experience of Subsection ~~[(1)(d)(i)]~~ (1)(c)(i);

(iii) have practiced as a licensed veterinarian outside Utah for a period of at least six months; or

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(iv) have practiced as a veterinarian while employed by the United States government, its agencies, or the state or its political subdivisions for a period of at least six months; and

~~[(e)]~~ (d) pay a fee to the Department of Commerce determined ~~[by it pursuant to]~~ in accordance with Section 63J-1-504 for the examination, for an initial license, and for a renewal license.

(2) (a) An applicant for licensure as a veterinary intern shall comply with the provisions of ~~[Subsections (1)(a) and (e)]~~ Subsection (1)(b).

(b) An applicant's license as a veterinary intern is limited to the period of time necessary to complete clinical training as described in Subsection ~~[(1)(d)]~~ (1)(c) and extends not more than one year from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the board that the individual is making reasonable progress toward passing the qualifying examination or is otherwise on a course reasonably expected to lead to licensure as a veterinarian, but the period of time under this Subsection (2)(b) may not exceed two years past the date the minimum supervised clinical training has been completed.

Section 45. Section **58-28-304** is amended to read:

58-28-304. Temporary license -- License reciprocity.

(1) The division may issue a temporary license to practice veterinary medicine, surgery, and dentistry to any person not qualified for licensure under Subsection (4) who meets all requirements of Section 58-28-302 with the exception of Subsections ~~[58-28-302(1)(b) and (d)]~~ 58-28-302(1)(a) and (c), except that the temporary license shall by its terms expire at the date examination results are available for the examination next following the date of the issuance of the temporary license.

(2) The temporary license shall permit the holder to practice under the indirect supervision of a veterinarian licensed to practice in this state.

(3) The division may extend the expiration date of the temporary license until the following examination date if:

(a) the applicant shows to the board good cause for failing to take or pass the examination; and

(b) the majority of the board members recommend the extension.

(4) Upon the recommendation of the board, the division may issue a license without

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examination to a person who:

(a) has been licensed or registered to practice veterinary medicine, surgery, and dentistry in any state, district, or territory of the United States or in any foreign country, whose educational, examination, and experience requirements are or were at the time the license was issued equal to those of this state;

(b) has engaged in the practice of veterinary medicine, dentistry, and surgery while licensed by another jurisdiction for at least two years;

(c) obtained the license in another jurisdiction after passing an examination component acceptable to the division and the board;

(d) produces satisfactory evidence of having practiced veterinary medicine competently and in accordance with the standards and ethics of the profession while practicing in another jurisdiction; and

(e) produces satisfactory evidence of identity and good moral character as it relates to the applicant's functions and practice as a licensed veterinarian.

Section 46. Section **58-31b-503** is amended to read:

58-31b-503. Penalties and administrative actions for unlawful conduct and unprofessional conduct.

(1) Any person who violates the unlawful conduct provision specifically defined in Subsection 58-1-501(1)(a) is guilty of a third degree felony.

(2) Any person who violates any of the unlawful conduct provisions specifically defined in Subsections 58-1-501(1)(b) through (f) and 58-31b-501(1)(d) is guilty of a class A misdemeanor.

(3) Any person who violates any of the unlawful conduct provisions specifically defined in this chapter and not set forth in Subsection (1) or (2) is guilty of a class B misdemeanor.

(4) (a) Subject to Subsection (6) and in accordance with Section 58-31b-401, for acts of unprofessional or unlawful conduct, the division may:

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

(b) An administrative penalty imposed pursuant to this section shall be deposited in the "Nurse Education and Enforcement Account" as provided in Section 58-31b-103.

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(5) If a licensee has been convicted of violating Section 58-31b-501 prior to an administrative finding of a violation of the same section, the licensee may not be assessed an administrative fine under this chapter for the same offense for which the conviction was obtained.

(6) (a) If upon inspection or investigation, the division concludes that a person has violated the provisions of Section 58-31b-401, 58-31b-501, or 58-31b-502, Chapter 1, Division of Occupational and Professional Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with respect to these provisions, and that disciplinary action is appropriate, the director or the director's designee from within the division shall:

(i) promptly issue a citation to the person according to this chapter and any pertinent administrative rules;

(ii) attempt to negotiate a stipulated settlement; or

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

(b) Any person who is in violation of a provision described in Subsection (6)(a), as evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding may be assessed a fine:

(i) pursuant to this Subsection (6) of up to \$10,000 per single violation or up to \$2,000 per day of ongoing violation, whichever is greater, in accordance with a fine schedule established by rule; and

(ii) in addition to or in lieu of the fine imposed under Subsection (6)(b)(i), be ordered to cease and desist from violating a provision of Sections 58-31b-501 and 58-31b-502, Chapter 1, Division of Occupational and Professional Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with respect to those provisions.

(c) Except for an administrative fine and a cease and desist order, the licensure sanctions cited in Section 58-31b-401 may not be assessed through a citation.

(d) Each citation issued under this section shall:

(i) be in writing; and

(ii) clearly describe or explain:

(A) the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

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(B) that the recipient must notify the division in writing within 20 calendar days of service of the citation in order to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(C) the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation; and

(iii) be served upon any person upon whom a summons may be served:

(A) in accordance with the Utah Rules of Civil Procedure;

(B) personally or upon the person's agent by a division investigator or by any person specially designated by the director; or

(C) by mail.

(e) If within 20 calendar days from the service of a citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review. The period to contest the citation may be extended by the division for cause.

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

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

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

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

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

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

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

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

Section 47. Section **58-31b-803** is amended to read:

58-31b-803. Limitations on prescriptive authority for advanced practice

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registered nurses.

(1) This section does not apply to an advanced practice registered nurse specializing as a certified registered nurse anesthetist under Subsection 58-31b-102(14)(d).

(2) Except as provided in Subsections (3) and ~~[58-31b-502(1)(r)]~~ 58-31b-502(1)(q), an advanced practice registered nurse may prescribe or administer a Schedule II controlled substance without a consultation and referral plan.

(3) An advanced practice registered nurse described in Subsection (4) may not prescribe or administer a Schedule II controlled substance unless the advanced practice registered nurse prescribes or administers Schedule II controlled substances in accordance with a consultation and referral plan.

(4) Subsection (3) applies to an advanced practice registered nurse who:

(a) (i) is engaged in independent solo practice; and

(ii) (A) has been licensed as an advanced practice registered nurse for less than one year; or

(B) has less than 2,000 hours of experience practicing as a licensed advanced practice registered nurse; or

(b) owns or operates a pain clinic.

(5) Notwithstanding Subsection 58-31b-102(5), an advanced practice registered nurse with at least three years of experience as a licensed advanced practice registered nurse may supervise a consultation and referral plan for an advanced practice registered nurse described in Subsection (4)(a).

Section 48. Section **58-37f-203** is amended to read:

58-37f-203. Submission, collection, and maintenance of data.

(1) (a) The division shall implement on a statewide basis, including non-resident pharmacies as defined in Section 58-17b-102, the following two options for a pharmacist to submit information:

(i) real-time submission of the information required to be submitted under this part to the controlled substance database; and

(ii) 24-hour daily or next business day, whichever is later, batch submission of the information required to be submitted under this part to the controlled substance database.

(b) ~~[(i) On and after January 1, 2016, a]~~ A pharmacist shall comply with either:

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~~[(A)]~~ (i) the submission time requirements established by the division under Subsection (1)(a)(i); or

~~[(B)]~~ (ii) the submission time requirements established by the division under Subsection (1)(a)(ii).

~~[(ii) Prior to January 1, 2016, a pharmacist may submit information using either option under this Subsection (1).]~~

(c) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code.

(2) (a) The pharmacist-in-charge and the pharmacist of the drug outlet where a controlled substance is dispensed shall submit the data described in this section to the division in accordance with:

- (i) the requirements of this section;
- (ii) the procedures established by the division;
- (iii) additional types of information or data fields established by the division; and
- (iv) the format established by the division.

(b) A dispensing medical practitioner licensed under Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, shall comply with the provisions of this section and the dispensing medical practitioner shall assume the duties of the pharmacist under this chapter.

(3) (a) The pharmacist-in-charge and the pharmacist described in Subsection (2)~~[(b)]~~(a) shall, for each controlled substance dispensed by a pharmacist under the pharmacist's supervision other than those dispensed for an inpatient at a health care facility, submit to the division any type of information or data field established by the division by rule in accordance with Subsection (6) regarding:

(i) each controlled substance that is dispensed by the pharmacist or under the pharmacist's supervision; and

(ii) each noncontrolled substance that is:

(A) designated by the division under Subsection (8)(a); and

(B) dispensed by the pharmacist or under the pharmacist's supervision.

(b) Subsection (3)(a) does not apply to a drug that is dispensed for an inpatient at a health care facility.

(4) An individual whose records are in the database may obtain those records upon

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submission of a written request to the division.

(5) (a) A patient whose record is in the database may contact the division in writing to request correction of any of the patient's database information that is incorrect. [~~The patient shall provide a postal address for the division's response.~~]

(b) The division shall grant or deny the request within 30 days from receipt of the request and shall advise the requesting patient of its decision [~~by mail postmarked~~] within 35 days of receipt of the request.

(c) If the division denies a request under this Subsection (5) or does not respond within 35 days, the patient may submit an appeal to the Department of Commerce, within 60 days after the [~~postmark date of the patient's letter making a~~] patient's written request for a correction under this Subsection (5).

(6) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish submission requirements under this part, including:

- (a) electronic format;
- (b) submission procedures; and
- (c) required information and data fields.

(7) The division shall ensure that the database system records and maintains for reference:

- (a) the identification of each individual who requests or receives information from the database;
- (b) the information provided to each individual; and
- (c) the date and time that the information is requested or provided.

(8) (a) The division, in collaboration with the Utah Controlled Substance Advisory Committee created in Section 58-38a-201, shall designate a list of noncontrolled substances described in Subsection (8)(b) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) To determine whether a prescription drug should be designated in the schedules of controlled substances under this chapter, the division may collect information about a prescription drug as defined in Section 58-17b-102 that is not designated in the schedules of controlled substances under this chapter.

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Section 49. Section **58-37f-301** is amended to read:

58-37f-301. Access to database.

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

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

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

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

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

(ii) the following law enforcement officers, but the division may only provide nonidentifying information, limited to gender, year of birth, and postal ZIP code, regarding individuals for whom a controlled substance has been prescribed or to whom a controlled substance has been dispensed:

(A) a law enforcement agency officer who is engaged in a joint investigation with the division; and

(B) a law enforcement agency officer to whom the division has referred a suspected criminal violation of controlled substance laws;

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

(c) a board member if:

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

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

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

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

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

(e) in accordance with a written agreement entered into with the department, employees of the Department of Health:

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

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

(iii) in the medical examiner's office;

(f) in accordance with a written agreement entered into with the department, a designee of the director of the Department of Health, who is not an employee of the Department of Health, whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances pursuant to an application process established in rule by the Department of Health, if:

(i) the designee provides explicit information to the Department of Health regarding the purpose of the scientific studies;

(ii) the scientific studies to be conducted by the designee:

(A) fit within the responsibilities of the Department of Health for health and welfare;

(B) are reviewed and approved by an Institutional Review Board that is approved for human subject research by the United States Department of Health and Human Services; and

(C) are not conducted for profit or commercial gain; and

(D) are conducted in a research facility, as defined by division rule, that is associated with a university or college accredited by one or more regional or national accrediting agencies recognized by the United States Department of Education;

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(iii) the designee protects the information as a business associate of the Department of Health; and

(iv) the identity of the prescribers, patients, and pharmacies in the database are de-identified, confidential, not disclosed in any manner to the designee or to any individual who is not directly involved in the scientific studies;

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

(i) the managed care organization contracts with the Department of Health under the provisions of Section 26-18-405 and the contract includes provisions that:

(A) require a managed care organization employee who will have access to information from the database to submit to a criminal background check; and

(B) limit the authorized employee of the managed care organization to requesting either the division or the Department of Health to conduct a search of the database regarding a specific Medicaid enrollee and to report the results of the search to the authorized employee; and

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

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

(i) (A) relates specifically to a current or prospective patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of:

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

(II) diagnosing the current or prospective patient;

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

(IV) determining whether the current or prospective patient:

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

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or

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

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

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

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

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

(v) relates to the use of the controlled substance database by an employee of the practitioner, described in Subsection (2)(i); or

(vi) relates to any use of the practitioner's Drug Enforcement Administration identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a controlled substance;

(i) in accordance with Subsection (3)(a), an employee of a practitioner described in Subsection (2)(h), for a purpose described in Subsection (2)(h)(i) or (ii), if:

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

(ii) the practitioner provides written notice to the division of the identity of the employee; and

(iii) the division:

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

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

(j) an employee of the same business that employs a licensed practitioner under Subsection (2)(h) if:

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

(ii) the practitioner and the employing business provide written notice to the division of the identity of the designated employee; and

(iii) the division:

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

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

(k) a licensed pharmacist having authority to dispense a controlled substance to the extent the information is provided or sought for the purpose of:

(i) dispensing or considering dispensing any controlled substance; or

(ii) determining whether a person:

(A) is attempting to fraudulently obtain a controlled substance from the pharmacist; or

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

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

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

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

(iii) the division:

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

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

(m) pursuant to a valid search warrant, federal, state, and local law enforcement officers and state and local prosecutors who are engaged in an investigation related to:

(i) one or more controlled substances; and

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

(n) subject to Subsection (7), a probation or parole officer, employed by the Department of Corrections or by a political subdivision, to gain access to database information necessary for the officer's supervision of a specific probationer or parolee who is under the officer's direct supervision;

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

(p) a mental health therapist, if:

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

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

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

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

(iii) the licensed substance abuse treatment program described in Subsection (2)(p)(i)(A) is associated with a practitioner who:

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

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

(q) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to the division that the individual requesting the information is in fact the individual about whom the data entry was made;

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

(s) the inspector general, or a designee of the inspector general, of the Office of

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Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in Title 63A, Chapter 13, Part 2, Office and Powers;

(t) the following licensed physicians for the purpose of reviewing and offering an opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

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

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

(iii) a physician offering a second opinion regarding treatment; and

(u) members of Utah's Opioid Fatality Review Committee, for the purpose of reviewing a specific fatality due to opioid use and recommending policies to reduce the frequency of opioid use fatalities.

(3) (a) (i) A practitioner described in Subsection (2)(h) may designate one or more employees to access information from the database under Subsection (2)(i), (2)(j), or (4)(c).

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

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

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

(ii) establish the information to be provided by an emergency department employee under Subsection (4); and

(iii) facilitate providing controlled substance prescription information to a third party under Subsection (5).

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

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

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(i) is employed in the emergency department;

(ii) is treating an emergency department patient for an emergency medical condition;

and

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

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

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

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

(ii) the practitioner and the hospital operating the emergency department provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee.

(d) The division may impose a fee, in accordance with Section 63J-1-504, on a practitioner who designates an employee under Subsection (2)(i), (2)(j), or (4)(c) to pay for the costs incurred by the division to conduct the background check and make the determination described in Subsection (3)(b).

(5) (a) (i) An individual may request that the division provide the information under Subsection (5)(b) to a third party who is designated by the individual each time a controlled substance prescription for the individual is dispensed.

(ii) The division shall upon receipt of the request under this Subsection (5)(a) advise the individual in writing that the individual may direct the division to discontinue providing the information to a third party and that notice of the individual's direction to discontinue will be

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provided to the third party.

(b) The information the division shall provide under Subsection (5)(a) is:

(i) the fact a controlled substance has been dispensed to the individual, but without identifying the controlled substance; and

(ii) the date the controlled substance was dispensed.

(c) (i) An individual who has made a request under Subsection (5)(a) may direct that the division discontinue providing information to the third party.

(ii) The division shall:

(A) notify the third party that the individual has directed the division to no longer provide information to the third party; and

(B) discontinue providing information to the third party.

(6) (a) An individual who is granted access to the database based on the fact that the individual is a licensed practitioner or a mental health therapist shall be denied access to the database when the individual is no longer licensed.

(b) An individual who is granted access to the database based on the fact that the individual is a designated employee of a licensed practitioner shall be denied access to the database when the practitioner is no longer licensed.

(7) A probation or parole officer is not required to obtain a search warrant to access the database in accordance with Subsection (2)(n).

(8) The division shall review and adjust the database programming which automatically logs off an individual who is granted access to the database under Subsections (2)(h), (2)(i), (2)(j), and (4)(c) to maximize the following objectives:

(a) to protect patient privacy;

(b) to reduce inappropriate access; and

(c) to make the database more useful and helpful to a person accessing the database under Subsections (2)(h), (2)(i), (2)(j), and (4)(c), especially in high usage locations such as an emergency department.

Section 50. Section **58-37f-302** is amended to read:

58-37f-302. Other restrictions on access to database.

(1) A person who is a relative of a deceased individual is not entitled to access information from the database relating to the deceased individual based on the fact or claim

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that the person is:

- (a) related to the deceased individual; or
- (b) subrogated to the rights of the deceased individual.

(2) Except as provided in [~~Subsection~~] Subsections (3) and (4), data provided to, maintained in, or accessed from the database that may be identified to, or with, a particular person is not subject to discovery, subpoena, or similar compulsory process in any civil, judicial, administrative, or legislative proceeding, nor shall any individual or organization with lawful access to the data be compelled to testify with regard to the data.

(3) The restrictions described in Subsection (2) do not apply to a civil, judicial, or administrative action brought to enforce the provisions of this chapter.

(4) (a) Subject to the requirements of this Subsection (4), in a state criminal proceeding a court may:

(i) order the release of information contained in the database if the court determines good cause has been shown in accordance with Rule 16, Utah Rules of Criminal Procedure; and

(ii) at any time order that information released under this Subsection (4) be restricted, limited, or restrained from further dissemination as the court determines is appropriate.

(b) Upon the motion of a defendant, a court may only issue an order compelling the production of database information under this Subsection (4) that pertains to a victim if the court finds upon notice as provided in Subsection (4)(c), and after a hearing, that the defendant is entitled to production of the information under applicable state and federal law.

(c) A motion by a defendant for database information pertaining to a victim shall be served by the defendant on:

- (i) the prosecutor and on counsel for the victim or victim's representative; or
- (ii) the prosecutor if the victim is unrepresented by counsel.

(d) Upon a defendant's motion for database information pertaining to a victim, if the court determines that good cause exists to order release of database information pertaining to the victim, the court shall conduct an in camera review of the database information and may only disclose to the defense and prosecution those portions of database information that are relevant to the state criminal proceeding.

Section 51. Section **58-37f-303** is amended to read:

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58-37f-303. Access to opioid prescription information via an electronic data system.

(1) As used in this section:

(a) "Dispense" means the same as that term is defined in Section 58-17b-102.

(b) "EDS user":

(i) means:

(A) a prescriber;

(B) a pharmacist; or

(C) an individual granted access to the database under Subsection 58-37f-301(3)(c);

and

(ii) does not mean an individual whose access to the database has been revoked by the division pursuant to Subsection 58-37f-301(5)(~~(b)~~)(c).

(c) "Electronic data system" means a software product or an electronic service used by:

(i) a prescriber to manage electronic health records; or

(ii) a pharmacist to manage the dispensing of prescription drugs.

(d) "Opioid" means any substance listed in Subsection 58-37-4(2)(b)(i) or (2)(b)(ii).

(e) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

(f) "Prescriber" means a practitioner, as that term is defined in Section 58-37-2, who is licensed under Section 58-37-6 to prescribe an opioid.

(g) "Prescription drug" means the same as that term is defined in Section 58-17b-102.

(2) Subject to Subsections (3) through (6), no later than January 1, 2017, the division shall make opioid prescription information in the database available to an EDS user via the user's electronic data system.

(3) An electronic data system may be used to make opioid prescription information in the database available to an EDS user only if the electronic data system complies with rules established by the division under Subsection (4).

(4) (a) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying:

(i) an electronic data system's:

(A) allowable access to and use of opioid prescription information in the database; and

(B) minimum actions that must be taken to ensure that opioid prescription information

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accessed from the database is protected from inappropriate disclosure or use; and

(ii) an EDS user's:

(A) allowable access to opioid prescription information in the database via an electronic data system; and

(B) allowable use of the information.

(b) The rules shall establish:

(i) minimum user identification requirements that in substance are the same as the database identification requirements in Section 58-37f-301;

(ii) user access restrictions that in substance are the same as the database identification requirements in Section 58-37f-301; and

(iii) any other requirements necessary to ensure that in substance the provisions of Sections 58-37f-301 and 58-37f-302 apply to opioid prescription information in the database that has been made available to an EDS user via an electronic data system.

(5) The division may not make opioid prescription information in the database available to an EDS user via the user's electronic data system if:

(a) the electronic data system does not comply with the rules established by the division under Subsection (4); or

(b) the EDS user does not comply with the rules established by the division under Subsection (4).

(6) (a) The division shall periodically audit the use of opioid prescription information made available to an EDS user via the user's electronic data system.

(b) The audit shall review compliance by:

(i) the electronic data system with rules established by the division under Subsection (4); and

(ii) the EDS user with rules established by the division under Subsection (4).

(c) (i) If the division determines by audit or other means that an electronic data system is not in compliance with rules established by the division under Subsection (4), the division shall immediately suspend or revoke the electronic data system's access to opioid prescription information in the database.

(ii) If the division determines by audit or other means that an EDS user is not in compliance with rules established by the division under Subsection (4), the division shall

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immediately suspend or revoke the EDS user's access to opioid prescription information in the database via an electronic data system.

(iii) If the division suspends or revokes access to opioid prescription information in the database under Subsection (6)(c)(i) or (6)(c)(ii), the division shall also take any other appropriate corrective or disciplinary action authorized by this chapter or title.

Section 52. Section **58-40-302** is amended to read:

58-40-302. Qualifications for licensure.

(1) An applicant for licensure under this chapter shall:

(a) submit an application in a form prescribed by the division; and

(b) pay a fee determined by the department under Section 63J-1-504[~~;~~ and].

~~[(c) be of good moral character.]~~

(2) In addition to the requirements of Subsection (1), an applicant for licensure as a master therapeutic recreation specialist under this chapter shall as defined by division rule:

(a) complete an approved graduate degree;

(b) complete 4,000 qualifying hours of paid experience as:

(i) a licensed therapeutic recreation specialist if completed in the state; or

(ii) a certified therapeutic recreation specialist certified by the National Council for Therapeutic Recreation Certification if completed outside of the state; and

(c) pass an approved examination.

(3) In addition to the requirements of Subsection (1), an applicant for licensure as a therapeutic recreation specialist under this chapter shall, as defined by division rule:

(a) complete an approved:

(i) bachelor's degree in therapeutic recreation or recreational therapy;

(ii) bachelor's degree with an approved emphasis, option, or concentration in therapeutic recreation or recreational therapy; or

(iii) graduate degree;

(b) complete an approved practicum; and

(c) pass an approved examination.

(4) In addition to the requirements of Subsection (1), an applicant for licensure as a therapeutic recreation technician under this chapter shall, as defined by division rule:

(a) have a high school diploma or GED equivalent;

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(b) complete an approved:

(i) educational course in therapeutic recreation taught by a licensed master therapeutic recreation specialist; or

(ii) six semester hours or nine quarter hours in therapeutic recreation or recreational therapy from an accredited college or university;

(c) complete an approved practicum under the supervision of:

(i) a licensed master therapeutic recreation specialist; or

(ii) an on-site, full-time, employed therapeutic recreation specialist;

(d) pass an approved examination; and

(e) complete a minimum of two hours of training in suicide prevention via a course that the division designates as approved.

Section 53. Section **58-40-501** is amended to read:

58-40-501. Unlawful conduct.

"Unlawful conduct" includes:

(1) providing, leading, facilitating, teaching, or offering to provide or teach recreational therapy services unless licensed under this chapter or exempted from licensure under Section 58-1-307 or 58-40-305; and

(2) using the initials MTRS, TRS, or TRT, or other abbreviation, term, title, or sign relating to the practice of recreational therapy services unless licensed under this chapter~~;~~ and.

~~[(3) employing or aiding and abetting the employment of an unqualified or unlicensed person to:]~~

~~[(a) practice as a recreational therapist; or]~~

~~[(b) provide recreational therapy services.]~~

Section 54. Section **58-41-5** is amended to read:

58-41-5. Licensure requirements.

(1) To obtain and maintain a license as an audiologist beginning July 1, 2010, an applicant must:

(a) submit a completed application in the form and content prescribed by the division and pay a fee to the department in accordance with Section 63J-1-504;

~~[(b) be of good moral character;]~~

~~[(c)]~~ (b) provide the committee with verification that the applicant is the legal holder of

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a clinical doctor's degree or AuD, in audiology, from an accredited university or college, based on a program of studies primarily in the field of audiology;

~~[(d)]~~ (c) be in compliance with the regulations of conduct and codes of ethics for the profession of audiology;

~~[(e)]~~ (d) submit to the board certified evidence of having completed at least one year of professional experience, at least 30 hours per week for an academic year, of direct clinical experience in treatment and management of patients, supervised and attested to by one holding an audiologist license under this chapter, the CCC, or their full equivalent; and

~~[(f)]~~ (e) pass a nationally standardized examination in audiology which is the same as or equivalent to the examination required for the CCC and with pass-fail criteria equivalent to current ASHA standards, and the board may require the applicant to pass an acceptable practical demonstration of clinical skills to an examining committee of licensed audiologists appointed by the board.

(2) To obtain and maintain a license as an audiologist prior to July 1, 2010, an applicant shall:

(a) comply with Subsections (1)(a), ~~[(b), (d), (e), and (f)]~~ (c), (d), and (e); and

(b) provide the committee with verification that the applicant has received at least a master's degree in the area of audiology from an accredited university or college, based on a program of studies primarily in the field of audiology, and holds the CCC or its full equivalent.

(3) An individual who, prior to July 1, 2010, is licensed as an audiologist under this chapter is, on or after July 1, 2010, considered to hold a current license under this chapter as an audiologist and is subject to this chapter.

(4) To obtain and maintain a license as a speech-language pathologist, an applicant must:

(a) comply with ~~[Subsections (1)(a) and (b)]~~ Subsection (1)(a);

(b) provide the committee with verification that the applicant has received at least a master's degree in speech-language pathology from an accredited university or college, based on a program of studies primarily in the field of speech-language pathology;

(c) be in compliance with the regulations of conduct and code of ethics for the profession of speech-language pathology;

(d) comply with Subsection ~~[(1)(e)]~~ (1)(b), except that the supervision and attestation

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requirement shall be from a licensed speech-language pathologist rather than a licensed audiologist; and

(e) pass a nationally standardized examination in speech-language pathology which is the same as or equivalent to the examination required for the CCC and with pass-fail criteria equivalent to current ASHA standards, and the board may require the applicant to pass an acceptable practical demonstration of clinical skills to an examining committee of licensed speech-language pathologists appointed by the board.

Section 55. Section **58-42a-302** is amended to read:

58-42a-302. Qualifications for licensure.

(1) An applicant for licensure as an occupational therapist shall:

(a) submit an application in a form as prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

~~[(c) be of good moral character as it relates to the functions and responsibilities of the practice of occupational therapy;]~~

~~[(d)]~~ (c) graduate with a bachelor's or graduate degree for the practice of occupational therapy from an education program accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education, a predecessor organization, or an equivalent organization as determined by division rule;

~~[(e)]~~ (d) if applying for licensure on or after July 1, 2015, complete a minimum of 24 weeks of supervised fieldwork experience; and

~~[(f)]~~ (e) pass an examination approved by the division in consultation with the board and administered by the National Board for Certification in Occupational Therapy, or by another nationally recognized credentialing body as approved by division rule, to demonstrate knowledge of the practice, skills, theory, and professional ethics related to occupational therapy.

(2) All applicants for licensure as an occupational therapy assistant shall:

(a) submit an application in a form as prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

~~[(c) be of good moral character as it relates to the functions and responsibilities of the practice of occupational therapy;]~~

~~[(d)]~~ (c) graduate from an educational program for the practice of occupational therapy

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as an occupational therapy assistant that is accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education, a predecessor organization, or an equivalent organization as determined by division rule;

~~[(e)]~~ (d) if applying for licensure on or after July 1, 2015, complete a minimum of 16 weeks of supervised fieldwork experience; and

~~[(f)]~~ (e) pass an examination approved by the division in consultation with the board and administered by the National Board for Certification in Occupational Therapy, or by another nationally recognized credentialing body as approved by division rule, to demonstrate knowledge of the practice, skills, theory, and professional ethics related to occupational therapy.

(3) Notwithstanding the other requirements of this section, the division may issue a license as an occupational therapist or as an occupational therapy assistant to an applicant who:

(a) meets the requirements of receiving a license by endorsement under Section 58-1-302; or

(b) has been licensed in a state, district, or territory of the United States, or in a foreign country, where the education, experience, or examination requirements are not substantially equal to the requirements of this state, if the applicant passes the applicable examination described in Subsection ~~[(1)(f) or (2)(f)]~~ (1)(e) or (2)(e).

Section 56. Section ~~58-42a-501~~ is amended to read:

58-42a-501. Unlawful conduct.

"Unlawful conduct," as defined in Section 58-1-501 and as may be further defined by division rule, includes:

(1) engaging or offering to engage in the practice of occupational therapy unless licensed under this chapter or exempted from licensure under Section 58-1-307 or 58-42a-304;

(2) using the title occupational therapist or occupational therapy assistant unless licensed under this chapter; and

~~[(3) employing or aiding and abetting an unqualified or unlicensed person to engage or offer to engage in the practice of occupational therapy unless the person is exempted from licensure under Section 58-1-307 or 58-42a-304; and]~~

~~[(4)]~~ (3) obtaining a license under this chapter by means of fraud, misrepresentation, or concealment of a material fact.

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Section 57. Section **58-46a-302** is amended to read:

58-46a-302. Qualifications for licensure.

(1) Each applicant for licensure as a hearing instrument specialist shall:

(a) submit to the division an application in a form prescribed by the division;

(b) pay a fee as determined by the division pursuant to Section 63J-1-504;

~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) have qualified for and currently hold board certification by the National Board for Certification - Hearing Instrument Sciences, or an equivalent certification approved by the division in collaboration with the board;

~~[(e)]~~ (d) have passed the Utah Law and Rules Examination for Hearing Instrument Specialists; and

~~[(f)]~~ (e) if the applicant holds a hearing instrument intern license, surrender the hearing instrument intern license at the time of licensure as a hearing instrument specialist.

(2) Each applicant for licensure as a hearing instrument intern shall:

(a) submit to the division an application in a form prescribed by the division;

(b) pay a fee as determined by the division pursuant to Section 63J-1-504;

~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) have passed the Utah Law and Rules Examination for Hearing Instrument Specialists; and

~~[(e)]~~ (d) present evidence acceptable to the division and the board that the applicant, when licensed, will practice as a hearing instrument intern only under the supervision of a supervising hearing instrument specialist in accordance with:

(i) Section 58-46a-302.5; and

(ii) the supervision requirements for obtaining board certification by the National Board for Certification - Hearing Instrument Sciences, or an equivalent certification approved by the division in collaboration with the board.

Section 58. Section **58-47b-302** is amended to read:

58-47b-302. License classifications -- Qualifications for licensure.

(1) The division shall issue licenses under this chapter in the classifications of:

(a) massage therapist; and

(b) massage apprentice.

SB0023S02 compared with SB0023S01

(2) Each applicant for licensure as a massage therapist shall:

- (a) submit an application in a form prescribed by the division;
- (b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) be 18 years of age or older;

~~[(e)]~~ (d) have either:

(i) (A) graduated from a school of massage having a curriculum which meets standards established by division rule made in collaboration with the board; or

(B) completed equivalent education and training in compliance with division rule; or

(ii) completed a massage apprenticeship program consisting of a minimum of 1,000 hours of supervised training over a minimum of 12 months and in accordance with standards established by the division by rule made in collaboration with the board; and

~~[(f)]~~ (e) pass examinations established by rule by the division in collaboration with the board.

(3) Each applicant for licensure as a massage apprentice shall:

- (a) submit an application in a form prescribed by the division;
- (b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) be 18 years of age or older;

~~[(e)]~~ (d) provide satisfactory evidence to the division that the individual will practice as a massage apprentice only under the direct supervision of a licensed massage therapist in good standing and who has engaged in the lawful practice of massage therapy as a licensed massage therapist for not less than 6,000 hours; and

~~[(f)]~~ (e) successfully complete an examination as required by division rule.

(4) (a) Any new massage therapist or massage apprentice applicant shall submit fingerprint cards in a form acceptable to the division at the time the license application is filed and shall consent to a fingerprint background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(b) The division shall request the Department of Public Safety to complete a Federal Bureau of Investigation criminal background check for each new massage therapist or apprentice applicant through the national criminal history system (NCIC) or any successor

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system.

(c) The cost of the background check and the fingerprinting shall be borne by the applicant.

(5) (a) Any new massage therapist or massage apprentice license issued under this section shall be conditional, pending completion of the criminal background check. If the criminal background check discloses the applicant has failed to accurately disclose a criminal history, the license shall be immediately and automatically revoked.

(b) Any person whose conditional license has been revoked under Subsection (5)(a) shall be entitled to a post-revocation hearing to challenge the revocation. The hearing shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(6) An applicant who successfully completes a fingerprint background check under Subsection (4) may not be required by any other state or local government body to submit to a second fingerprint background check as a condition of lawfully practicing massage therapy in this state.

Section 59. Section **58-49-4** is amended to read:

58-49-4. Qualifications for certification -- Fee.

Each applicant for certification under this chapter shall provide proof satisfactory to the division that the applicant:

~~[(1) is of good moral character as it relates to the practice of dietetics;]~~

~~[(2)]~~ (1) holds a baccalaureate or post-baccalaureate degree conferred by a college or university approved by the division at the time the degree was conferred with a major course of study in the sciences of food, dietetics, food systems management, or an equivalent major course of study;

~~[(3)]~~ (2) has completed an internship or preplanned professional baccalaureate or post-baccalaureate experience in a dietetic program under the supervision of a certified dietitian who is certified under this chapter or certified, registered, or licensed under the laws of another state or territory of the United States;

~~[(4)]~~ (3) has satisfactorily passed a competency examination, approved by or given at the direction of the board in collaboration with the division; and

~~[(5)]~~ (4) has paid the appropriate fees determined by the Department of Commerce.

The fee assessed by the Department of Commerce shall be fair and reasonable and shall reflect

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the cost of services provided.

Section 60. Section **58-49-5** is amended to read:

58-49-5. Certification of persons currently qualified.

The requirements of Subsections [~~58-49-4(2), (3), and (4)~~] 58-49-4(1), (2), and (3) are waived and a certificate shall be issued by the division upon application and payment of the appropriate fees by any person who, [~~prior to~~] before December 31, 1986, has provided to the division proof that on May 1, 1985, [~~he~~] the person was and is currently registered by the Commission on Dietetic Registration.

Section 61. Section **58-49-9** is amended to read:

58-49-9. Use of titles by uncertified person.

No person, without first being certified under this chapter may:

(1) assume or use the title or designation "dietitian," [~~"dietician,"~~] "certified dietitian," "registered dietitian," "registered dietitian nutritionist," the letters "C.D.," the letter "D.," or any other title, words, letters, abbreviations, or insignia indicating or implying that the person is a certified dietitian, including by using any of the preceding terms with the alternative spelling "dietician"; or

(2) represent in any way, whether orally, in writing, in print, or by signature, directly or by implication, that [~~he~~] the person is a certified dietitian.

Section 62. Section **58-53-502** is amended to read:

58-53-502. Citations -- Penalty for unlawful conduct.

(1) (a) If upon inspection or investigation, the division concludes that a person has violated Subsections 58-1-501(1)(a) through (d), Section 58-53-501, or Section 58-53-603 or any rule or order issued with respect to Section 58-53-501, and that disciplinary action is appropriate, the director or the director's designee from within the division for each alternative respectively, shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(i) A person who violates Subsections 58-1-501(1)(a) through (d) or Section 58-53-501 or any rule or order issued with respect to Section 58-53-501, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may

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be assessed a fine pursuant to Subsection (1)(i) and may, in addition to or in lieu of, be ordered to cease and desist from violating Subsections 58-1-501(1)(a) through (d) or Section 58-53-501 or any rule or order issued with respect to Section 58-53-501.

(ii) Except for a cease and desist order, the licensure sanctions cited in Section 58-53-401 may not be assessed through a citation.

(b) A citation shall:

(i) be in writing;

(ii) describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(iii) clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iv) clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(c) The division may issue a notice in lieu of a citation.

(d) Each citation issued under this section, or a copy of each citation, may be served upon any person whom a summons may be served in accordance with the Utah Rules of Civil Procedure and may be made personally or upon the person's agent by a division investigator or by any person specially designated by the director or by mail.

(e) If within 20 calendar days from the service of the citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review. The period to contest a citation may be extended by the division for cause.

(f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(h) No citation may be issued under this section after the expiration of [~~six months following the occurrence of any violation~~] one year following the date on which the violation that is the subject of the citation is reported to the division.

(i) The director or the director's designee shall assess fines according to the following:

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- (i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to \$1,000;
- (ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000;

and

(iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000 for each day of continued offense.

(2) An action initiated for a first or second offense which has not yet resulted in a final order of the division does not preclude initiation of any subsequent action for a second or subsequent offense during the pendency of any preceding action. The final order on a subsequent action shall be considered a second or subsequent offense, respectively, provided the preceding action resulted in a first or second offense, respectively.

(3) (a) The director may collect a penalty that is not paid by:

- (i) referring the matter to a collection agency; or
- (ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section 63. Section **58-54-302** is amended to read:

58-54-302. Requirements for licensure.

(1) Each applicant for licensure as a radiologic technologist, radiology assistant, or radiology practical technician shall:

(a) submit an application in a form prescribed by the division in collaboration with the board; and

(b) pay a fee as determined by the department pursuant to Section 63J-1-504[~~;~~ and].

~~[(c) be of good moral character.]~~

(2) Each applicant for licensure as a radiologic technologist shall, in addition to the requirements of Subsection (1):

(a) be a graduate of an accredited educational program in radiologic technology or certified by the American Registry of Radiologic Technologists or any equivalent educational program approved by the division in collaboration with the board; and

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(b) have passed an examination approved by the division in collaboration with the board.

(3) Each applicant for licensure as a radiology practical technician shall, in addition to the requirements of Subsection (1), have passed a basic examination and one or more specialty examinations that are competency based, using a task analysis of the scope of practice of radiology practical technicians in the state. The basic examination and the specialty examination shall be approved by the division in collaboration with the board and the licensing board of the profession within which the radiology practical technician will be practicing.

(4) The division shall provide for administration of the radiology practical technician examination not less than monthly at offices designated by the division and located:

- (a) in Salt Lake City; and
- (b) within each local health department jurisdictional area.

(5) (a) Except as provided in Subsection (5)(b), each applicant for licensure as a radiologist assistant shall:

- (i) meet the requirements of Subsections (1) and (2);
- (ii) have a Bachelor of Science degree; and
- (iii) be certified as:
 - (A) a radiologist assistant by the American Registry of Radiologic Technologists; or
 - (B) a radiology practitioner assistant by the Certification Board of Radiology

Practitioner Assistants.

(b) An individual who meets the requirements of Subsections (5)(a)(i) and (iii), but not Subsection (5)(a)(ii), may be licensed as a radiologist assistant under this chapter until May 31, 2013, at which time, the individual must have completed the Bachelor of Science degree in order to retain the license of radiologist assistant.

Section 64. Section **58-55-103** is amended to read:

58-55-103. Construction Services Commission created -- Functions --

Appointment -- Qualifications and terms of members -- Vacancies -- Expenses -- Meetings -- Concurrence.

- (1) (a) There is created within the division the Construction Services Commission.
- (b) The commission shall:
 - (i) with the concurrence of the director, make reasonable rules under Title 63G,

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Chapter 3, Utah Administrative Rulemaking Act, to administer and enforce this chapter which are consistent with this chapter including:

- (A) licensing of various licensees;
 - (B) examination requirements and administration of the examinations, to include approving and establishing a passing score for applicant examinations;
 - (C) standards of supervision for students or persons in training to become qualified to obtain a license in the trade they represent; and
 - (D) standards of conduct for various licensees;
 - (ii) approve or disapprove fees adopted by the division under Section 63J-1-504;
 - (iii) except where the boards conduct them, conduct all administrative hearings not delegated to an administrative law judge relating to the licensing of any applicant;
 - (iv) except as otherwise provided in Sections 38-11-207 and 58-55-503, with the concurrence of the director, impose sanctions against licensees and certificate holders with the same authority as the division under Section 58-1-401;
 - (v) advise the director on the administration and enforcement of any matters affecting the division and the construction industry;
 - (vi) advise the director on matters affecting the division budget;
 - (vii) advise and assist trade associations in conducting construction trade seminars and industry education and promotion; and
 - (viii) perform other duties as provided by this chapter.
- (2) (a) Initially the commission shall be comprised of the five members of the Contractors Licensing Board and two of the three chair persons from the Plumbers Licensing Board, the Alarm System Security and Licensing Board, and the Electricians Licensing Board.
- (b) The terms of office of the commission members who are serving on the Contractors Licensing Board shall continue as they serve on the commission.
- (c) Beginning July 1, 2004, the commission shall be comprised of nine members appointed by the executive director with the approval of the governor from the following groups:
- (i) one member shall be a licensed general engineering contractor;
 - (ii) one member shall be a licensed general building contractor;
 - (iii) two members shall be licensed residential and small commercial contractors;

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(iv) three members shall be the three chair persons from the Plumbers Licensing Board, the Alarm System Security and Licensing Board, and the Electricians Licensing Board; and

~~(v) two members shall be from the general public[, provided, however that the certified public accountant on the Contractors Licensing Board will continue to serve until the current term expires, after which both members under this Subsection (2)(c)(v) shall be appointed from the general public].~~

(3) (a) Except as required by Subsection (3)(b), as terms of current commission members expire, the executive director with the approval of the governor shall appoint each new member or reappointed member to a four-year term ending June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the executive director with the approval of the governor shall, at the time of appointment or reappointment, adjust the length of terms to stagger the terms of commission members so that approximately 1/2 of the commission members are appointed every two years.

(c) A commission member may not serve more than two consecutive terms.

(4) The commission shall elect annually one of its members as chair, for a term of one year.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) (a) The commission shall meet at least monthly unless the director determines otherwise.

(b) The director may call additional meetings at the director's discretion, upon the request of the chair, or upon the written request of four or more commission members.

(8) (a) Five members constitute a quorum for the transaction of business.

(b) If a quorum is present when a vote is taken, the affirmative vote of commission members present is the act of the commission.

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(9) The commission shall comply with the procedures and requirements of Title 13, Chapter 1, Department of Commerce, and Title 63G, Chapter 4, Administrative Procedures Act, in all of its adjudicative proceedings.

(10) (a) For purposes of this Subsection (10), "concurrence" means the entities given a concurring role must jointly agree for the action to be taken.

(b) If a provision of this chapter requires concurrence between the director or division and the commission and no concurrence can be reached, the director or division has final authority.

(c) When this chapter requires concurrence between the director or division and the commission:

(i) the director or division shall report to and update the commission on a regular basis related to matters requiring concurrence; and

(ii) the commission shall review the report submitted by the director or division under this Subsection (10)(c) and concur with the report, or:

(A) provide a reason for not concurring with the report; and

(B) provide recommendations to the director or division.

Section 65. Section **58-55-106** is amended to read:

58-55-106. Surcharge fee.

(1) In addition to any other fees authorized by this chapter or by the division in accordance with Section 63J-1-504, the division shall require each applicant for an initial license, renewal of a license, or reinstatement of a license under this chapter to pay a \$1 surcharge fee.

(2) The surcharge fee shall be deposited in the General Fund as a dedicated credit to be used by the division to provide each licensee under this chapter with access to an electronic reference library that provides web-based access to national, state, and local building codes and standards.

Section 66. Section 58-55-201 is amended to read:

58-55-201. Boards created -- Duties.

(1) There is created a Plumbers Licensing Board, an Alarm System Security and Licensing Board, and an Electricians Licensing Board. Members of the boards shall be selected to provide representation as follows:

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(a) The Plumbers Licensing Board consists of ~~[five]~~ seven members as follows:

(i) ~~[two]~~ three members shall be licensed from among the license classifications of master or journeyman plumber;

~~— (ii) two~~, of whom at least one shall represent a union organization and at least one shall be selected having no union affiliation;

(ii) [two] three members shall be licensed plumbing contractors, of whom at least one shall represent a union organization and at least one shall be selected having no union affiliation; and

(iii) one member shall be from the public at large with no history of involvement in the construction trades.

(b) (i) The Alarm System Security and Licensing Board consists of five members as follows:

(A) three individuals who are officers or owners of a licensed alarm business;

(B) one individual from among nominees of the Utah Peace Officers Association; and

(C) one individual representing the general public.

(ii) The Alarm System Security and Licensing Board shall designate one of its members on a permanent or rotating basis to:

(A) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

(B) advise the division in its investigation of these complaints.

(iii) A board member who has, under this Subsection (1)(b)(iii), reviewed a complaint or advised in its investigation is disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

(c) The Electricians Licensing Board consists of ~~[five]~~ seven members as follows:

(i) ~~[two]~~ three members shall be licensed from among the license classifications of master or journeyman electrician, of whom at least one shall represent a union organization and at least one shall be selected having no union affiliation;

(ii) ~~[two]~~ three members shall be licensed electrical contractors, of whom at least one shall represent a union organization and at least one shall be selected having no union affiliation; and

(iii) one member shall be from the public at large with no history of involvement in the

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construction trades or union affiliation.

(2) The duties, functions, and responsibilities of each board include the following:

(a) recommending to the commission appropriate rules;

(b) recommending to the commission policy and budgetary matters;

(c) approving and establishing a passing score for applicant examinations;

(d) overseeing the screening of applicants for licensing, renewal, reinstatement, and relicensure;

(e) assisting the commission in establishing standards of supervision for students or persons in training to become qualified to obtain a license in the occupation or profession it represents; and

(f) acting as presiding officer in conducting hearings associated with the adjudicative proceedings and in issuing recommended orders when so authorized by the commission.

(3) The division in collaboration with the Plumbers Licensing Board and the Electricians Licensing Board shall provide a preliminary report on or before October 1, 2019, and a final written report on or before June 1, 2020, to the Business and Labor Interim Committee and the Occupational and Professional Licensure Review Committee that provides recommendations for consistent educational and training standards for plumber and electrician apprentice programs in the state, including recommendations for education and training provided by all providers, including institutions of higher education and technical colleges.

Section ~~66~~67. Section **58-55-302** is amended to read:

58-55-302. Qualifications for licensure.

(1) Each applicant for a license under this chapter shall:

(a) submit an application prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) meet the examination requirements established by this section and by rule by the commission with the concurrence of the director, which requirements include:

(i) for licensure as an apprentice electrician, apprentice plumber, or specialty contractor, no division-administered examination is required;

(ii) for licensure as a general building contractor, general engineering contractor, residential and small commercial contractor, general plumbing contractor, residential plumbing contractor, general electrical contractor, or residential electrical contractor, the only required

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division-administered examination is a division-administered examination that covers information from the 25-hour course described in Subsection (1)(e)(iii), which course may have been previously completed as part of applying for any other license under this chapter, and, if the 25-hour course was completed on or after July 1, 2019, the five-hour business law course described in Subsection (1)(e)(iv); and

(iii) if required in Section 58-55-304, an individual qualifier must pass the required division-administered examination if the applicant is a business entity;

(d) if an apprentice, identify the proposed supervisor of the apprenticeship;

(e) if an applicant for a contractor's license:

(i) produce satisfactory evidence of financial responsibility, except for a construction trades instructor for whom evidence of financial responsibility is not required;

(ii) produce satisfactory evidence of:

(A) except as provided in Subsection (2)(a), and except that no employment experience is required for licensure as a specialty contractor, two years full-time paid employment experience in the construction industry, which employment experience, unless more specifically described in this section, may be related to any contracting classification and does not have to include supervisory experience; and

(B) knowledge of the principles of the conduct of business as a contractor, reasonably necessary for the protection of the public health, safety, and welfare;

(iii) except as otherwise provided by rule by the commission with the concurrence of the director, complete a 25-hour course established by rule by the commission with the concurrence of the director, which is taught by an approved prelicensure course provider, and which course may include:

(A) construction business practices;

(B) bookkeeping fundamentals;

(C) mechanics lien fundamentals;

(D) other aspects of business and construction principles considered important by the commission with the concurrence of the director; and

(E) for no additional fee, a provider-administered examination at the end of the 25-hour course;

(iv) complete a five-hour business and law course established by rule by the

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commission with the concurrence of the director, which is taught by an approved prelicensure course provider, if an applicant for licensure as a general building contractor, general engineering contractor, residential and small commercial contractor, general plumbing contractor, residential plumbing contractor, general electrical contractor, or residential electrical contractor, except that if the 25-hour course described in Subsection (1)(e)(iii) was completed before July 1, 2019, the applicant does not need to take the business and law course;

(v) (A) be a licensed master electrician if an applicant for an electrical contractor's license or a licensed master residential electrician if an applicant for a residential electrical contractor's license;

(B) be a licensed master plumber if an applicant for a plumbing contractor's license or a licensed master residential plumber if an applicant for a residential plumbing contractor's license; or

(C) be a licensed elevator mechanic and produce satisfactory evidence of three years experience as an elevator mechanic if an applicant for an elevator contractor's license; and

(vi) when the applicant is an unincorporated entity, provide a list of the one or more individuals who hold an ownership interest in the applicant as of the day on which the application is filed that includes for each individual:

(A) the individual's name, address, birth date, and social security number; and

(B) whether the individual will engage in a construction trade; and

(f) if an applicant for a construction trades instructor license, satisfy any additional requirements established by rule.

(2) (a) If the applicant for a contractor's license described in Subsection (1) is a building inspector, the applicant may satisfy Subsection (1)(e)(ii)(A) by producing satisfactory evidence of two years full-time paid employment experience as a building inspector, which shall include at least one year full-time experience as a licensed combination inspector.

(b) [~~After approval of an applicant for a contractor's license by the applicable board and the division, the~~] The applicant shall file the following with the division before the division issues the license:

(i) proof of workers' compensation insurance which covers employees of the applicant in accordance with applicable Utah law;

(ii) proof of public liability insurance in coverage amounts and form established by rule

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except for a construction trades instructor for whom public liability insurance is not required;
and

(iii) proof of registration as required by applicable law with the:

(A) Department of Commerce;

(B) Division of Corporations and Commercial Code;

(C) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(D) State Tax Commission; and

(E) Internal Revenue Service.

(3) In addition to the general requirements for each applicant in Subsection (1), applicants shall comply with the following requirements to be licensed in the following classifications:

(a) (i) A master plumber shall produce satisfactory evidence that the applicant:

(A) has been a licensed journeyman plumber for at least two years and had two years of supervisory experience as a licensed journeyman plumber in accordance with division rule;

(B) has received at least an associate of applied science degree or similar degree following the completion of a course of study approved by the division and had one year of supervisory experience as a licensed journeyman plumber in accordance with division rule; or

(C) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master plumber.

(ii) An individual holding a valid Utah license as a journeyman plumber, based on at least four years of practical experience as a licensed apprentice under the supervision of a licensed journeyman plumber and four years as a licensed journeyman plumber, in effect immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current master plumber license under this chapter, and satisfies the requirements of this Subsection (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

(iii) An individual holding a valid plumbing contractor's license or residential plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5, 2008:

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(A) considered to hold a current master plumber license under this chapter if licensed as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303; and

(B) considered to hold a current residential master plumber license under this chapter if licensed as a residential plumbing contractor and a residential journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303.

(b) A master residential plumber applicant shall produce satisfactory evidence that the applicant:

(i) has been a licensed residential journeyman plumber for at least two years and had two years of supervisory experience as a licensed residential journeyman plumber in accordance with division rule; or

(ii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master residential plumber.

(c) A journeyman plumber applicant shall produce satisfactory evidence of:

(i) successful completion of the equivalent of at least four years of full-time training and instruction as a licensed apprentice plumber under supervision of a licensed master plumber or journeyman plumber and in accordance with a planned program of training approved by the division;

(ii) at least eight years of full-time experience approved by the division in collaboration with the Plumbers Licensing Board; or

(iii) meeting the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed journeyman plumber.

(d) A residential journeyman plumber shall produce satisfactory evidence of:

(i) completion of the equivalent of at least three years of full-time training and instruction as a licensed apprentice plumber under the supervision of a licensed residential

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master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in accordance with a planned program of training approved by the division;

(ii) completion of at least six years of full-time experience in a maintenance or repair trade involving substantial plumbing work; or

(iii) meeting the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed residential journeyman plumber.

(e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be in accordance with the following:

(i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be under the immediate supervision of a licensed master plumber, licensed residential master plumber, licensed journeyman plumber, or licensed residential journeyman plumber;

(ii) beginning in a licensed apprentice plumber's fourth year of training, a licensed apprentice plumber may work without supervision for a period not to exceed eight hours in any 24-hour period; and

(iii) rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of apprentices allowed under the immediate supervision of a licensed supervisor, including the ratio of apprentices in their fourth year of training or later that are allowed to be under the immediate supervision of a licensed supervisor.

(f) A master electrician applicant shall produce satisfactory evidence that the applicant:

(i) is a graduate electrical engineer of an accredited college or university approved by the division and has one year of practical electrical experience as a licensed apprentice electrician;

(ii) is a graduate of an electrical trade school, having received an associate of applied sciences degree following successful completion of a course of study approved by the division, and has two years of practical experience as a licensed journeyman electrician;

(iii) has four years of practical experience as a journeyman electrician; or

(iv) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,

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Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master electrician.

(g) A master residential electrician applicant shall produce satisfactory evidence that the applicant:

(i) has at least two years of practical experience as a residential journeyman electrician;

or

(ii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a master residential electrician.

(h) A journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed at least four years of full-time training and instruction as a licensed apprentice electrician under the supervision of a master electrician or journeyman electrician and in accordance with a planned training program approved by the division;

(ii) has at least eight years of full-time experience approved by the division in collaboration with the Electricians Licensing Board; or

(iii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed journeyman electrician.

(i) A residential journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed two years of training in an electrical training program approved by the division;

(ii) has four years of practical experience in wiring, installing, and repairing electrical apparatus and equipment for light, heat, and power under the supervision of a licensed master, journeyman, residential master, or residential journeyman electrician; or

(iii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge

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and skills to be a licensed residential journeyman electrician.

(j) The conduct of licensed apprentice electricians and their licensed supervisors shall be in accordance with the following:

(i) A licensed apprentice electrician shall be under the immediate supervision of a licensed master, journeyman, residential master, or residential journeyman electrician;

(ii) beginning in a licensed apprentice electrician's fourth year of training, a licensed apprentice electrician may work without supervision for a period not to exceed eight hours in any 24-hour period;

(iii) rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of apprentices allowed under the immediate supervision of a licensed supervisor, including the ratio of apprentices in their fourth year of training or later that are allowed to be under the immediate supervision of a licensed supervisor; and

(iv) a licensed supervisor may have up to three licensed apprentice electricians on a residential project, or more if established by rules made by the commission, in concurrence with the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(k) An alarm company applicant shall:

(i) have a qualifying agent who is an officer, director, partner, proprietor, or manager of the applicant who:

(A) demonstrates 6,000 hours of experience in the alarm company business;

(B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm company business or in a construction business; and

(C) passes an examination component established by rule by the commission with the concurrence of the director;

(ii) if a corporation, provide:

(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all corporate officers, directors, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards

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of all shareholders owning 5% or more of the outstanding shares of the corporation, except this shall not be required if the stock is publicly listed and traded;

(iii) if a limited liability company, provide:

(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all company officers, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all individuals owning 5% or more of the equity of the company;

(iv) if a partnership, provide the names, addresses, dates of birth, social security numbers, and fingerprint cards of all general partners, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(v) if a proprietorship, provide the names, addresses, dates of birth, social security numbers, and fingerprint cards of the proprietor, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(vi) if a trust, provide the names, addresses, dates of birth, social security numbers, and fingerprint cards of the trustee, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(vii) be of good moral character in that officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel have not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of an alarm company is considered by the board to indicate that the best interests of the public are served by granting the applicant a license;

(viii) document that none of the applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

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(ix) document that none of the applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel are currently suffering from habitual drunkenness or from drug addiction or dependence;

(x) file and maintain with the division evidence of:

(A) comprehensive general liability insurance in form and in amounts to be established by rule by the commission with the concurrence of the director;

(B) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law; and

(C) registration as is required by applicable law with the:

(I) Division of Corporations and Commercial Code;

(II) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(III) State Tax Commission; and

(IV) Internal Revenue Service; and

(xi) meet with the division and board.

(l) Each applicant for licensure as an alarm company agent shall:

(i) submit an application in a form prescribed by the division accompanied by fingerprint cards;

(ii) pay a fee determined by the department under Section 63J-1-504;

(iii) be of good moral character in that the applicant has not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of an alarm company agent is considered by the board to indicate that the best interests of the public are served by granting the applicant a license;

(iv) not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(v) not be currently suffering from habitual drunkenness or from drug addiction or dependence; and

(vi) meet with the division and board if requested by the division or the board.

(m) (i) Each applicant for licensure as an elevator mechanic shall:

(A) provide documentation of experience and education credits of not less than three years work experience in the elevator industry, in construction, maintenance, or service and

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repair; and

(B) satisfactorily complete a written examination administered by the division established by rule under Section 58-1-203; or

(C) provide certificates of completion of an apprenticeship program for elevator mechanics, having standards substantially equal to those of this chapter and registered with the United States Department of Labor Bureau Apprenticeship and Training or a state apprenticeship council.

(ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator, the contractor may:

(I) notify the division of the unavailability of licensed personnel; and

(II) request the division issue a temporary elevator mechanic license to an individual certified by the contractor as having an acceptable combination of documented experience and education to perform the work described in this Subsection (3)(m)(ii)(A).

(B) (I) The division may issue a temporary elevator mechanic license to an individual certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by the appropriate fee as determined by the department under Section 63J-1-504.

(II) The division shall specify the time period for which the license is valid and may renew the license for an additional time period upon its determination that a shortage of licensed elevator mechanics continues to exist.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing when Federal Bureau of Investigation records shall be checked for applicants as an alarm company or alarm company agent.

(5) To determine if an applicant meets the qualifications of Subsections (3)(k)(vii) and (3)(l)(iii), the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:

(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure as an alarm company or alarm company agent and each applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and

(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant

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requiring a check of records of the Federal Bureau of Investigation for criminal history information under this section.

(6) The Department of Public Safety shall send to the division:

(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and

(b) the results of the Federal Bureau of Investigation review concerning an applicant in a timely manner after receipt of information from the Federal Bureau of Investigation.

(7) (a) The division shall charge each applicant for licensure as an alarm company or alarm company agent a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.

(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the costs of records reviews under this section.

(8) Information obtained by the division from the reviews of criminal history records of the Department of Public Safety and the Federal Bureau of Investigation shall be used or disseminated by the division only for the purpose of determining if an applicant for licensure as an alarm company or alarm company agent is qualified for licensure.

(9) (a) An application for licensure under this chapter shall be denied if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application;

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in

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Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application; or

(iv) (A) the applicant includes an individual who was an owner, director, or officer of an unincorporated entity at the time the entity's license under this chapter was revoked; and

(B) the application for licensure is filed within 60 months after the revocation of the unincorporated entity's license.

(b) An application for licensure under this chapter shall be reviewed by the appropriate licensing board prior to approval if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application; or

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application.

(10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status report with the division every 30 days after the day on which the license is issued if the licensee has more than five owners who are individuals who:

(A) own an interest in the contractor that is an unincorporated entity;

(B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the unincorporated entity; and

(C) engage, or will engage, in a construction trade in the state as owners of the

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contractor described in Subsection (10)(a)(i)(A).

(ii) If the licensee has five or fewer owners described in Subsection (10)(a)(i), the licensee shall provide the ownership status report with an application for renewal of licensure.

(b) An ownership status report required under this Subsection (10) shall:

(i) specify each addition or deletion of an owner:

(A) for the first ownership status report, after the day on which the unincorporated entity is licensed under this chapter; and

(B) for a subsequent ownership status report, after the day on which the previous ownership status report is filed;

(ii) be in a format prescribed by the division that includes for each owner, regardless of the owner's percentage ownership in the unincorporated entity, the information described in Subsection(1)(e)(vi);

(iii) list the name of:

(A) each officer or manager of the unincorporated entity; and

(B) each other individual involved in the operation, supervision, or management of the unincorporated entity; and

(iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504 if the ownership status report indicates there is a change described in Subsection (10)(b)(i).

(c) The division may, at any time, audit an ownership status report under this Subsection (10):

(i) to determine if financial responsibility has been demonstrated or maintained as required under Section 58-55-306; and

(ii) to determine compliance with Subsection 58-55-501(23), (24), [~~(25)~~, or ~~(27)~~] or (26) or Subsection 58-55-502(8) or (9).

(11) (a) An unincorporated entity that provides labor to an entity licensed under this chapter by providing an individual who owns an interest in the unincorporated entity to engage in a construction trade in Utah shall file with the division:

(i) before the individual who owns an interest in the unincorporated entity engages in a construction trade in Utah, a current list of the one or more individuals who hold an ownership interest in the unincorporated entity that includes for each individual:

(A) the individual's name, address, birth date, and social security number; and

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(B) whether the individual will engage in a construction trade; and

(ii) every 30 days after the day on which the unincorporated entity provides the list described in Subsection (11)(a)(i), an ownership status report containing the information that would be required under Subsection (10) if the unincorporated entity were a licensed contractor.

(b) When filing an ownership list described in Subsection (11)(a)(i) or an ownership status report described in Subsection (11)(a)(ii), an unincorporated entity shall pay a fee set by the division in accordance with Section 63J-1-504.

(12) This chapter may not be interpreted to create or support an express or implied independent contractor relationship between an unincorporated entity described in Subsection (10) or (11) and the owners of the unincorporated entity for any purpose, including income tax withholding.

(13) A social security number provided under Subsection (1)(e)(vi) is a private record under Subsection 63G-2-302(1)(i).

Section ~~67~~68. Section **58-55-305** is amended to read:

58-55-305. Exemptions from licensure.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in acts or practices included within the practice of construction trades, subject to the stated circumstances and limitations, without being licensed under this chapter:

(a) an authorized representative of the United States government or an authorized employee of the state or any of its political subdivisions when working on construction work of the state or the subdivision, and when acting within the terms of the person's trust, office, or employment;

(b) a person engaged in construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation districts, and drainage districts or construction and repair relating to farming, dairying, agriculture, livestock or poultry raising, metal and coal mining, quarries, sand and gravel excavations, well drilling, as defined in Section 73-3-25, hauling to and from construction sites, and lumbering;

(c) public utilities operating under the rules of the Public Service Commission on work incidental to their own business;

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(d) a sole ~~[owners]~~ owner of property engaged in building:

(i) no more than one residential structure per year on the sole owner's property and no more than three residential structures per five years on ~~[their]~~ the sole owner's property for ~~[their own]~~ the sole owner's noncommercial, nonpublic use ~~[; except], except that~~ a person other than the property owner or ~~[individuals]~~ a person described in Subsection (1)(e), who engages in building ~~[the]~~ a residential structure must be licensed under this chapter if the person is otherwise required to be licensed under this chapter; or

(ii) structures on ~~[their]~~ the sole owner's property for ~~[their own]~~ the sole owner's noncommercial, nonpublic use ~~[which]~~ that are incidental to a residential structure on the property, including ~~[sheds, carports, or detached garages]~~ a shed, carport, or detached garage;

(e) (i) a person engaged in construction or renovation of a residential building for noncommercial, nonpublic use if that person:

(A) works without compensation other than token compensation that is not considered salary or wages; and

(B) works under the direction of the property owner who engages in building the structure; and

(ii) as used in this Subsection (1)(e), "token compensation" means compensation paid by a sole owner of property exempted from licensure under Subsection (1)(d) to a person exempted from licensure under this Subsection (1)(e), that is:

(A) minimal in value when compared with the fair market value of the services provided by the person;

(B) not related to the fair market value of the services provided by the person; and

(C) is incidental to the providing of services by the person including paying for or providing meals or refreshment while services are being provided, or paying reasonable transportation costs incurred by the person in travel to the site of construction;

(f) a person engaged in the sale or merchandising of personal property that by its design or manufacture may be attached, installed, or otherwise affixed to real property who has contracted with a person, firm, or corporation licensed under this chapter to install, affix, or attach that property;

(g) a contractor submitting a bid on a federal aid highway project, if, before undertaking construction under that bid, the contractor is licensed under this chapter;

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(h) (i) subject to Subsection 58-1-401(2) and Sections 58-55-501 and 58-55-502, a person engaged in the alteration, repair, remodeling, or addition to or improvement of a building with a contracted or agreed value of less than \$3,000, including both labor and materials, and including all changes or additions to the contracted or agreed upon work; and

(ii) notwithstanding Subsection (1)(h)(i) and except as otherwise provided in this section:

(A) work in the plumbing and electrical trades on a Subsection (1)(h)(i) project within any six month period of time:

(I) must be performed by a licensed electrical or plumbing contractor, if the project involves an electrical or plumbing system; and

(II) may be performed by a licensed journeyman electrician or plumber or an individual referred to in Subsection (1)(h)(ii)(A)(I), if the project involves a component of the system such as a faucet, toilet, fixture, device, outlet, or electrical switch;

(B) installation, repair, or replacement of a residential or commercial gas appliance or a combustion system on a Subsection (1)(h)(i) project must be performed by a person who has received certification under Subsection 58-55-308(2) except as otherwise provided in Subsection 58-55-308(2)(d) or 58-55-308(3);

(C) installation, repair, or replacement of water-based fire protection systems on a Subsection (1)(h)(i) project must be performed by a licensed fire suppression systems contractor or a licensed journeyman plumber;

(D) work as an alarm business or company or as an alarm company agent shall be performed by a licensed alarm business or company or a licensed alarm company agent, except as otherwise provided in this chapter;

(E) installation, repair, or replacement of an alarm system on a Subsection (1)(h)(i) project must be performed by a licensed alarm business or company or a licensed alarm company agent;

(F) installation, repair, or replacement of a heating, ventilation, or air conditioning system (HVAC) on a Subsection (1)(h)(i) project must be performed by an HVAC contractor licensed by the division;

(G) installation, repair, or replacement of a radon mitigation system or a soil depressurization system must be performed by a licensed contractor; and

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(H) if the total value of the project is greater than \$1,000, the person shall file with the division a one-time affirmation, subject to periodic reaffirmation as established by division rule, that the person has:

(I) public liability insurance in coverage amounts and form established by division rule; and

(II) if applicable, workers compensation insurance which would cover an employee of the person if that employee worked on the construction project;

(i) a person practicing a specialty contractor classification or construction trade which the director does not classify by administrative rule as significantly impacting the public's health, safety, and welfare;

(j) owners and lessees of property and persons regularly employed for wages by owners or lessees of property or their agents for the purpose of maintaining the property, are exempt from this chapter when doing work upon the property;

(k) (i) a person engaged in minor plumbing work that is incidental, as defined by the division by rule, to the replacement or repair of a fixture or an appliance in a residential or small commercial building, or structure used for agricultural use, as defined in Section 15A-1-202, provided that no modification is made to:

(A) existing culinary water, soil, waste, or vent piping; or

(B) a gas appliance or combustion system; and

(ii) except as provided in Subsection (1)(e), installation for the first time of a fixture or an appliance is not included in the exemption provided under Subsection (1)(k)(i);

(l) a person who ordinarily would be subject to the plumber licensure requirements under this chapter when installing or repairing a water conditioner or other water treatment apparatus if the conditioner or apparatus:

(i) meets the appropriate state construction codes or local plumbing standards; and

(ii) is installed or repaired under the direction of a person authorized to do the work under an appropriate specialty contractor license;

(m) a person who ordinarily would be subject to the electrician licensure requirements under this chapter when employed by:

(i) railroad corporations, telephone corporations or their corporate affiliates, elevator contractors or constructors, or street railway systems; or

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(ii) public service corporations, rural electrification associations, or municipal utilities who generate, distribute, or sell electrical energy for light, heat, or power;

(n) a person involved in minor electrical work incidental to a mechanical or service installation, including the outdoor installation of an above-ground, prebuilt hot tub;

(o) a person who ordinarily would be subject to the electrician licensure requirements under this chapter but who during calendar years 2009, 2010, or 2011 was issued a specialty contractor license for the electrical work associated with the installation, repair, or maintenance of solar energy panels, may continue the limited electrical work for solar energy panels under a specialty contractor license;

(p) a student participating in construction trade education and training programs approved by the commission with the concurrence of the director under the condition that:

(i) all work intended as a part of a finished product on which there would normally be an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed building inspector; and

(ii) a licensed contractor obtains the necessary building permits;

(q) a delivery person when replacing any of the following existing equipment with a new gas appliance, provided there is an existing gas shutoff valve at the appliance:

(i) gas range;

(ii) gas dryer;

(iii) outdoor gas barbeque; or

(iv) outdoor gas patio heater;

(r) a person performing maintenance on an elevator as defined in Section 58-55-102, if the maintenance is not related to the operating integrity of the elevator; and

(s) an apprentice or helper of an elevator mechanic licensed under this chapter when working under the general direction of the licensed elevator mechanic.

(2) A compliance agency as defined in Section 15A-1-202 that issues a building permit to a person requesting a permit as a sole owner of property referred to in Subsection (1)(d) shall notify the division, in writing or through electronic transmission, of the issuance of the permit.

Section ~~68~~69. Section 58-55-308 is amended to read:

58-55-308. Scope of practice -- Installation, repair, maintenance, or replacement of gas appliance, combustion system, or automatic fire sprinkler system -- Rules.

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(1) (a) The commission, with the concurrence of the director, may adopt reasonable rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define and limit the scope of practice and operating standards of the classifications and subclassifications licensed under this chapter in a manner consistent with established practice in the relevant industry.

(b) The commission and the director may limit the field and scope of operations of a licensee under this chapter in accordance with the rules and the public health, safety, and welfare, based on the licensee's education, training, experience, knowledge, and financial responsibility.

(2) (a) The work and scope of practice covered by this Subsection (2) and Subsection (3) is the installation, repair, maintenance, cleaning, or replacement of a residential or commercial gas appliance or combustion system.

(b) The provisions of this Subsection (2) apply to any:

(i) licensee under this chapter whose license authorizes the licensee to perform the work described in Subsection (2)(a); and

(ii) person exempt from licensure under Subsection 58-55-305[(1)(h)].

(c) Any person described in Subsection (2)(b) that performs work described in Subsection (2)(a):

(i) must first receive training and certification as specified in rules adopted by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) shall ensure that any employee authorized under other provisions of this chapter to perform work described in Subsection (2)(a) has first received training and certification as specified in rules adopted by the division.

(d) The division may exempt from the training requirements adopted under Subsection (2)(c) a person that has adequate experience, as determined by the division.

(3) The division may exempt the following individuals from the certification requirements adopted under Subsection (2)(c):

(a) a person who has passed a test equivalent to the level of testing required by the division for certification, or has completed an apprenticeship program that teaches the installation of gas line appliances and is approved by the Federal Bureau of Apprenticeship

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Training; and

(b) a person working under the immediate one-to-one supervision of a certified natural gas technician or a person exempt from certification.

(4) (a) The work and scope of practice covered by this Subsection (4) is the installation, repair, maintenance, or replacement of an automatic fire sprinkler system.

(b) The provisions of this Subsection (4) apply to an individual acting as a qualifier for a business entity in accordance with Section 58-55-304, where the business entity seeks to perform the work described in Subsection (4)(a).

(c) Before a business entity described in Subsection (4)(b) may perform the work described in Subsection (4)(a), the qualifier for the business entity shall:

(i) be a licensed general building contractor; or

(ii) obtain a certification in fire sprinkler fitting from the division by providing evidence to the division that the qualifier has met the following requirements:

(A) completing a Department of Labor federally approved apprentice training program or completing two-years experience under the immediate supervision of a licensee who has obtained a certification in fire sprinkler fitting; and

(B) passing the Star fire sprinklerfitting mastery examination offered by the National Inspection Testing and Certification Corporation or an equivalent examination approved by the division.

(d) The division may also issue a certification in fire sprinkler fitting to a qualifier for a business entity who has received training and experience equivalent to the requirements of Subsection (4)(c), as specified in rules adopted by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) This section does not prohibit a licensed specialty contractor from accepting and entering into a contract involving the use of two or more crafts or trades if the performance of the work in the crafts or trades, other than that in which the contractor is licensed, is incidental and supplemental to the work for which the contractor is licensed.

Section ~~69~~70. Section **58-55-401** is amended to read:

58-55-401. Grounds for denial of license and disciplinary proceedings.

(1) In accordance with Section 58-1-401, the division may:

(a) refuse to issue a license to an applicant;

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(b) refuse to renew the license of a licensee;

(c) revoke the right of a licensee to recover from the Residence Lien Recovery Fund created by Section 38-11-201;

(d) revoke, suspend, restrict, or place on probation the license of a licensee;

(e) issue a public or private reprimand to a licensee; and

(f) issue a cease and desist order.

(2) In addition to an action taken under Subsection (1), the division may take an action described in Subsection 58-1-401(2) in relation to a license as a contractor, if:

(a) the applicant or licensee is an unincorporated entity; and

(b) an individual who holds an ownership interest in or is the qualifier under Section 58-55-304 of the applicant or licensee engages in:

(i) unlawful conduct as described in Section 58-55-501; or

(ii) unprofessional conduct as described in Section 58-55-502.

Section ~~{70}~~71. Section **58-55-501** is amended to read:

58-55-501. Unlawful conduct.

Unlawful conduct includes:

(1) engaging in a construction trade, acting as a contractor, an alarm business or company, or an alarm company agent, or representing oneself to be engaged in a construction trade or to be acting as a contractor in a construction trade requiring licensure, unless the person doing any of these is appropriately licensed or exempted from licensure under this chapter;

(2) acting in a construction trade, as an alarm business or company, or as an alarm company agent beyond the scope of the license held;

(3) hiring or employing a person who is not licensed under this chapter to perform work on a project, unless the person:

(a) is an employee of a person licensed under this chapter for wages; and

(b) is not required to be licensed under this chapter;

(4) applying for or obtaining a building permit either for oneself or another when not licensed or exempted from licensure as a contractor under this chapter;

(5) issuing a building permit to any person for whom there is no evidence of a current license or exemption from licensure as a contractor under this chapter;

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(6) applying for or obtaining a building permit for the benefit of or on behalf of any other person who is required to be licensed under this chapter but who is not licensed or is otherwise not entitled to obtain or receive the benefit of the building permit;

(7) failing to obtain a building permit when required by law or rule;

(8) submitting a bid for any work for which a license is required under this chapter by a person not licensed or exempted from licensure as a contractor under this chapter;

(9) willfully or deliberately misrepresenting or omitting a material fact in connection with an application to obtain or renew a license under this chapter;

(10) allowing one's license to be used by another except as provided by statute or rule;

(11) doing business under a name other than the name appearing on the license, except as permitted by statute or rule;

(12) if licensed as a contractor in the electrical trade or plumbing trade, journeyman plumber, residential journeyman plumber, journeyman electrician, master electrician, or residential electrician, failing to directly supervise an apprentice under one's supervision or exceeding the number of apprentices one is allowed to have under the contractor's supervision;

(13) if licensed as a contractor or representing oneself to be a contractor, receiving any funds in payment for a specific project from an owner or any other person, which funds are to pay for work performed or materials and services furnished for that specific project, and after receiving the funds to exercise unauthorized control over the funds by failing to pay the full amounts due and payable to persons who performed work or furnished materials or services within a reasonable period of time;

(14) employing an unlicensed alarm business or company or an unlicensed individual as an alarm company agent, except as permitted under the exemption from licensure provisions under Section 58-1-307;

(15) if licensed as an alarm company or alarm company agent, filing with the division fingerprint cards for an applicant which are not those of the applicant, or are in any other way false or fraudulent and intended to mislead the division in its consideration of the applicant for licensure;

(16) if licensed under this chapter, willfully or deliberately disregarding or violating:

(a) the building or construction laws of this state or any political subdivision;

(b) the safety and labor laws applicable to a project;

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(c) any provision of the health laws applicable to a project;

(d) the workers' compensation insurance laws of the state applicable to a project;

(e) the laws governing withholdings for employee state and federal income taxes, unemployment taxes, Social Security payroll taxes, or other required withholdings; or

(f) reporting, notification, and filing laws of this state or the federal government;

~~[(17) aiding or abetting any person in evading the provisions of this chapter or rules established under the authority of the division to govern this chapter;]~~

~~[(18)]~~ (17) engaging in the construction trade or as a contractor for the construction of residences of up to two units when not currently registered or exempt from registration as a qualified beneficiary under Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery Fund Act;

~~[(19)]~~ (18) failing, as an original contractor, as defined in Section 38-11-102, to include in a written contract the notification required in Section 38-11-108;

~~[(20)]~~ (19) wrongfully filing a preconstruction or construction lien in violation of Section 38-1a-308;

~~[(21)]~~ (20) if licensed as a contractor, not completing the approved continuing education required under Section 58-55-302.5;

~~[(22)]~~ (21) an alarm company allowing an employee with a temporary license under Section 58-55-312 to engage in conduct on behalf of the company outside the scope of the temporary license, as provided in Subsection 58-55-312(3)(a)(ii);

~~[(23)]~~ (22) an alarm company agent under a temporary license under Section 58-55-312 engaging in conduct outside the scope of the temporary license, as provided in Subsection 58-55-312(3)(a)(ii);

~~[(24)]~~ (23) (a) an unincorporated entity licensed under this chapter having an individual who owns an interest in the unincorporated entity engage in a construction trade in Utah while not lawfully present in the United States; or

(b) an unincorporated entity providing labor to an entity licensed under this chapter by providing an individual who owns an interest in the unincorporated entity to engage in a construction trade in Utah while not lawfully present in the United States;

~~[(25)]~~ (24) an unincorporated entity failing to provide the following for an individual who engages, or will engage, in a construction trade in Utah for the unincorporated entity, or

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for an individual who engages, or will engage, in a construction trade in Utah for a separate entity for which the unincorporated entity provides the individual as labor:

(a) workers' compensation coverage:

(i) to the extent required by Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act; or

(ii) that would be required under the chapters listed in Subsection ~~[(25)]~~ (24)(a)(i) if the unincorporated entity were licensed under this chapter; and

(b) unemployment compensation in accordance with Title 35A, Chapter 4, Employment Security Act, for an individual who owns, directly or indirectly, less than an 8% interest in the unincorporated entity, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

~~[(26)]~~ (25) the failure of a sign installation contractor or nonelectrical outdoor advertising sign contractor, as classified and defined in division rules, to:

(a) display the contractor's license number prominently on a vehicle that:

(i) the contractor uses; and

(ii) displays the contractor's business name; or

(b) carry a copy of the contractor's license in any other vehicle that the contractor uses at a job site, whether or not the vehicle is owned by the contractor;

~~[(27)]~~ (26) (a) an unincorporated entity licensed under this chapter having an individual who owns an interest in the unincorporated entity engage in a construction trade in the state while the individual is using a Social Security number that does not belong to that individual; or

(b) an unincorporated entity providing labor to an entity licensed under this chapter by providing an individual, who owns an interest in the unincorporated entity, to engage in a construction trade in the state while the individual is using a Social Security number that does not belong to that individual;

~~[(28)]~~ (27) a contractor failing to comply with a requirement imposed by a political subdivision, state agency, or board of education under Section 58-55-310; or

~~[(29)]~~ (28) failing to timely comply with the requirements described in Section 58-55-605.

Section ~~{71}~~72. Section **58-55-503** is amended to read:

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58-55-503. Penalty for unlawful conduct -- Citations.

(1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (21), (22), (23), (24), (25), (26), (27), or (28), [~~or (29)~~], or Subsection 58-55-504(2), or who fails to comply with a citation issued under this section after it is final, is guilty of a class A misdemeanor.

(ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an individual and does not include a sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

(b) A person who violates the provisions of Subsection 58-55-501(8) may not be awarded and may not accept a contract for the performance of the work.

(2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an infraction unless the violator did so with the intent to deprive the person to whom money is to be paid of the money received, in which case the violator is guilty of theft, as classified in Section 76-6-412.

(3) Grounds for immediate suspension of a licensee's license by the division and the commission include:

(a) the issuance of a citation for violation of Subsection 58-55-308(2), Section 58-55-501, or Subsection 58-55-504(2); and

(b) the failure by a licensee to make application to, report to, or notify the division with respect to any matter for which application, notification, or reporting is required under this chapter or rules adopted under this chapter, including:

(i) applying to the division for a new license to engage in a new specialty classification or to do business under a new form of organization or business structure;

(ii) filing a current financial statement with the division; and

(iii) notifying the division concerning loss of insurance coverage or change in qualifier.

(4) (a) If upon inspection or investigation, the division concludes that a person has violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), [~~(19)~~] (18), (20), (21), (22), (23), (24), (25), (26), (27), or (28), [~~or (29)~~], Subsection 58-55-504(2), or any rule or order issued with respect to these subsections, and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to the person according to this chapter and any pertinent

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rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(i) A person who is in violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), [~~(19)~~] (18), (20), (21), (22), (23), (24), (25), (26), (27), or (28), [~~or (29)~~], or Subsection 58-55-504(2), as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered to cease and desist from violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), [~~(14)~~] (18), (20), (19), (21), (24), (25), (26), (27), or (28), [~~or (29)~~], or Subsection 58-55-504(2).

(ii) Except for a cease and desist order, the licensure sanctions cited in Section 58-55-401 may not be assessed through a citation.

(b) (i) A citation shall be in writing and describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated.

(ii) A citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(iii) A citation shall clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(c) A citation issued under this section, or a copy of a citation, may be served upon a person upon whom a summons may be served:

(i) in accordance with the Utah Rules of Civil Procedure;

(ii) personally or upon the person's agent by a division investigator or by a person specially designated by the director; or

(iii) by mail.

(d) (i) If within 20 calendar days after the day on which a citation is served, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The period to contest a citation may be extended by the division for cause.

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(e) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(f) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(g) A citation may not be issued under this section after the expiration of [~~six months following the occurrence of a violation~~] one year following the date on which the violation that is the subject of the citation is reported to the division.

(h) Except as provided in Subsection (5), the director or the director's designee shall assess a fine in accordance with the following:

(i) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;

(ii) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000;

and

(iii) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000 for each day of continued offense.

(i) (i) For purposes of issuing a final order under this section and assessing a fine under Subsection (4)(h), an offense constitutes a second or subsequent offense if:

(A) the division previously issued a final order determining that a person committed a first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), [~~(19)~~] (18), (23), (24), (25), (26), (27), or (28), [~~or (29)~~]; or Subsection 58-55-504(2); or

(B) (I) the division initiated an action for a first or second offense;

(II) a final order has not been issued by the division in the action initiated under Subsection (4)(i)(i)(B)(I);

(III) the division determines during an investigation that occurred after the initiation of the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), [~~(19)~~] (18), (23), (24), (25), (26), (27), or (28), [~~or (29)~~]; or Subsection 58-55-504(2); and

(IV) after determining that the person committed a second or subsequent offense under Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under Subsection (4)(i)(i)(B)(I).

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(ii) In issuing a final order for a second or subsequent offense under Subsection (4)(i)(i), the division shall comply with the requirements of this section.

(j) In addition to any other licensure sanction or fine imposed under this section, the division shall revoke the license of a licensee that violates Subsection 58-55-501(23) or (24) [~~or (25)~~] two or more times within a 12-month period, unless, with respect to a violation of Subsection 58-55-501[~~(24)~~](23), the licensee can demonstrate that the licensee successfully verified the federal legal working status of the individual who was the subject of the violation using a status verification system, as defined in Section 13-47-102.

(k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24) [~~or (25)~~] for each individual is considered a separate violation.

(5) If a person violates Section 58-55-501, the division may not treat the violation as a subsequent violation of a previous violation if the violation occurs five years or more after the day on which the person committed the previous violation.

(6) If, after an investigation, the division determines that a person has committed multiple of the same type of violation of Section 58-55-501, the division may treat each violation as a separate violation of Section 58-55-501 and apply a penalty under this section to each violation.

(7) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited into the Commerce Service Account created by Section 13-1-2.

(b) A penalty that is not paid may be collected by the director by either referring the matter to a collection agency or bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(c) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(d) In an action brought to collect a penalty, the court shall award reasonable attorney fees and costs to the prevailing party.

Section ~~{72}~~73. Section **58-56-9.5** is amended to read:

58-56-9.5. Penalty for unlawful conduct -- Citations.

(1) A person who violates a provision of Section 58-56-9.1 or who fails to comply with a citation issued under this section after it is final is guilty of a class A misdemeanor.

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(2) Grounds for immediate suspension of a licensee's license by the division under this chapter include:

(a) the issuance of a citation for violation of a provision of Section 58-56-9.1 or 58-56-9.3; and

(b) failure by a licensee to make application to, report to, or notify the division with respect to a matter for which application, notification, or reporting is required under this chapter or rules made under this chapter by the division.

(3) (a) If upon inspection or investigation, the division concludes that a person has violated a provision of Section 58-56-9.1 or 58-56-9.3, or a rule or order issued with respect to that section, and that disciplinary action is appropriate, the director or the director's designee from within the division shall:

(i) promptly issue a citation to the person according to this chapter and any pertinent rules;

(ii) attempt to negotiate a stipulated settlement; or

(iii) notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(b) (i) A person who violates a provision of Section 58-56-9.1 or 58-56-9.3, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine under this Subsection (3)(b) and may, in addition to or instead of the fine, be ordered by the division to cease from violating the provision.

(ii) Except as otherwise provided in Subsection (2)(a), the division may not assess licensure sanctions referred to in Subsection 58-56-9(1)(c) through a citation.

(c) (i) Each citation shall be in writing and describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated.

(ii) The citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(iii) The citation shall clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in

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the citation.

(d) Each citation issued under this section, or a copy of each citation, may be served upon any person upon whom a summons may be served:

(i) in accordance with the Utah Rules of Civil Procedure;

(ii) personally or upon the person's agent by a division investigator or by any person specially designated by the director; or

(iii) by mail.

(e) (i) If within 20 calendar days from the service of a citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The period to contest a citation may be extended by the division for cause.

(f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of a license.

(h) No citation may be issued under this section after the expiration of [~~six months following the occurrence of the violation~~] one year following the date on which the violation that is the subject of the citation is reported to the division.

(i) The director or the director's designee may assess fines for violations of Section 58-56-9.1 or 58-56-9.3 as follows:

(i) for a first offense determined under this Subsection (3), a fine of up to \$1,000;

(ii) for a second offense, a fine of up to \$2,000; and

(iii) for any subsequent offense, a fine of up to \$2,000 for each day of continued offense.

(j) For the purposes of issuing a final order under this section and assessing a fine under Subsection (3)(i), an offense constitutes a second or subsequent offense if:

(i) the division previously issued a final order determining that a person committed a first or second offense in violation of a provision of Section 58-56-9.1; or

(ii) (A) the division initiated an action for a first or second offense;

(B) no final order has been issued by the division in the action initiated under Subsection (3)(j)(ii)(A);

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(C) the division determines during an investigation that occurred after the initiation of the action under Subsection (3)(j)(ii)(A) that the person committed a second or subsequent violation of a provision of Section 58-56-9.1; and

(D) after determining that the person committed a second or subsequent offense under Subsection (3)(j)(ii)(C), the division issues a final order on the action initiated under Subsection (3)(j)(ii)(A).

(k) In issuing a final order for a second or subsequent offense under Subsection (3)(j), the division shall comply with the requirements of this section.

(4) (a) Proceeds from a fine imposed under Subsection (3)(i) shall be deposited in the Commerce Service Account created by Section 13-1-2.

(b) The director may collect a fine that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(c) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(d) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section ~~73~~74. Section 58-57-4 is amended to read:

58-57-4. Qualifications for a license.

(1) The division shall issue a respiratory care practitioner license to an applicant who meets the requirements specified in this section.

(2) An applicant seeking licensure as a respiratory care practitioner shall:

(a) submit an application on a form prescribed by the division;

(b) pay a fee as determined by the department pursuant to Section 63J-1-504;

~~[(c) show evidence of good moral character;]~~

~~[(d)]~~ (c) possess a high school education or its equivalent, as determined by the division in collaboration with the board;

~~[(e)]~~ (d) have completed a respiratory care practitioner educational program that is accredited by a nationally accredited organization acceptable to the division as defined by rule; and

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~~[(f)]~~ (e) pass an examination approved by the division in collaboration with the board.

Section ~~{74}~~75. Section **58-60-109** is amended to read:

58-60-109. Unlawful conduct.

As used in this chapter, "unlawful conduct" includes:

- (1) practice of the following unless licensed in the appropriate classification or exempted from licensure under this title:
 - (a) mental health therapy;
 - (b) clinical social work;
 - (c) certified social work;
 - (d) marriage and family therapy;
 - (e) clinical mental health counselor;
 - (f) practice as a social service worker; or
 - (g) substance use disorder counselor;
- (2) practice of mental health therapy by a licensed psychologist who has not acceptably documented to the division the licensed psychologist's completion of the supervised training in mental health therapy required under Subsection 58-61-304(1)~~[(f)]~~(e); or
- (3) representing oneself as, or using the title of, the following:
 - (a) unless currently licensed in a license classification under this title:
 - (i) psychiatrist;
 - (ii) psychologist;
 - (iii) registered psychiatric mental health nurse specialist;
 - (iv) mental health therapist;
 - (v) clinical social worker;
 - (vi) certified social worker;
 - (vii) marriage and family therapist;
 - (viii) clinical mental health counselor;
 - (ix) social service worker;
 - (x) substance use disorder counselor;
 - (xi) associate clinical mental health counselor; or
 - (xii) associate marriage and family therapist; or
 - (b) unless currently in possession of the credentials described in Subsection (4), social

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worker.

(4) An individual may represent oneself as a, or use the title of, social worker if the individual possesses certified transcripts from an accredited institution of higher education, recognized by the division in collaboration with the Social Work Licensing Board, verifying satisfactory completion of an education and an earned degree as follows:

(a) a bachelor's or master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(b) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203.

Section ~~{75}~~76. Section **58-60-115** is amended to read:

58-60-115. License by endorsement.

The division shall issue a license by endorsement under this chapter to a person who:

- (1) submits an application on a form provided by the division;
- (2) pays a fee determined by the department under Section 63J-1-504;
- (3) provides documentation of current licensure in good standing in a state, district, or territory of the United States to practice in the profession for which licensure is being sought;
- (4) except as provided in Subsection (5), provides documentation that the person has engaged in the lawful practice of the profession for which licensure is sought for at least 4,000 hours, of which 1,000 hours are in mental health therapy;
- (5) if applying for a license to practice as a licensed substance use disorder counselor, provides documentation that the person:
 - (a) has engaged in the lawful practice of the profession for at least 4,000 hours; and
 - (b) has passed an examination approved by the division, by rule, to establish proficiency in the profession;
- (6) has passed the profession specific jurisprudence examination if required of a new applicant; and
- (7) is of good [~~moral character and~~] professional standing, and has no disciplinary action pending or in effect against the applicant's license in any jurisdiction.

Section ~~{76}~~77. Section **58-60-117** is amended to read:

58-60-117. Externship licenses.

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(1) The division shall issue a temporary license under Part 2, Social Worker Licensing Act, Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Clinical Mental Health Counselor Licensing Act, of this chapter to a person who:

(a) submits an application for licensure under Part 2, Social Worker Licensing Act, Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Clinical Mental Health Counselor Licensing Act;

(b) pays a fee determined by the department under Section 63J-1-504;

(c) holds an earned doctoral degree or master's degree in a discipline that is a prerequisite for practice as a mental health therapist;

(d) has a deficiency, as defined by division rule, in course work;

(e) provides mental health therapy as an employee of a public or private organization, which provides mental health therapy, while under the supervision of a person licensed under this chapter; and

(f) ~~[is of good moral character and]~~ has no disciplinary action pending or in effect against the applicant in connection with the practice of mental health therapy, in any jurisdiction.

(2) A temporary license issued under this section shall expire upon the earlier of:

(a) issuance of the license applied for; or

(b) unless the deadline is extended for good cause as determined by the division, three years from the date the temporary license was issued.

(3) The temporary license issued under this section is an externship license.

Section ~~{77}~~78. Section **58-60-205** is amended to read:

58-60-205. Qualifications for licensure or certification as a clinical social worker, certified social worker, and social service worker.

(1) An applicant for licensure as a clinical social worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

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(i) a master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(ii) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203;

~~[(e)]~~ (d) have completed a minimum of 4,000 hours of clinical social work training as defined by division rule under Section 58-1-203:

(i) in not less than two years;

(ii) under the supervision of a supervisor approved by the division in collaboration with the board who is a:

(A) clinical mental health counselor;

(B) psychiatrist;

(C) psychologist;

(D) registered psychiatric mental health nurse practitioner;

(E) marriage and family therapist; or

(F) clinical social worker; and

(iii) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

~~[(f)]~~ (e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection ~~[(1)(d)]~~ (1)(c), which training may be included as part of the 4,000 hours of training in Subsection ~~[(1)(e)]~~ (1)(d), and of which documented evidence demonstrates not less than 100 of the hours were obtained under the direct supervision, as defined by rule, of a supervisor described in Subsection ~~[(1)(e)(ii)]~~ (1)(d)(ii);

~~[(g)]~~ (f) have completed a case work, group work, or family treatment course sequence with a clinical practicum in content as defined by rule under Section 58-1-203; and

~~[(h)]~~ (g) pass the examination requirement established by rule under Section 58-1-203.

(2) An applicant for licensure as a certified social worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) be of good moral character;]~~

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~~[(d)]~~ (c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(ii) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203; and

~~[(e)]~~ (d) pass the examination requirement established by rule under Section 58-1-203.

(3) (a) An applicant for certification as a certified social worker intern shall meet the requirements of Subsections (2)(a), (b), ~~[(e), and (d)]~~ and (c).

(b) Certification under Subsection (3)(a) is limited to the time necessary to pass the examination required under Subsection ~~[(2)(e)]~~ (2)(d) or six months, whichever occurs first.

(c) A certified social worker intern may provide mental health therapy under the general supervision, as defined by rule, of a supervisor described in Subsection ~~[(1)(e)(ii)]~~ (1)(d)(ii).

(4) An applicant for licensure as a social service worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(e) be of good moral character;]~~

~~[(d)]~~ (c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a bachelor's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work;

(ii) a master's degree in a field approved by the division in collaboration with the board;

(iii) a bachelor's degree in any field if the applicant:

(A) has completed at least three semester hours, or the equivalent, in each of the following areas:

(I) social welfare policy;

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(II) human growth and development; and

(III) social work practice methods, as defined by rule; and

(B) provides documentation that the applicant has completed at least 2,000 hours of qualifying experience under the supervision of a mental health therapist, which experience is approved by the division in collaboration with the board, and which is performed after completion of the requirements to obtain the bachelor's degree required under this Subsection (4); or

(iv) successful completion of the first academic year of a Council on Social Work Education approved master's of social work curriculum and practicum; and

~~[(e)]~~ (d) pass the examination requirement established by rule under Section 58-1-203.

(5) The division shall ensure that the rules for an examination described under Subsections ~~[(1)(h), (2)(e), and (4)(e)]~~ (1)(g), (2)(d), and (4)(d) allow additional time to complete the examination if requested by an applicant who is:

(a) a foreign born legal resident of the United States for whom English is a second language; or

(b) an enrolled member of a federally recognized Native American tribe.

Section ~~78~~79. Section **58-60-207** is amended to read:

58-60-207. Scope of practice -- Limitations.

(1) (a) A clinical social worker may engage in all acts and practices defined as the practice of clinical social work without supervision, in private and independent practice, or as an employee of another person, limited only by the licensee's education, training, and competence.

(b) A clinical social worker may not supervise more than six individuals who are lawfully engaged in training for the practice of mental health therapy, unless granted an exception in writing from the division in collaboration with the board.

(2) To the extent an individual is professionally prepared by the education and training track completed while earning a master's or doctor of social work degree, a licensed certified social worker may engage in all acts and practices defined as the practice of certified social work consistent with the licensee's education, clinical training, experience, and competence:

(a) under supervision of an individual described in Subsection 58-60-205(1)~~[(e)]~~(d)(ii) and as an employee of another person when engaged in the practice of mental health therapy;

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(b) without supervision and in private and independent practice or as an employee of another person, if not engaged in the practice of mental health therapy;

(c) including engaging in the private, independent, unsupervised practice of social work as a self-employed individual, in partnership with other mental health therapists, as a professional corporation, or in any other capacity or business entity, so long as he does not practice unsupervised psychotherapy; and

(d) supervising social service workers as provided by division rule.

Section ~~{79}~~80. Section **58-60-305** is amended to read:

58-60-305. Qualifications for licensure.

(1) All applicants for licensure as marriage and family therapists shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) produce certified transcripts evidencing completion of a masters or doctorate degree in marriage and family therapy from:

(i) a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education; or

(ii) an accredited institution meeting criteria for approval established by rule under Section 58-1-203;

~~[(e)]~~ (d) have completed a minimum of 4,000 hours of marriage and family therapy training as defined by division rule under Section 58-1-203:

(i) in not less than two years;

(ii) under the supervision of a mental health therapist supervisor who meets the requirements of Section 58-60-307;

(iii) obtained after completion of the education requirement in Subsection ~~[(1)(d)]~~ (1)(c); and

(iv) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

~~[(e)]~~ (e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement described in Subsection ~~[(1)(d)(i) or (1)(d)(ii)]~~ (1)(c)(i) or (1)(c)(ii), which training may be

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included as part of the 4,000 hours of training described in Subsection ~~[(1)(e)]~~ (1)(d), and of which documented evidence demonstrates not less than 100 of the supervised hours were obtained during direct, personal supervision, as defined by rule, by a mental health therapist supervisor qualified under Section 58-60-307; and

~~[(g)]~~ (f) pass the examination requirement established by division rule under Section 58-1-203.

(2) (a) All applicants for licensure as an associate marriage and family therapist shall comply with the provisions of Subsections ~~[(1)(a), (b), (c), and (d)]~~ (1)(a), (b), and (c).

(b) An individual's license as an associate marriage and family therapist is limited to the period of time necessary to complete clinical training as described in Subsections ~~[(1)(e) and (f)]~~ (1)(d) and (e) and extends not more than one year from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the appropriate board that the individual is making reasonable progress toward passing of the qualifying examination for that profession or is otherwise on a course reasonably expected to lead to licensure, but the period of time under this Subsection (2)(b) may not exceed two years past the date the minimum supervised clinical training requirement has been completed.

Section ~~{80}~~81. Section **58-60-305.5** is amended to read:

58-60-305.5. Qualification for licensure before May 1, 2000.

(1) A person who was licensed under this chapter as of May 1, 2000, may apply for renewal of licensure without being required to fulfill the educational requirements described in Subsection 58-60-305(1)~~[(d)]~~(c).

(2) A person who seeks licensure under this chapter before July 1, 2002, need comply only with the licensure requirements in effect before May 1, 2000.

Section ~~{81}~~82. Section **58-60-308** is amended to read:

58-60-308. Scope of practice -- Limitations.

(1) A licensed marriage and family therapist may engage in all acts and practices defined as the practice of marriage and family therapy without supervision, in private and independent practice, or as an employee of another person, limited only by the licensee's education, training, and competence.

(2) (a) To the extent an individual has completed the educational requirements of

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Subsection 58-60-305(1)~~(d)~~(c), a licensed associate marriage and family therapist may engage in all acts and practices defined as the practice of marriage and family therapy if the practice is:

- (i) within the scope of employment as a licensed associate marriage and family therapist with a public agency or a private clinic as defined by division rule; and
 - (ii) under the supervision of a licensed mental health therapist who is qualified as a supervisor under Section 58-60-307.
- (b) A licensed associate marriage and family therapist may not engage in the independent practice of marriage and family therapy.

Section ~~82~~83. Section **58-60-405** is amended to read:

58-60-405. Qualifications for licensure.

- (1) An applicant for licensure as a clinical mental health counselor shall:
- (a) submit an application on a form provided by the division;
 - (b) pay a fee determined by the department under Section 63J-1-504;
 - ~~(c) be of good moral character;~~
 - ~~(d)~~ (c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of:
 - (i) an education and degree in an education program in counseling with a core curriculum defined by division rule under Section 58-1-203 preparing one to competently engage in mental health therapy; and
 - (ii) an earned doctoral or master's degree resulting from that education program;
 - ~~(e)~~ (d) have completed a minimum of 4,000 hours of clinical mental health counselor training as defined by division rule under Section 58-1-203:
 - (i) in not less than two years;
 - (ii) under the supervision of a clinical mental health counselor, psychiatrist, psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or marriage and family therapist supervisor approved by the division in collaboration with the board;
 - (iii) obtained after completion of the education requirement in Subsection (1)~~(d)~~(c);
- and
- (iv) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

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~~[(f)]~~ (e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection ~~[(1)(d)]~~ (1)(c), which training may be included as part of the 4,000 hours of training in Subsection ~~[(1)(e)]~~ (1)(d), and of which documented evidence demonstrates not less than 100 of the hours were obtained under the direct supervision of a mental health therapist, as defined by rule; and

~~[(g)]~~ (f) pass the examination requirement established by division rule under Section 58-1-203.

(2) (a) An applicant for licensure as an associate clinical mental health counselor shall comply with the provisions of Subsections ~~[(1)(a), (b), (c), and (d)]~~ (1)(a), (b), and (c).

(b) Except as provided under Subsection (2)(c), an individual's licensure as an associate clinical mental health counselor is limited to the period of time necessary to complete clinical training as described in Subsections ~~[(1)(e) and (f)]~~ (1)(d) and (e) and extends not more than one year from the date the minimum requirement for training is completed.

(c) The time period under Subsection (2)(b) may be extended to a maximum of two years past the date the minimum supervised clinical training requirement has been completed, if the applicant presents satisfactory evidence to the division and the appropriate board that the individual is:

(i) making reasonable progress toward passing of the qualifying examination for that profession; or

(ii) otherwise on a course reasonably expected to lead to licensure.

Section ~~{83}~~84. Section **58-60-407** is amended to read:

58-60-407. Scope of practice -- Limitations.

(1) (a) A licensed clinical mental health counselor may engage in all acts and practices defined as the practice of clinical mental health counseling without supervision, in private and independent practice, or as an employee of another person, limited only by the licensee's education, training, and competence.

(b) A licensed clinical mental health counselor may not supervise more than six individuals who are lawfully engaged in training for the practice of mental health therapy, unless granted an exception in writing from the division in collaboration with the board.

(2) (a) To the extent an individual has completed the educational requirements of

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Subsection 58-60-305(1)~~(d)~~(c), a licensed associate clinical mental health counselor may engage in all acts and practices defined as the practice of clinical mental health counseling if the practice is:

(i) within the scope of employment as a licensed clinical mental health counselor with a public agency or private clinic as defined by division rule; and

(ii) under supervision of a qualified licensed mental health therapist as defined in Section 58-60-102.

(b) A licensed associate clinical mental health counselor may not engage in the independent practice of clinical mental health counseling.

Section ~~84~~85. Section **58-60-506** is amended to read:

58-60-506. Qualifications for licensure.

(1) An applicant for licensure under this part on and after July 1, 2012, must meet the following qualifications:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~(c) be of good moral character;~~

~~(d)~~ (c) satisfy the requirements of Subsection (2), (3), (4), (5), (6), or (7) respectively;

and

~~(e)~~ (d) except for licensure as a certified substance use disorder counselor intern and a certified advanced substance use disorder counselor intern, satisfy the examination requirement established by division rule under Section 58-1-203.

(2) In accordance with division rules, an applicant for licensure as an advanced substance use disorder counselor shall produce:

(a) certified transcripts from an accredited institution of higher education that:

(i) meet division standards;

(ii) verify the satisfactory completion of a baccalaureate or graduate degree; and

(iii) verify the completion of prerequisite courses established by division rules;

(b) documentation of the applicant's completion of a substance use disorder education program that includes:

(i) at least 300 hours of substance use disorder related education, of which 200 hours may have been obtained while qualifying for a substance use disorder counselor license; and

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(ii) a supervised practicum of at least 350 hours, of which 200 hours may have been obtained while qualifying for a substance use disorder counselor license; and

(c) documentation of the applicant's completion of at least 4,000 hours of supervised experience in substance use disorder treatment, of which 2,000 hours may have been obtained while qualifying for a substance use disorder counselor license, that:

(i) meets division standards; and

(ii) is performed within a four-year period after the applicant's completion of the substance use disorder education program described in Subsection (2)(b), unless, as determined by the division after consultation with the board, the time for performance is extended due to an extenuating circumstance.

(3) An applicant for licensure as a certified advanced substance use disorder counselor shall meet the requirements in Subsections (2)(a) and (b).

(4) (a) An applicant for licensure as a certified advanced substance use disorder counselor intern shall meet the requirements in Subsections (2)(a) and (b).

(b) A certified advanced substance use disorder counselor intern license expires at the earlier of:

(i) the licensee passing the examination required for licensure as a certified advanced substance use disorder counselor; or

(ii) six months after the certified advanced substance use disorder counselor intern license is issued.

(5) In accordance with division rules, an applicant for licensure as a substance use disorder counselor shall produce:

(a) certified transcripts from an accredited institution that:

(i) meet division standards;

(ii) verify satisfactory completion of an associate's degree or equivalent as defined by the division in rule; and

(iii) verify the completion of prerequisite courses established by division rules;

(b) documentation of the applicant's completion of a substance use disorder education program that includes:

(i) completion of at least 200 hours of substance use disorder related education;

(ii) included in the 200 hours described in Subsection (5)(b)(i), a minimum of two

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hours of training in suicide prevention via a course that the division designates as approved;
and

(iii) completion of a supervised practicum of at least 200 hours; and

(c) documentation of the applicant's completion of at least 2,000 hours of supervised experience in substance use disorder treatment that:

(i) meets division standards; and

(ii) is performed within a two-year period after the applicant's completion of the substance use disorder education program described in Subsection (5)(b), unless, as determined by the division after consultation with the board, the time for performance is extended due to an extenuating circumstance.

(6) An applicant for licensure as a certified substance use disorder counselor shall meet the requirements of Subsections (5)(a) and (b).

(7) (a) An applicant for licensure as a certified substance use disorder counselor intern shall meet the requirements of Subsections (5)(a) and (b).

(b) A certified substance use disorder counselor intern license expires at the earlier of:

(i) the licensee passing the examination required for licensure as a certified substance use disorder counselor; or

(ii) six months after the certified substance use disorder counselor intern license is issued.

Section ~~85~~86. Section **58-61-304** is amended to read:

58-61-304. Qualifications for licensure by examination or endorsement.

(1) An applicant for licensure as a psychologist based upon education, clinical training, and examination shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) produce certified transcripts of credit verifying satisfactory completion of a doctoral degree in psychology that includes specific core course work established by division rule under Section 58-1-203, from an institution of higher education whose doctoral program, at the time the applicant received the doctoral degree, met approval criteria established by division rule made in consultation with the board;

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~~(e)~~ (d) have completed a minimum of 4,000 hours of psychology training as defined by division rule under Section 58-1-203 in not less than two years and under the supervision of a psychologist supervisor approved by the division in collaboration with the board;

~~(f)~~ (e) to be qualified to engage in mental health therapy, document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of a master's level of education in psychology, which training may be included as part of the 4,000 hours of training required in Subsection (1)~~(e)~~(d), and for which documented evidence demonstrates not less than one hour of supervision for each 40 hours of supervised training was obtained under the direct supervision of a psychologist, as defined by rule;

~~(g)~~ (f) pass the examination requirement established by division rule under Section 58-1-203; ~~and~~

(g) consent to a criminal background check in accordance with Section 58-61-304.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(h) meet with the board, upon request for good cause, for the purpose of evaluating the applicant's qualifications for licensure.

(2) An applicant for licensure as a psychologist by endorsement based upon licensure in another jurisdiction shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) ~~[be of good moral character and professional standing, and]~~ not have any disciplinary action pending or in effect against the applicant's psychologist license in any jurisdiction;

(d) have passed the Utah Psychologist Law and Ethics Examination established by division rule;

(e) provide satisfactory evidence the applicant is currently licensed in another state, district, or territory of the United States, or in any other jurisdiction approved by the division in collaboration with the board;

(f) provide satisfactory evidence the applicant has actively practiced psychology in that jurisdiction for not less than 2,000 hours or one year, whichever is greater;

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(g) provide satisfactory evidence that:

(i) the education, supervised experience, examination, and all other requirements for licensure in that jurisdiction at the time the applicant obtained licensure were substantially equivalent to the licensure requirements for a psychologist in Utah at the time the applicant obtained licensure in the other jurisdiction; or

(ii) the applicant is:

(A) a current holder of Board Certified Specialist status in good standing from the American Board of Professional Psychology;

(B) currently credentialed as a health service provider in psychology by the National Register of Health Service Providers in Psychology; or

(C) currently holds a Certificate of Professional Qualification (CPQ) granted by the Association of State and Provincial Psychology Boards; ~~and~~

(h) consent to a criminal background check in accordance with Section 58-61-304.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

~~(h)~~ (i) meet with the board, upon request for good cause, for the purpose of evaluating the applicant's qualifications for licensure.

(3) (a) An applicant for certification as a psychology resident shall comply with the provisions of Subsections (1)(a), (b), (c), ~~(d)~~ (g), and (h).

(b) (i) An individual's certification as a psychology resident is limited to the period of time necessary to complete clinical training as described in Subsections ~~(1)(c) and (f)~~ (1)(d) and (e) and extends not more than one year from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the Psychologist Licensing Board that the individual is making reasonable progress toward passing the qualifying examination or is otherwise on a course reasonably expected to lead to licensure as a psychologist.

(ii) The period of time under Subsection (3)(b)(i) may not exceed two years past the date the minimum supervised clinical training requirement has been completed.

Section ~~86~~87. Section **58-61-304.1** is enacted to read:

58-61-304.1. Criminal background check.

(1) An applicant for licensure under this chapter who requires a criminal background

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check shall:

(a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(2) The division shall:

(a) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

(3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(4) For purposes of conducting a criminal background check required under this section, the division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(5) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

Section ~~{87}~~88. Section **58-61-501** is amended to read:

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58-61-501. Unlawful conduct.

As used in this chapter, "unlawful conduct" includes:

- (1) practice of psychology unless licensed as a psychologist or certified psychology resident under this chapter or exempted from licensure under this title;
- (2) practice of mental health therapy by a licensed psychologist who has not acceptably documented to the division his completion of the supervised training in psychotherapy required under Subsection 58-61-304(1)~~(f)~~(e); or
- (3) representing oneself as or using the title of psychologist, or certified psychology resident unless currently licensed under this chapter.

Section ~~88~~89. Section **58-61-704** is amended to read:

58-61-704. Term of license or registration.

- (1) (a) The division shall issue each license under this part with a two-year renewal cycle established by division rule.
- (b) The division may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycles it administers.
- (2) At the time of renewal, the licensed individual shall show satisfactory evidence of renewal requirements as required under this part.
- (3) Each license or registration expires on the expiration date shown on the license unless renewed by the licensed individual in accordance with Section 58-1-308.
- (4) (a) A registration as a registered behavior specialist or a registered assistant behavior specialist:
 - (i) expires on the day the individual is no longer employed in accordance with Subsection ~~[58-61-705(5)(e) or (6)(e)]~~ 58-61-705(5)(d) or ~~(5)(6)~~(f)(d); and
 - (ii) may not be renewed.
- (b) The Department of Human Services, or an organization contracted with a division of the Department of Human Services, shall notify the Division of Occupational and Professional Licensing when a person registered under this part is no longer employed as a registered behavior specialist or a registered assistant behavior specialist.

Section ~~89~~90. Section **58-61-705** is amended to read:

58-61-705. Qualifications for licensure -- By examination -- By certification.

- (1) An applicant for licensure as a behavior analyst based upon education, supervised

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experience, and national examination shall:

- (a) submit an application on a form provided by the division;
- (b) pay a fee determined by the department under Section 63J-1-504;
- ~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) produce certified transcripts of credit verifying satisfactory completion of a master's or doctoral degree in applied behavior analysis from an accredited institution of higher education or an equivalent master or doctorate degree as determined by the division by administrative rule;

~~[(e)]~~ (d) as defined by the division by administrative rule, have completed at least 1,500 hours of experiential behavior analysis training within a five year period of time with a qualified supervisor; and

~~[(f)]~~ (e) pass the examination requirement established by division rule under Section 58-1-203.

(2) An applicant for licensure as a behavior analyst based upon certification shall:

- (a) without exception, on or before November 15, 2015, submit to the division an application on a form provided by the division;
- (b) pay a fee determined by the department under Section 63J-1-504; and
- ~~[(c) be of good moral character; and]~~

~~[(d)]~~ (c) provide official verification of current certification as a board certified behavior analyst from the Behavior Analyst Certification Board.

(3) An applicant for licensure as an assistant behavior analyst based upon education, supervised experience, and national examination shall:

- (a) submit an application on a form provided by the division;
- (b) pay a fee determined by the department under Section 63J-1-504;
- ~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) produce certified transcripts of credit verifying satisfactory completion of a bachelor's degree from an accredited institution of higher education and satisfactory completion of specific core course work in behavior analysis established under Section 58-1-203 from an accredited institution of higher education;

~~[(e)]~~ (d) as defined by the division by administrative rule, have completed at least 1,000 hours of experiential behavior analysis training within a five-year period of time with a

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qualified supervisor; and

~~[(f)]~~ (e) pass the examination requirement established by division rule under Section 58-1-203.

(4) An applicant for licensure as an assistant behavior analyst based upon certification shall:

(a) without exception, on or before November 15, 2015, submit to the division an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

~~[(c) be of good moral character; and]~~

~~[(d)]~~ (c) provide official verification of current certification as a board certified assistant behavior analyst from the Behavior Analyst Certification Board.

(5) An applicant for registration as a behavior specialist based upon professional experience in behavior analysis shall:

(a) without exception, on or before November 15, 2015, submit to the division, an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) have at least five years of experience as a professional engaged in the practice of behavior analysis on or before May 15, 2015; and

~~[(e)]~~ (d) be employed as a professional engaging in the practice of behavior analysis within an organization contracted with a division of the Utah Department of Human Services to provide behavior analysis on or before July 1, 2015.

(6) An applicant for registration as an assistant behavior specialist based upon professional experience in behavior analysis shall:

(a) without exception, on or before November 15, 2015, submit to the division, an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) have at least one year of experience as a professional engaging in the practice of behavior analysis prior to July 1, 2015; and

~~[(e)]~~ (d) be employed as a professional engaging in the practice of behavior analysis

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within an organization contracted with a division of the Utah Department of Human Services to provide behavior analysis on or before July 1, 2015.

Section ~~90~~91. Section **58-63-302** is amended to read:

58-63-302. Qualifications for licensure.

(1) Each applicant for licensure as an armored car company or a contract security company shall:

- (a) submit an application in a form prescribed by the division;
- (b) pay a fee determined by the department under Section 63J-1-504;
- (c) have a qualifying agent who:
 - (i) shall meet with the division and the board and demonstrate that the applicant and the qualifying agent meet the requirements of this section;
 - (ii) is a resident of the state and is a corporate officer or owner of the applicant;
 - (iii) exercises material day-to-day authority in the conduct of the applicant's business by making substantive technical and administrative decisions and whose primary employment is with the applicant;
 - (iv) is not concurrently acting as a qualifying agent or employee of another armored car company or contract security company and is not engaged in any other employment on a regular basis;
 - (v) is not involved in any activity that would conflict with the qualifying agent's duties and responsibilities under this chapter to ensure that the qualifying agent's and the applicant's performance under this chapter does not jeopardize the health or safety of the general public;
 - (vi) is not an employee of a government agency;
 - (vii) passes an examination component established by rule by the division in collaboration with the board; and
 - (viii) (A) demonstrates 6,000 hours of compensated experience as a manager, supervisor, or administrator of an armored car company or a contract security company; or
(B) demonstrates 6,000 hours of supervisory experience acceptable to the division in collaboration with the board with a federal, United States military, state, county, or municipal law enforcement agency;
- (d) if a corporation, provide:
 - (i) the names, addresses, dates of birth, and social security numbers of all corporate

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officers, directors, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(ii) the names, addresses, dates of birth, and social security numbers, of all shareholders owning 5% or more of the outstanding shares of the corporation, unless waived by the division if the stock is publicly listed and traded;

(e) if a limited liability company, provide:

(i) the names, addresses, dates of birth, and social security numbers of all company officers, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(ii) the names, addresses, dates of birth, and social security numbers of all individuals owning 5% or more of the equity of the company;

(f) if a partnership, provide the names, addresses, dates of birth, and social security numbers of all general partners, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(g) if a proprietorship, provide the names, addresses, dates of birth, and social security numbers of the proprietor, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(h) have good moral character in that officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have not been convicted of:

(i) a felony;

(ii) a misdemeanor involving moral turpitude; or

(iii) a crime that when considered with the duties and responsibilities of a contract security company or an armored car company by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(i) document that none of the applicant's officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel:

(i) have been declared by a court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored; and

(ii) currently suffer from habitual drunkenness or from drug addiction or dependence;

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- (j) file and maintain with the division evidence of:
 - (i) comprehensive general liability insurance in a form and in amounts established by rule by the division in collaboration with the board;
 - (ii) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law;
 - (iii) registration with the Division of Corporations and Commercial Code; and
 - (iv) registration as required by applicable law with the:
 - (A) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;
 - (B) State Tax Commission; and
 - (C) Internal Revenue Service; and
 - (k) meet with the division and board if requested by the division or board.
- (2) Each applicant for licensure as an armed private security officer shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63J-1-504;
 - (c) have good moral character in that the applicant has not been convicted of:
 - (i) a felony;
 - (ii) a misdemeanor involving moral turpitude; or
 - (iii) a crime that when considered with the duties and responsibilities of an armed private security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;
 - (d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec. 922(g);
 - (e) not have been declared incompetent by a court of competent jurisdiction by reason of mental defect or disease and not been restored;
 - (f) not be currently suffering from habitual drunkenness or from drug addiction or dependence;
 - (g) successfully complete basic education and training requirements established by rule by the division in collaboration with the board, which shall include a minimum of eight hours of classroom or online curriculum;
 - (h) successfully complete firearms training requirements established by rule by the

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division in collaboration with the board, which shall include a minimum of 12 hours of training;

(i) pass the examination requirement established by rule by the division in collaboration with the board; and

(j) meet with the division and board if requested by the division or the board.

(3) Each applicant for licensure as an unarmed private security officer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) have good moral character in that the applicant has not been convicted of:

(i) a felony;

(ii) a misdemeanor involving moral turpitude; or

(iii) a crime that when considered with the duties and responsibilities of an unarmed private security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(d) not have been declared incompetent by a court of competent jurisdiction by reason of mental defect or disease and not been restored;

(e) not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) successfully complete basic education and training requirements established by rule by the division in collaboration with the board, which shall include a minimum of eight hours of classroom or online curriculum;

(g) pass the examination requirement established by rule by the division in collaboration with the board; and

(h) meet with the division and board if requested by the division or board.

(4) Each applicant for licensure as an armored car security officer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) have good moral character in that the applicant has not been convicted of:

(i) a felony;

(ii) a misdemeanor involving moral turpitude; or

(iii) a crime that when considered with the duties and responsibilities of an armored car

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security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec. 922(g);

(e) not have been declared incompetent by a court of competent jurisdiction by reason of mental defect or disease and not been restored;

(f) not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(g) successfully complete basic education and training requirements established by rule by the division in collaboration with the board;

(h) successfully complete firearms training requirements established by rule by the division in collaboration with the board;

(i) pass the examination requirements established by rule by the division in collaboration with the board; and

(j) meet with the division and board if requested by the division or the board.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make a rule establishing when the division shall request a Federal Bureau of Investigation records' review for an applicant who is applying for licensure or licensure renewal under this chapter.

(6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c), (3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:

(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure under this chapter and each applicant's officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel; and

(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the FBI for criminal history information under this section.

(7) The Department of Public Safety shall send the division:

(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of

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a fingerprint card from the division and a request for review of Department of Public Safety records; and

(b) the results of the FBI review concerning an applicant in a timely manner after receipt of information from the FBI.

(8) (a) The division shall charge each applicant a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.

(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the FBI the costs of records reviews under this chapter.

(9) The division shall use or disseminate the information it obtains from the reviews of criminal history records of the Department of Public Safety and the FBI only to determine if an applicant for licensure or licensure renewal under this chapter is qualified for licensure.

Section ~~91~~92. Section **58-63-306** is amended to read:

58-63-306. Replacement of qualifying agent.

If the qualifying agent of an armored car company or a contract security company ceases to perform the agent's duties on a regular basis, the licensee shall:

- (1) notify the division in writing within 15 days [~~by registered or certified mail~~]; and
- (2) replace the qualifying agent within 60 days after the time required for notification to the division.

Section ~~92~~93. Section **58-63-503** is amended to read:

58-63-503. Penalties.

(1) Unless Subsection (2) applies, an individual who commits an act of unlawful conduct under Section 58-63-501 or who fails to comply with a citation issued under this section after it becomes final is guilty of a class A misdemeanor.

(2) The division may immediately suspend a license issued under this chapter of a person who is given a citation for violating Subsection 58-63-501(1), (2), (4), or (5).

(3) (a) If upon inspection or investigation, the division determines that a person has violated Subsection 58-63-501(1), (2), (4), or (5) or any rule made or order issued under those subsections, and that disciplinary action is warranted, the director or the director's designee within the division shall promptly issue a citation to the person and:

- (i) attempt to negotiate a stipulated settlement; or

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(ii) notify the person to appear for an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(b) (i) The division may fine a person who violates Subsection 58-63-501(1), (2), (4), or (5), as evidenced by an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding held under Subsection (3)(a)(ii), or order the person to cease and desist from the violation, or do both.

(ii) Except for a cease and desist order, the division may not impose the licensure sanctions listed in Section 58-63-401 through the issuance of a citation under this section.

(c) The written citation shall:

(i) describe the nature of the violation, including a reference to the allegedly violated statute, rule, or order;

(ii) state the recipient must notify the division in writing within 20 calendar days of issuance of the citation if the recipient wants to contest the citation at the adjudicative proceeding referred to in Subsection (3)(a)(ii); and

(iii) explain the consequences of failure to timely contest the citation or to make payment of a fine assessed under the citation with the time specified in the citation.

(d) (i) The division may serve a citation issued under this section, or a copy of the citation, upon an individual who is subject to service of a summons under the Utah Rules of Civil Procedure.

(ii) (A) The division may serve the individual personally or serve the individual's agent.

(B) The division may serve the summons by a division investigator, by a person designated by the director, or by mail.

(e) (i) If within 20 days from the service of a citation the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The division may grant an extension of the 20-day period for cause.

(f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(g) The division may not issue a citation for an alleged violation under this section after the expiration of [~~six months following the occurrence of the alleged violation~~] one year

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following the date on which the violation that is the subject of the citation is reported to the division.

(h) The director or the director's designee may assess fines under this section as follows:

- (i) for a first offense under Subsection (3)(a), a fine of up to \$1,000;
- (ii) for a second offense under Subsection (3)(a), a fine of up to \$2,000; and
- (iii) for a subsequent offense under Subsection (3)(a), a fine of up to \$2,000 for each day of continued violation.

(i) (i) For purposes of issuing a final order under this section and assessing a fine under Subsection (3)(h), an offense is a second or subsequent offense if:

(A) the division previously issued a final order determining that a person committed a first or second offense in violation of Subsection 58-63-501(1) or (4); or

(B) (I) the division initiated an action for a first or second offense;

(II) no final order has been issued by the division in an action initiated under Subsection (3)(i)(i)(B)(I);

(III) the division determines during an investigation that occurred after the initiation of the action under Subsection (3)(i)(i)(B)(I) that the person committed a second or subsequent violation of Subsection 58-63-501(1) or (4); and

(IV) after determining that the person committed a second or subsequent offense under Subsection (3)(i)(i)(B)(III), the division issues a final order on the action initiated under Subsection (3)(i)(i)(B)(I).

(ii) In issuing a final order for a second or subsequent offense under Subsection (3)(i)(i), the division shall comply with the requirements of this section.

(4) (a) The division shall deposit a fine imposed by the director under Subsection (3)(h) in the General Fund as a dedicated credit for use by the division for the purposes listed in Section 58-63-103.

(b) The director may collect a fine that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(c) A county attorney or the attorney general of the state shall provide legal assistance

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and advice to the director in an action to collect a penalty.

(d) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section ~~93~~94. Section **58-64-302** is amended to read:

58-64-302. Qualifications for licensure.

(1) Each applicant for licensure as a deception detection examiner:

(a) shall submit an application in a form prescribed by the division;

(b) shall pay a fee determined by the department under Section 63J-1-504;

(c) [~~shall be of good moral character in that the applicant has not~~] may not have been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime [~~which~~] that when considered with the duties and responsibilities of a deception detection examiner is considered by the division and the board to indicate that the best interests of the public will not be served by granting the applicant a license;

(d) may not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall have completed one of the following:

(i) have earned a bachelor's degree from a four year university or college meeting standards established by the division by rule in collaboration with the board;

(ii) have completed not less than 8,000 hours of investigation experience approved by the division in collaboration with the board; or

(iii) have completed a combination of university or college education and investigation experience, as defined by rule by the division in collaboration with the board as being equivalent to the requirements under Subsection (1)(f)(i) or (1)(f)(ii);

(g) shall have successfully completed a training program in deception detection meeting criteria established by rule by the division in collaboration with the board; and

(h) shall have performed satisfactorily as a licensed deception detection intern for a period of not less than one year and shall have satisfactorily conducted not less than 100 deception detection examinations under the supervision of a licensed deception detection examiner.

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(2) Each applicant for licensure as a deception detection intern:

(a) shall submit an application in a form prescribed by the division;

(b) shall pay a fee determined by the department under Section 63J-1-504;

(c) [~~shall be of good moral character in that the applicant has not~~] may not have been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime [~~which~~] that when considered with the duties and responsibilities of a deception detection intern is considered by the division and the board to indicate that the best interests of the public will not be served by granting the applicant a license;

(d) may not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall have completed one of the following:

(i) have earned a bachelor's degree from a four year university or college meeting standards established by the division by rule in collaboration with the board;

(ii) have completed not less than 8,000 hours of investigation experience approved by the division in collaboration with the board; or

(iii) have completed a combination of university or college education and investigation experience, as defined by rule by the division in collaboration with the board as being equivalent to the requirements under Subsection (2)(f)(i) or (2)(f)(ii);

(g) shall have successfully completed a training program in detection deception meeting criteria established by rule by the division in collaboration with the board; and

(h) shall provide the division with an intern supervision agreement in a form prescribed by the division under which:

(i) a licensed deception detection examiner agrees to supervise the intern; and

(ii) the applicant agrees to be supervised by that licensed deception detection examiner.

(3) Each applicant for licensure as a deception detection examination administrator:

(a) shall submit an application in a form prescribed by the division;

(b) shall pay a fee determined by the department under Section 63J-1-504;

(c) [~~shall be of good moral character in that the applicant has not~~] may not have been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when

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considered with the duties and responsibilities of a deception detection examination administrator is considered by the division and the board to indicate that the best interests of the public will not be served by granting the applicant a license;

(d) may not have been declared by a court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall have earned an associate degree from a state-accredited university or college or have an equivalent number of years' work experience; and

(g) shall have successfully completed a training program and have obtained certification in deception detection examination administration provided by the manufacturer of a scientific or technology-based software application solution that is approved by the director.

(4) To determine if an applicant meets the qualifications of Subsection (1)(c), (2)(c), or (3)(c) the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:

(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure under this chapter; and

(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the F.B.I. for criminal history information under this section.

(5) The Department of Public Safety shall send to the division:

(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and

(b) the results of the F.B.I. review concerning an applicant in a timely manner after receipt of information from the F.B.I.

(6) (a) The division shall charge each applicant a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.

(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews

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under this chapter.

(7) Information obtained by the division from the reviews of criminal history records of the Department of Public Safety and the F.B.I. shall be used or disseminated by the division only for the purpose of determining if an applicant for licensure under this chapter is qualified for licensure.

Section ~~94~~95. Section **58-67-302** is amended to read:

58-67-302. Qualifications for licensure.

(1) An applicant for licensure as a physician and surgeon, except as set forth in Subsection (2), shall:

(a) submit an application in a form prescribed by the division, which may include:

(i) submissions by the applicant of information maintained by practitioner data banks, as designated by division rule, with respect to the applicant;

(ii) a record of professional liability claims made against the applicant and settlements paid by or on behalf of the applicant; and

(iii) authorization to use a record coordination and verification service approved by the division in collaboration with the board;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) if the applicant is applying to participate in the Interstate Medical Licensure Compact under Chapter 67b, Interstate Medical Licensure Compact, consent to a criminal background check in accordance with Section 58-67-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

~~[(e)]~~ (d) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a physician and surgeon, as evidenced by:

(i) having received an earned degree of doctor of medicine from an LCME accredited medical school or college; or

(ii) if the applicant graduated from a medical school or college located outside the United States or its territories, submitting a current certification by the Educational Commission for Foreign Medical Graduates or any successor organization approved by the division in collaboration with the board;

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~~[(f)]~~ (e) satisfy the division and board that the applicant:

(i) has successfully completed 24 months of progressive resident training in a program approved by the ACGME, the Royal College of Physicians and Surgeons, the College of Family Physicians of Canada, or any similar body in the United States or Canada approved by the division in collaboration with the board; or

(ii) (A) has successfully completed 12 months of resident training in an ACGME approved program after receiving a degree of doctor of medicine as required under Subsection (1)~~[(e)]~~(d);

(B) has been accepted in and is successfully participating in progressive resident training in an ACGME approved program within Utah, in the applicant's second or third year of postgraduate training; and

(C) has agreed to surrender to the division the applicant's license as a physician and surgeon without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act, and has agreed the applicant's license as a physician and surgeon will be automatically revoked by the division if the applicant fails to continue in good standing in an ACGME approved progressive resident training program within the state;

~~[(g)]~~ (f) pass the licensing examination sequence required by division rule made in collaboration with the board;

~~[(h)]~~ (g) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board;

~~[(i)]~~ (h) meet with the board and representatives of the division, if requested, for the purpose of evaluating the applicant's qualifications for licensure;

~~[(j)]~~ (i) designate:

(i) a contact person for access to medical records in accordance with the federal Health Insurance Portability and Accountability Act; and

(ii) an alternate contact person for access to medical records, in the event the original contact person is unable or unwilling to serve as the contact person for access to medical records; and

~~[(k)]~~ (j) establish a method for notifying patients of the identity and location of the contact person and alternate contact person, if the applicant will practice in a location with no other persons licensed under this chapter.

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(2) An applicant for licensure as a physician and surgeon by endorsement who is currently licensed to practice medicine in any state other than Utah, a district or territory of the United States, or Canada shall:

(a) be currently licensed with a full unrestricted license in good standing in any state, district, or territory of the United States, or Canada;

(b) have been actively engaged in the legal practice of medicine in any state, district, or territory of the United States, or Canada for not less than 6,000 hours during the five years immediately preceding the date of application for licensure in Utah;

(c) comply with the requirements for licensure under Subsections (1)(a) through ~~(c)~~ (d), (1)~~(f)~~(e)(i), and (1)~~(h)~~(g) through ~~(k)~~ (j);

(d) have passed the licensing examination sequence required in Subsection ~~(1)(f)~~ (1)(e) or another medical licensing examination sequence in another state, district or territory of the United States, or Canada that the division in collaboration with the board by rulemaking determines is equivalent to its own required examination;

(e) not have any investigation or action pending against any health care license of the applicant, not have a health care license that was suspended or revoked in any state, district or territory of the United States, or Canada, and not have surrendered a health care license in lieu of a disciplinary action, unless:

(i) the license was subsequently reinstated as a full unrestricted license in good standing; or

(ii) the division in collaboration with the board determines to its satisfaction, after full disclosure by the applicant, that:

(A) the conduct has been corrected, monitored, and resolved; or

(B) a mitigating circumstance exists that prevents its resolution, and the division in collaboration with the board is satisfied that, but for the mitigating circumstance, the license would be reinstated;

(f) submit to a records review, a practice history review, and comprehensive assessments, if requested by the division in collaboration with the board; and

(g) produce satisfactory evidence that the applicant meets the requirements of this Subsection (2) to the satisfaction of the division in collaboration with the board.

(3) An applicant for licensure by endorsement may engage in the practice of medicine

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under a temporary license while the applicant's application for licensure is being processed by the division, provided:

(a) the applicant submits a complete application required for temporary licensure to the division;

(b) the applicant submits a written document to the division from:

(i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, stating that the applicant is practicing under the:

(A) invitation of the health care facility; and

(B) the general supervision of a physician practicing at the facility; or

(ii) two individuals licensed under this chapter, whose license is in good standing and who practice in the same clinical location, both stating that:

(A) the applicant is practicing under the invitation and general supervision of the individual; and

(B) the applicant will practice at the same clinical location as the individual;

(c) the applicant submits a signed certification to the division that the applicant meets the requirements of Subsection (2);

(d) the applicant does not engage in the practice of medicine until the division has issued a temporary license;

(e) the temporary license is only issued for and may not be extended or renewed beyond the duration of one year from issuance; and

(f) the temporary license expires immediately and prior to the expiration of one year from issuance, upon notification from the division that the applicant's application for licensure by endorsement is denied.

(4) The division shall issue a temporary license under Subsection (3) within 15 business days after the applicant satisfies the requirements of Subsection (3).

(5) The division may not require the following requirements for licensure:

(a) a post-residency board certification; or

(b) a cognitive test when the physician reaches a specified age, unless:

(i) the screening is based on evidence of cognitive changes associated with aging that are relevant to physician performance;

(ii) the screening is based on principles of medical ethics;

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(iii) physicians are involved in the development of standards for assessing competency;

(iv) guidelines, procedures, and methods of assessment, which may include cognitive screening, are relevant to physician practice and to the physician's ability to perform the tasks specifically required in the physician's practice environment;

(v) the primary driver for establishing assessment results is the ethical obligation of the profession to the health of the public and patient safety;

(vi) the goal of the assessment is to optimize physician competency and performance through education, remediation, and modifications to a physician's practice environment or scope;

(vii) a credentialing committee determines that public health or patient safety is directly threatened, the screening permits a physician to retain the right to modify the physician's practice environment to allow the physician to continue to provide safe and effective care;

(viii) guidelines, procedures, and methods of assessment are transparent to physicians and physicians' representatives, if requested by a physician or a physician's representative, and physicians are made aware of the specific methods used, performance expectations and standards against which performance will be judged, and the possible outcomes of the screening or assessment;

(ix) education or remediation practices that result from screening or assessment procedures are:

(A) supportive of physician wellness;

(B) ongoing; and

(C) proactive; and

(x) procedures and screening mechanisms that are distinctly different from for cause assessments do not result in undue cost or burden to senior physicians providing patient care.

Section ~~95~~96. Section **58-67-302.5** is amended to read:

58-67-302.5. Licensing of graduates of foreign medical schools.

(1) Notwithstanding any other provision of law to the contrary, an individual enrolled in a medical school outside the United States, its territories, the District of Columbia, or Canada is eligible for licensure as a physician and surgeon in this state if the individual has satisfied the following requirements:

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(a) meets all the requirements of Subsection 58-67-302(1), except for Subsection 58-67-302(1)~~(e)~~(d);

(b) has studied medicine in a medical school located outside the United States which is recognized by an organization approved by the division;

(c) has completed all of the formal requirements of the foreign medical school except internship or social service;

(d) has attained a passing score on the educational commission for foreign medical graduates examination or other qualifying examinations such as the United States Medical Licensing Exam parts I and II, which are approved by the division or a medical school approved by the division;

(e) has satisfactorily completed one calendar year of supervised clinical training under the direction of a United States medical education setting accredited by the liaison committee for graduate medical education and approved by the division;

(f) has completed the postgraduate hospital training required by Subsection 58-67-302(1)~~(f)~~(i); and

(g) has passed the examination required by the division of all applicants for licensure.

(2) Satisfaction of the requirements of Subsection (1) is in lieu of:

(a) the completion of any foreign internship or social service requirements; and

(b) the certification required by Subsection 58-67-302(1)~~(e)~~(d).

(3) Individuals who satisfy the requirements of Subsections (1)(a) through (g) shall be eligible for admission to graduate medical education programs within the state, including internships and residencies, which are accredited by the liaison committee for graduate medical education.

(4) A document issued by a medical school located outside the United States shall be considered the equivalent of a degree of doctor of medicine for the purpose of licensure as a physician and surgeon in this state if:

(a) the foreign medical school is recognized by an organization approved by the division;

(b) the document granted by the foreign medical school is issued after the completion of all formal requirements of the medical school except internship or social service; and

(c) the foreign medical school certifies that the person to whom the document was

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issued has satisfactorily completed the requirements of Subsection (1)(c).

(5) The division may not require as a requirement for licensure a cognitive test when the physician reaches a specified age, unless the test reflects the standards described in Subsections 58-67-302(5)(b)(i) through (x).

(6) The provisions for licensure under this section shall be known as the "fifth pathway program."

Section ~~96~~97. Section **58-67-302.7** is amended to read:

58-67-302.7. Licensing of physician-educators.

(1) As used in this section:

(a) "Foreign country" means a country other than the United States, its territories, or Canada.

(b) "Foreign medical school" means a medical school that is outside the United States, its territories, and Canada.

(2) Notwithstanding any provision of law to the contrary, an individual may receive a type I foreign teaching license if the individual:

(a) submits an application in a form prescribed by the division, which may include:

(i) submission by the applicant of information maintained in a practitioner data bank, as designated by division rule, with respect to the applicant;

(ii) a record of professional liability claims made against the applicant and settlements paid by or on behalf of the applicant; and

(iii) the applicant's curriculum vitae;

(b) is a graduate of a foreign medical school that is accepted for certification by the Educational Commission for Foreign Medical Graduates;

(c) is licensed in good standing in a foreign country, the United States, its territories, or Canada;

(d) does not have an investigation or action pending against the physician's healthcare license, does not have a healthcare license that was suspended or revoked, and has not surrendered a healthcare license in lieu of disciplinary action, unless:

(i) the license was subsequently reinstated in good standing; or

(ii) the division in collaboration with the board determines to its satisfaction, after full disclosure by the applicant and full consideration by the division in collaboration with the

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board, that:

(A) the conduct has been corrected, monitored, and resolved; or

(B) a mitigating circumstance exists that prevents resolution, and the division in collaboration with the board is satisfied that but for the mitigating circumstance, the license would be reinstated;

(e) submits documentation of legal status to work in the United States;

(f) meets at least three of the following qualifications:

(i) (A) published original results of clinical research, within 10 years before the day on which the application is submitted, in a medical journal listed in the Index Medicus or an equivalent scholarly publication; and

(B) submits the publication to the Board in English or in a foreign language with a verifiable, certified English translation;

(ii) held an appointment at a medical school approved by the LCME or at any medical school listed in the World Health Organization directory at the level of associate or full professor, or its equivalent, for at least five years;

(iii) (A) developed a treatment modality, surgical technique, or other verified original contribution to the field of medicine within 10 years before the day on which the application is submitted; and

(B) has the treatment modality, surgical technique, or other verified original contribution attested to by the dean of an LCME accredited school of medicine in Utah;

(iv) actively practiced medicine cumulatively for 10 years; or

(v) is board certified in good standing of a board of the American Board of Medical Specialities or equivalent specialty board;

~~[(g) is of good moral character;]~~

~~[(h)]~~ (g) is able to read, write, speak, understand, and be understood in the English language and demonstrates proficiency to the satisfaction of the division in collaboration with the board, if requested;

~~[(i)]~~ (h) is invited by an LCME accredited medical school in Utah to serve as a full-time member of the medical school's academic faculty, as evidenced by written certification from:

(i) the dean of the medical school, stating that the applicant has been appointed to a

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full-time faculty position, that because the applicant has unique expertise in a specific field of medicine the medical school considers the applicant to be a valuable member of the faculty, and that the applicant is qualified by knowledge, skill, and ability to practice medicine in the state; and

(ii) the head of the department to which the applicant is to be appointed, stating that the applicant will be under the direction of the head of the department and will be permitted to practice medicine only as a necessary part of the applicant's duties, providing detailed evidence of the applicant's qualifications and competence, including the nature and location of the applicant's proposed responsibilities, reasons for any limitations of the applicant's practice responsibilities, and the degree of supervision, if any, under which the applicant will function;

~~(f)~~ (i) pays a licensing fee set by the division under Section 63J-1-504; and

~~(k)~~ (j) has practiced medicine for at least 10 years as an attending physician.

(3) Notwithstanding any provision of law to the contrary, an individual may receive a type II foreign teaching license if the individual:

(a) satisfies the requirements of Subsections (2)(a) through (e) and (g) through ~~(f)~~ (i);

(b) has delivered clinical care to patients cumulatively for five years after graduation from medical school; and

(c) (i) will be completing a clinical fellowship while employed at the medical school described in Subsection (2)~~(f)~~(h); or

(ii) has already completed a medical residency accredited by the Royal College of Physicians and Surgeons of Canada, the United Kingdom, Australia, or New Zealand, or a comparable accreditation organization as determined by the division in collaboration with the board.

(4) After an initial term of one year, a type I license may be renewed for periods of two years if the licensee continues to satisfy the requirements described in Subsection (2) and completes the division's continuing education renewal requirements established under Section 58-67-303.

(5) A type II license may be renewed on an annual basis, up to four times, if the licensee continues to satisfy the requirements described in Subsection (3) and completes the division's continuing education renewal requirements established under Section 58-67-303.

(6) A license issued under this section:

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(a) authorizes the licensee to practice medicine:

(i) within the scope of the licensee's employment at the medical school described in Subsection (2)(~~(f)~~)(h) and the licensee's academic position; and

(ii) at a hospital or clinic affiliated with the medical school described in Subsection (2)(~~(f)~~)(h) for the purpose of teaching, clinical care, or pursuing research;

(b) shall list the limitations described in Subsection (6)(a); and

(c) shall expire on the earlier of:

(i) one year after the day on which the type I or type II license is initially issued, unless the license is renewed;

(ii) for a type I license, two years after the day on which the license is renewed;

(iii) for a type II license, one year after the day on which the license is renewed; or

(iv) the day on which employment at the medical school described in Subsection (2)(~~(f)~~)(h) ends.

(7) A person who holds a type I license for five consecutive years may apply for licensure as a physician and surgeon in this state and shall be licensed if the individual satisfies the requirements described in Subsection (8). If the person fails to obtain licensure as a physician and surgeon in this state, the person may apply for a renewal of the type I license under Subsection (2).

(8) An individual who holds a type I or type II license for five consecutive years is eligible for licensure as a physician and surgeon in this state if the individual:

(a) worked an average of at least 40 hours per month at the level of an attending physician during the time the individual held the type I or type II license;

(b) holds the rank of associate professor or higher at the medical school described in Subsection (2)(~~(f)~~)(h);

(c) obtains certification from the Educational Commission for Foreign Medical Graduates or any successor organization approved by the division in collaboration with the board;

(d) spent a cumulative 20 hours per year while holding a type I or type II license:

(i) teaching or lecturing to medical students or house staff;

(ii) participating in educational department meetings or conferences that are not certified to meet the continuing medical education license renewal requirement; or

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(iii) attending continuing medical education classes in addition to the requirements for continuing education described in Subsections (4) and (5);

(e) obtains a passing score on the final step of the licensing examination sequence required by division rule made in collaboration with the board; and

(f) satisfies the requirements described in Subsections 58-67-302(1)(a) through [~~(d)~~; ~~(i)~~, and ~~(j)~~] (c), (h), and (i).

(9) If a person who holds a type II license fails to obtain licensure as a physician and surgeon in this state after applying under the procedures described in Subsection (8), the person may not:

(a) reapply for or renew a type II license; or

(b) apply for a type I license.

(10) The division or the board may require an applicant for licensure under this section to meet with the board and representatives of the division for the purpose of evaluating the applicant's qualifications for licensure.

(11) The division in collaboration with the board may withdraw a license under this section at any time for material misrepresentation or unlawful or unprofessional conduct.

Section ~~97~~98. Section **58-67-302.8** is amended to read:

58-67-302.8. Restricted licensing of an associate physician.

(1) An individual may apply for a restricted license as an associate physician if the individual:

(a) meets the requirements described in Subsections 58-67-302(1)(a) through [~~(d)~~; ~~(1)(e)(i)~~, and ~~(1)(h)~~ through ~~(k)~~] (c), (1)(d)(i), and (1)(g) through (j);

(b) successfully completes Step 1 and Step 2 of the United States Medical Licensing Examination or the equivalent steps of another board-approved medical licensing examination:

(i) within three years after the day on which the applicant graduates from a program described in Subsection 58-67-302[~~(1)(e)(i)~~] (1)(d)(i); and

(ii) within two years before applying for a restricted license as an associate physician; and

(c) is not currently enrolled in and has not completed a residency program.

(2) Before a licensed associate physician may engage in the practice of medicine as described in Subsection (3), the licensed associate physician shall:

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(a) enter into a collaborative practice arrangement described in Section 58-67-807 within six months after the associate physician's initial licensure; and

(b) receive division approval of the collaborative practice arrangement.

(3) An associate physician's scope of practice is limited to primary care services to medically underserved populations or in medically underserved areas within the state.

Section ~~98~~99. Section **58-67-304** is amended to read:

58-67-304. License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule made in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-67-302(1)(~~+~~)(i);

(c) if the licensee practices medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for the licensee; and

(d) if the licensee is an associate physician licensed under Section 58-67-302.8, successfully complete the educational methods and programs described in Subsection 58-67-807(4).

(2) If a renewal period is extended or shortened under Section 58-67-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a

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fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic and the enforcement of Title 76, Chapter 7, Part 3, Abortion, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health in writing:

- (a) of the name and business address of the physician; and
- (b) that the physician responded positively to the question described in Subsection (3)(a).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) any continuing education that a physician completes in accordance with Sections 26-61a-106, 26-61a-403, and 26-61a-602.

Section ~~{99}~~100. Section **58-67-403** is amended to read:

58-67-403. Revocation of license -- Nondisciplinary.

Revocation by the division of a license under Subsection 58-67-302(1)(~~f~~)(e) for failure to continue on a resident training program for reasons other than unprofessional or unlawful conduct is a nondisciplinary action and may not be reported by the division as a disciplinary action against the licensee.

Section ~~{100}~~101. Section **58-67-503** is amended to read:

58-67-503. Penalties and administrative actions for unlawful and unprofessional conduct.

(1) Any person who violates the unlawful conduct provisions of Section 58-67-501 or Section 58-1-501 is guilty of a third degree felony.

(2) (a) Subject to Subsection (4), the division may punish unprofessional or unlawful conduct by:

- (i) assessing administrative penalties; or
- (ii) taking other appropriate administrative action.

(b) A monetary administrative penalty imposed under this section shall be deposited in the Physician Education Fund created in Section 58-67a-1.

(3) If a licensee has been convicted of unlawful conduct, described in Section

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58-67-501, before an administrative proceeding regarding the same conduct, the division may not assess an additional administrative fine under this chapter for the same conduct.

(4) (a) If the division concludes that an individual has violated provisions of Section 58-67-501, Section 58-67-502, Chapter 1, Division of Occupational and Professional Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with respect to these provisions, and disciplinary action is appropriate, the director or director's designee shall:

- (i) issue a citation to the individual;
- (ii) attempt to negotiate a stipulated settlement; or
- (iii) notify the individual that an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act, will be commenced and the individual is invited to appear.

(b) The division may take the following action against an individual who is in violation of a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding:

- (i) assess a fine of up to \$10,000 per single violation or up to \$2,000 per day of ongoing violation, whichever is greater, in accordance with a fine schedule established by rule; or

- (ii) order to cease and desist from the behavior that constitutes a violation of the provisions described in Subsection (4)(a).

(c) An individual's license may not be suspended or revoked through a citation.

(d) Each citation issued under this section shall:

- (i) be in writing;
- (ii) clearly describe or explain:
 - (A) the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;
 - (B) that the recipient must notify the division in writing within 20 calendar days from the day on which the citation is served if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and
 - (C) the consequences of failure to timely contest the citation or pay the fine assessed by the citation within the time specified in the citation; and
- (iii) be served in accordance with the Utah Rules of Civil Procedure.

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(e) If the individual to whom the citation is issued fails to request a hearing to contest the citation within 20 calendar days from the day on which the citation is served, the citation becomes the final order of the division and is not subject to further agency review. The period to contest the citation may be extended by the division for cause.

(f) The division may refuse to issue or renew or suspend, revoke, or place on probation the license of an individual who fails to comply with a citation after the citation becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(h) No citation may be issued under this section after [~~six months from the day on which the violation last occurred~~] the expiration of one year following the date on which the violation that is the subject of the citation is reported to the division.

(5) (a) The director may collect a penalty imposed under this section that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section ~~{101}~~102. Section **58-68-302** is amended to read:

58-68-302. Qualifications for licensure.

(1) An applicant for licensure as an osteopathic physician and surgeon, except as set forth in Subsection (2), shall:

(a) submit an application in a form prescribed by the division, which may include:

(i) submissions by the applicant of information maintained by practitioner data banks, as designated by division rule, with respect to the applicant;

(ii) a record of professional liability claims made against the applicant and settlements paid by or on behalf of the applicant; and

(iii) authorization to use a record coordination and verification service approved by the division in collaboration with the board;

(b) pay a fee determined by the department under Section 63J-1-504;

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~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) if the applicant is applying to participate in the Interstate Medical Licensure Compact under Chapter 67b, Interstate Medical Licensure Compact, consent to a criminal background check in accordance with Section 58-68-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

~~[(e)]~~ (d) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as an osteopathic physician and surgeon, as evidenced by:

(i) having received an earned degree of doctor of osteopathic medicine from an AOA approved medical school or college; or

(ii) submitting a current certification by the Educational Commission for Foreign Medical Graduates or any successor organization approved by the division in collaboration with the board, if the applicant is graduated from an osteopathic medical school or college located outside of the United States or its territories which at the time of the applicant's graduation, met criteria for accreditation by the AOA;

~~[(f)]~~ (e) satisfy the division and board that the applicant:

(i) has successfully completed 24 months of progressive resident training in an ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine required under Subsection (1)~~[(e)]~~(d); or

(ii) (A) has successfully completed 12 months of resident training in an ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine as required under Subsection (1)~~[(e)]~~(d);

(B) has been accepted in and is successfully participating in progressive resident training in an ACGME or AOA approved program within Utah, in the applicant's second or third year of postgraduate training; and

(C) has agreed to surrender to the division the applicant's license as an osteopathic physician and surgeon without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act, and has agreed the applicant's license as an osteopathic physician and surgeon will be automatically revoked by the division if the applicant fails to continue in good standing in an ACGME or AOA approved progressive resident training program within the state;

~~[(g)]~~ (f) pass the licensing examination sequence required by division rule, as made in

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collaboration with the board;

~~[(h)]~~ (g) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board, if requested by the board;

~~[(i)]~~ (h) meet with the board and representatives of the division, if requested for the purpose of evaluating the applicant's qualifications for licensure;

~~[(j)]~~ (i) designate:

(i) a contact person for access to medical records in accordance with the federal Health Insurance Portability and Accountability Act; and

(ii) an alternate contact person for access to medical records, in the event the original contact person is unable or unwilling to serve as the contact person for access to medical records; and

~~[(k)]~~ (j) establish a method for notifying patients of the identity and location of the contact person and alternate contact person, if the applicant will practice in a location with no other persons licensed under this chapter.

(2) An applicant for licensure as an osteopathic physician and surgeon by endorsement who is currently licensed to practice osteopathic medicine in any state other than Utah, a district or territory of the United States, or Canada shall:

(a) be currently licensed with a full unrestricted license in good standing in any state, district or territory of the United States, or Canada;

(b) have been actively engaged in the legal practice of osteopathic medicine in any state, district or territory of the United States, or Canada for not less than 6,000 hours during the five years immediately preceding the day on which the applicant applied for licensure in Utah;

(c) comply with the requirements for licensure under Subsections (1)(a) through ~~[(e); (1)(f)(i), and (1)(h) through (k)]~~ (d), (1)(e)(i), and (1)(g) through (j);

(d) have passed the licensing examination sequence required in Subsection (1)~~[(g)]~~(f) or another medical licensing examination sequence in another state, district or territory of the United States, or Canada that the division in collaboration with the board by rulemaking determines is equivalent to its own required examination;

(e) not have any investigation or action pending against any health care license of the applicant, not have a health care license that was suspended or revoked in any state, district or

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territory of the United States, or Canada, and not have surrendered a health care license in lieu of a disciplinary action, unless:

(i) the license was subsequently reinstated as a full unrestricted license in good standing; or

(ii) the division in collaboration with the board determines, after full disclosure by the applicant, that:

(A) the conduct has been corrected, monitored, and resolved; or

(B) a mitigating circumstance exists that prevents its resolution, and the division in collaboration with the board is satisfied that, but for the mitigating circumstance, the license would be reinstated;

(f) submit to a records review, a practice review history, and physical and psychological assessments, if requested by the division in collaboration with the board; and

(g) produce evidence that the applicant meets the requirements of this Subsection (2) to the satisfaction of the division in collaboration with the board.

(3) An applicant for licensure by endorsement may engage in the practice of medicine under a temporary license while the applicant's application for licensure is being processed by the division, provided:

(a) the applicant submits a complete application required for temporary licensure to the division;

(b) the applicant submits a written document to the division from:

(i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, stating that the applicant is practicing under the:

(A) invitation of the health care facility; and

(B) the general supervision of a physician practicing at the health care facility; or

(ii) two individuals licensed under this chapter, whose license is in good standing and who practice in the same clinical location, both stating that:

(A) the applicant is practicing under the invitation and general supervision of the individual; and

(B) the applicant will practice at the same clinical location as the individual;

(c) the applicant submits a signed certification to the division that the applicant meets the requirements of Subsection (2);

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(d) the applicant does not engage in the practice of medicine until the division has issued a temporary license;

(e) the temporary license is only issued for and may not be extended or renewed beyond the duration of one year from issuance; and

(f) the temporary license expires immediately and prior to the expiration of one year from issuance, upon notification from the division that the applicant's application for licensure by endorsement is denied.

(4) The division shall issue a temporary license under Subsection (3) within 15 business days after the applicant satisfies the requirements of Subsection (3).

(5) The division may not require a:

(a) post-residency board certification[-]; or

(b) a cognitive test when the physician reaches a specified age, unless the test reflects the standards described in Subsections 58-67-302(5)(b)(i) through (x).

Section ~~{102}~~ 103. Section **58-68-302.5** is amended to read:

58-68-302.5. Restricted licensing of an associate physician.

(1) An individual may apply for a restricted license as an associate physician if the individual:

(a) meets the requirements described in Subsections 58-68-302(1)(a) through ~~[(d); (1)(e)(i), and (1)(h) through (k)]~~ (c), (1)(d)(i), and (1)(g) through (j);

(b) successfully completes Step 1 and Step 2 of the United States Medical Licensing Examination or the equivalent steps of another board-approved medical licensing examination:

(i) within three years after the day on which the applicant graduates from a program described in Subsection 58-68-302(1)~~[(e)(i)]~~(d)(i); and

(ii) within two years before applying for a restricted license as an associate physician; and

(c) is not currently enrolled in and has not completed a residency program.

(2) Before a licensed associate physician may engage in the practice of medicine as described in Subsection (3), the licensed associate physician shall:

(a) enter into a collaborative practice arrangement described in Section 58-68-807 within six months after the associate physician's initial licensure; and

(b) receive division approval of the collaborative practice arrangement.

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(3) An associate physician's scope of practice is limited to primary care services to medically underserved populations or in medically underserved areas within the state.

Section ~~{103}~~104. Section **58-68-304** is amended to read:

58-68-304. License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-68-302(1)(~~(f)~~)(i);

(c) if the licensee practices osteopathic medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for access to medical records for the licensee in accordance with Subsection 58-68-302(1)(~~(k)~~)(j); and

(d) if the licensee is an associate physician licensed under Section 58-68-302.5, successfully complete the educational methods and programs described in Subsection 58-68-807(4).

(2) If a renewal period is extended or shortened under Section 58-68-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

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(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health in writing:

- (a) of the name and business address of the physician; and
- (b) that the physician responded positively to the question described in Subsection (3)(a).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) any continuing education that a physician completes in accordance with Sections 26-61a-106, 26-61a-403, and 26-61a-602.

Section ~~{104}~~105. Section **58-68-403** is amended to read:

58-68-403. Revocation of license -- Nondisciplinary.

Revocation by the division of a license under Subsection 58-68-302(1)[~~(f)~~](e) for failure to continue on a resident training program for reasons other than unprofessional or unlawful conduct is a nondisciplinary action and may not be reported by the division as a disciplinary action against the licensee.

Section ~~{105}~~106. Section **58-68-503** is amended to read:

58-68-503. Penalties and administrative actions for unlawful and unprofessional conduct.

(1) Any person who violates the unlawful conduct provisions of Section 58-68-501 or Section 58-1-501 is guilty of a third degree felony.

(2) (a) Subject to Subsection (4), the division may punish unprofessional or unlawful conduct by:

- (i) assessing administrative penalties; or
- (ii) taking any other appropriate administrative action.

(b) A monetary administrative penalty imposed under this section shall be deposited in the Physician Education Fund described in Section 58-67a-1.

(3) If a licensee is convicted of unlawful conduct, described in Section 58-68-501, before an administrative proceeding regarding the same conduct, the licensee may not be assessed an administrative fine under this chapter for the same conduct.

(4) (a) If the division concludes that an individual has violated the provisions of

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Section 58-68-501, Section 58-68-502, Chapter 1, Division of Occupational and Professional Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with respect to these provisions, and disciplinary action is appropriate, the director or director's designee shall:

- (i) issue a citation to the individual;
- (ii) attempt to negotiate a stipulated settlement; or
- (iii) notify the individual that an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act, will be commenced and the individual is invited to appear.

Chapter 4, Administrative Procedures Act, will be commenced and the individual is invited to appear.

(b) The division may take the following action against an individual who is in violation of a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding:

- (i) assess a fine of up to \$10,000 per single violation or \$2,000 per day of ongoing violation, whichever is greater, in accordance with a fine schedule established by rule; or
- (ii) order to cease and desist from the behavior that constitutes a violation of provisions described in Subsection (4)(a).

(c) Except for an administrative fine and a cease and desist order, the licensure sanctions cited in Section 58-1-401 may not be assessed through a citation.

(d) Each citation issued under this section shall:

- (i) be in writing;
- (ii) clearly describe or explain:

(A) the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(B) that the recipient must notify the division in writing within 20 calendar days from the day on which the citation is served if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(C) the consequences of failure to timely contest the citation or pay the fine assessed by the citation within the time specified in the citation; and

(iii) be served in accordance with the requirements of the Utah Rules of Civil Procedure.

(e) If the individual to whom the citation is issued fails to request a hearing to contest

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the citation within 20 calendar days from the day on which the citation is served, the citation becomes the final order of the division and is not subject to further agency review. The period to contest the citation may be extended by the division for cause.

(f) The division may refuse to issue or renew or suspend, revoke, or place on probation the license of an individual who fails to comply with a citation after the citation becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of a license.

(h) No citation may be issued under this section after [~~six months from the day on which the last violation occurred~~] the expiration of one year following the date on which the violation that is the subject of the citation is reported to the division.

(5) (a) The director may collect a penalty imposed under this section that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section ~~106~~107. Section ~~58-69-302~~ is amended to read:

58-69-302. Qualifications -- Licensure as a dentist -- Licensure as a dental hygienist.

(1) An applicant for licensure as a dentist, except as provided in Subsection (2), shall:

(a) submit an application in a form as prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a dentist as evidenced by having received an earned doctor's degree in dentistry from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association;

~~[(e)]~~ (d) pass the National Board Dental Examinations as administered by the Joint Commission on National Dental Examinations of the American Dental Association;

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~~[(f)]~~ (e) pass any regional dental clinical licensure examination approved by division rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

~~[(g)]~~ (f) pass any other examinations regarding applicable law, rules, or ethics as established by division rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

~~[(h)]~~ (g) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board; and

~~[(i)]~~ (h) meet with the board if requested by the board or division for the purpose of examining the applicant's qualifications for licensure.

(2) An applicant for licensure as a dentist qualifying under the endorsement provision of Section 58-1-302 shall:

(a) be currently licensed in good standing with an unrestricted license in another jurisdiction described in Section 58-1-302;

(b) document having met all requirements for licensure under Subsection (1) except Subsection ~~[(1)(d)]~~ (1)(c); and

(c) document having been successfully engaged in clinical practice as a dentist for not less than 6,000 hours in the five years immediately preceding the date of application for licensure.

(3) An applicant for licensure as a dental hygienist, except as set forth in Subsection (4), shall:

(a) submit an application in a form as prescribed by the division;

(b) pay a fee as determined by the department pursuant to Section 63J-1-504;

~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) be a graduate holding a certificate or degree in dental hygiene from a school accredited by the Commission on Dental Accreditation of the American Dental Association;

~~[(e)]~~ (d) pass the National Board Dental Hygiene Examination as administered by the Joint Commission on National Dental Examinations of the American Dental Association;

~~[(f)]~~ (e) pass an examination consisting of practical demonstrations in the practice of dental hygiene and written or oral examination in the theory and practice of dental hygiene as

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established by division rule made in collaboration with the board;

~~[(g)]~~ (f) pass any other examinations regarding applicable law, rules, and ethics as established by rule by division rule made in collaboration with the board;

~~[(h)]~~ (g) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board; and

~~[(i)]~~ (h) meet with the board if requested by the board or division for the purpose of examining the applicant's qualifications for licensure.

(4) An applicant for licensure as a dental hygienist qualifying under the endorsement provision of Section 58-1-302 shall:

(a) be currently licensed in another jurisdiction set forth in Section 58-1-302;

(b) (i) document having met all requirements for licensure under Subsection (3) except, an applicant having received licensure in another state or jurisdiction prior to 1962, the year when the National Board Dental Hygiene Examinations were first administered, shall document having passed a state administered examination acceptable to the division in collaboration with the board; or

(ii) document having obtained licensure in another state or jurisdiction upon which licensure by endorsement is based by meeting requirements which were equal to licensure requirements in Utah at the time the applicant obtained licensure in the other state or jurisdiction; and

(c) document having been successfully engaged in practice as a dental hygienist for not less than 2,000 hours in the two years immediately preceding the date of application for licensure.

Section ~~{107}~~108. Section **58-70a-302** is amended to read:

58-70a-302. Qualifications for licensure.

Each applicant for licensure as a physician assistant shall:

(1) submit an application in a form prescribed by the division;

(2) pay a fee determined by the department under Section 63J-1-504;

~~[(3) be of good moral character;]~~

~~[(4)]~~ (3) have successfully completed a physician assistant program accredited by the:

(a) Accreditation Review Commission on Education for the Physician Assistant; or

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(b) if prior to January 1, 2001, either the:

(i) Committee on Accreditation of Allied Health Education Programs; or

(ii) Committee on Allied Health Education and Accreditation;

~~[(5)]~~ (4) have passed the licensing examinations required by division rule made in collaboration with the board;

~~[(6)]~~ (5) meet with the board and representatives of the division, if requested, for the purpose of evaluating the applicant's qualifications for licensure; and

~~[(7)]~~ (6) (a) if the applicant desires to practice in Utah, complete a form provided by the division indicating:

(i) the applicant has completed a delegation of services agreement signed by the physician assistant and the supervising physician; and

(ii) the agreement is on file at the Utah practice sites; or

(b) complete a form provided by the division indicating the applicant is not practicing in Utah and, prior to practicing in Utah, the applicant will meet the requirements of Subsection ~~[(7)]~~ (6)(a).

Section ~~{108}~~ 109. Section **58-70a-306** is amended to read:

58-70a-306. Temporary license.

(1) An applicant for licensure as a physician assistant who has met all qualifications for licensure except passing an examination component as required in Section 58-70a-302, may apply for and be granted a temporary license to practice under Subsection (2).

(2) (a) The applicant shall submit to the division evidence of completion of a physician assistant program as defined in Subsection 58-70a-302~~[(4)]~~(3).

(b) (i) The temporary license shall be issued for a period not to exceed 120 days to allow the applicant to pass the Physician Assistant National Certifying Examination.

(ii) The temporary license may not be renewed or extended.

(c) A physician assistant holding a temporary license may work only under the direct supervision of an approved supervising or substitute supervising physician in accordance with a delegation of services agreement, and all patient charts shall be reviewed and countersigned by the supervising or substitute supervising physician.

Section ~~{109}~~ 110. Section **58-71-302** is amended to read:

58-71-302. Qualifications for licensure.

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(1) An applicant for licensure as a naturopathic physician, except as set forth in Subsection (2), shall:

(a) submit an application in a form prescribed by the division, which may include:

(i) submissions by the applicant of information maintained by practitioner data banks, as designated by division rule, with respect to the applicant; and

(ii) a record of professional liability claims made against the applicant and settlements paid by or in behalf of the applicant;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a naturopathic physician, as evidenced by having received an earned degree of doctor of naturopathic medicine from:

(i) a naturopathic medical school or college accredited by the Council of Naturopathic Medical Education or its successor organization approved by the division;

(ii) a naturopathic medical school or college that is a candidate for accreditation by the Council of Naturopathic Medical Education or its successor organization, and is approved by the division in collaboration with the board, upon a finding there is reasonable expectation the school or college will be accredited; or

(iii) a naturopathic medical school or college which, at the time of the applicant's graduation, met current criteria for accreditation by the Council of Naturopathic Medical Education or its successor organization approved by the division;

~~[(e)]~~ (d) provide satisfactory documentation of having successfully completed, after successful completion of the education requirements set forth in Subsection ~~[(1)(d)]~~ (1)(c), 12 months of clinical experience in naturopathic medicine in a residency program recognized by the division and associated with an accredited school or college of naturopathic medicine, and under the preceptorship of a licensed naturopathic physician, physician and surgeon, or osteopathic physician;

~~[(f)]~~ (e) pass the licensing examination sequence required by division rule established in collaboration with the board;

~~[(g)]~~ (f) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board;

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and

~~[(h)]~~ (g) meet with the board and representatives of the division, if requested, for the purpose of evaluating the applicant's qualifications for licensure.

(2) (a) In accordance with Subsection (2)(b), an applicant for licensure as a naturopathic physician under the endorsement provision of Section 58-1-302 shall:

(i) meet the requirements of Section 58-1-302;

(ii) document having met all requirements for licensure under Subsection (1) except the clinical experience requirement of Subsection ~~[(1)(e)]~~ (1)(d);

(iii) have passed the examination requirements established under Subsection ~~[(1)(f) which]~~ (1)(e) that:

(A) the applicant has not passed in connection with licensure in another state or jurisdiction; and

(B) are available to the applicant to take without requiring additional professional education;

(iv) have been actively engaged in the practice of a naturopathic physician for not less than 6,000 hours during the five years immediately preceding the date of application for licensure in Utah; and

(v) meet with the board and representatives of the division for the purpose of evaluating the applicant's qualifications for licensure.

(b) The division may rely, either wholly or in part, on one or more credentialing associations designated by division rule, made in collaboration with the board, to document and certify in writing to the satisfaction of the division that an applicant has met each of the requirements of this Subsection (2), including the requirements of Section 58-1-302, and that:

(i) the applicant holds a current license;

(ii) the education, experience, and examination requirements of the foreign country or the state, district, or territory of the United States that issued the applicant's license are, or were at the time the license was issued, equal to those of this state for licensure as a naturopathic physician; and

(iii) the applicant has produced evidence satisfactory to the division of the applicant's qualifications, identity, and good standing as a naturopathic physician.

Section ~~{110}~~ 111. Section **58-72-302** is amended to read:

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58-72-302. Qualifications for licensure.

An applicant for licensure as a licensed acupuncturist shall:

- (1) submit an application in a form prescribed by the division;
- (2) pay a fee determined by the department under Section 63J-1-504;

~~[(3) be of good moral character;]~~

~~[(4)]~~ (3) meet the requirements for current active certification in acupuncture under guidelines established by the National Commission for the Certification of Acupuncture and Oriental Medicine (NCCAOM) as demonstrated through a current certificate or other appropriate documentation;

~~[(5)]~~ (4) pass the examination required by the division by rule;

~~[(6)]~~ (5) establish procedures, as defined by rule, which shall enable patients to give informed consent to treatment; and

~~[(7)]~~ (6) meet with the board, if requested, for the purpose of evaluating the applicant's qualifications for licensure.

Section ~~{HHH}~~ 112. Section 58-73-302 is amended to read:

58-73-302. Qualifications for licensure.

(1) Each applicant for licensure as a chiropractic physician, other than those applying for a license based on licensure as a chiropractor or chiropractic physician in another jurisdiction, shall:

- (a) submit an application in a form prescribed by the division;
- (b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) demonstrate satisfactory completion of at least two years of general study in a college or university;

~~[(e)]~~ (d) demonstrate having earned a degree of doctor of chiropractic from a chiropractic college or university that at the time the degree was conferred was accredited by the Council on Chiropractic Education, Inc., or an equivalent chiropractic accrediting body recognized by the United States Department of Education and by the division rule made in collaboration with the board;

~~[(f)]~~ (e) demonstrate successful completion of:

- (i) the National Chiropractic Boards:

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- (A) Parts I and II;
- (B) Written Clinical Competency Examination; and
- (C) Physical Therapy;
- (ii) the Utah Chiropractic Law and Rules Examination; and
- (iii) a practical examination approved by the division in collaboration with the board;

and

~~[(g)]~~ (f) meet with the board, if requested, for the purpose of reviewing the applicant's qualifications for licensure.

(2) Each applicant for licensure as a chiropractic physician based on licensure as a chiropractor or chiropractic physician in another jurisdiction shall:

- (a) submit an application in the form prescribed by the division;
- (b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) demonstrate having obtained licensure as a chiropractor or chiropractic physician in another state under education requirements which were equivalent to the education requirements in this state to obtain a chiropractor or chiropractic physician license at the time the applicant obtained the license in the other state;

~~[(e)]~~ (d) demonstrate successful completion of:

- (i) the Utah Chiropractic Law and Rules Examination; and
- (ii) the Special Purposes Examination for Chiropractic (SPEC) of the National Board of Chiropractic Examiners;

~~[(f)]~~ (e) have been actively engaged in the practice of chiropractic for not less than two years immediately preceding application for licensure in this state; and

~~[(g)]~~ (f) meet with the board, if requested, for the purpose of reviewing the applicant's qualifications for licensure.

Section ~~{112}~~ 113. Section **58-74-102** is amended to read:

58-74-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Practice of court reporting" means the making of a verbatim record, by stenography or voice writing, of any trial, legislative public hearing, state agency public hearing, deposition, examination before trial, hearing or proceeding before any grand jury,

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referee, board, commission, master or arbitrator, or other sworn testimony given under oath.

(2) "State certified court reporter" means a person who engages in the practice of court reporting and has met the requirements for state certification as a state certified court reporter.

(3) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-74-501.

(4) "Unprofessional conduct" means the same as that term is defined in [Section] Sections 58-1-501 and 58-74-502 and as may be further defined by rule.

Section ~~{113}~~114. Section **58-74-302** is amended to read:

58-74-302. Qualifications for state certification.

(1) Each applicant for state certification as a state certified court reporter under this chapter shall:

- (a) be at least 18 years of age;
- (b) be a citizen of the United States and a resident of the state;
- (c) submit an application in a form prescribed by the division;
- (d) pay a fee determined by the department under Section 63J-1-504;
- (e) possess a high degree of skill and ability in the art of court reporting; and
- ~~[(f) produce satisfactory evidence of good moral character; and]~~

~~[(g)]~~ (f) submit evidence that the applicant has completed and passed the Registered Professional Reporter Examination of the National Court Reporters Association or the Certified Verbatim Reporter Examination of the National Verbatim Reporters Association.

(2) ~~[Any]~~ A person granted a certificate to practice as a state certified court reporter may use the abbreviation "C.C.R." or "C.V.R." as long as the person's certificate is current and valid.

Section ~~{114}~~115. Section **58-75-302** is amended to read:

58-75-302. Qualifications for licensure -- Temporary license.

(1) Except as provided in Subsection (2), each applicant for licensure as a genetic counselor under this chapter shall:

- (a) submit an application in a form prescribed by the division;
- (b) pay a fee determined by the department under Section 63J-1-504;
- ~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) provide satisfactory documentation of having earned:

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(i) a master's degree from a genetic counseling training program that is accredited by the American Board of Genetic Counseling or an equivalent as determined by the division; or

(ii) a doctoral degree from a medical genetics training program that is accredited by the American Board of Medical Genetics or an equivalent as determined by the division; and

~~[(e)]~~ (d) meet the examination requirement for certification as:

(i) a genetic counselor by the American Board of Genetic Counseling or the American Board of Medical Genetics; or

(ii) a medical geneticist by the American Board of Medical Genetics.

(2) The division may issue a temporary license, in accordance with Section 58-1-303 and any other conditions established by rule, to an applicant who meets all of the requirements for licensure except the examination requirement of Subsection ~~[(1)(e)]~~ (1)(d).

Section ~~{115}~~ 116. Section **58-76-302** is amended to read:

58-76-302. Qualifications for licensure.

Each applicant for licensure as a professional geologist shall:

(1) submit an application in a form as prescribed by the division;

(2) pay a fee as determined by the department under Section 63J-1-504;

~~[(3) be of good moral character;]~~

~~[(4)]~~ (3) provide satisfactory evidence of:

(a) a bachelors or graduate degree in the geosciences granted through an institution of higher education that is accredited by a regional or national accrediting agency with a minimum of 30 semester or 45 quarter hours of course work in the geosciences; or

(b) completion of other equivalent educational requirements as determined by the division in collaboration with the board;

~~[(5)]~~ (4) provide satisfactory evidence of:

(a) with a bachelors degree, a specific record of five years of active professional practice in geological work of a character satisfactory to the division, indicating the applicant is competent to be placed in a responsible charge of the work;

(b) with a masters degree, a specific record of three years of active professional practice in geological work of a character satisfactory to the division, indicating the applicant is competent to be placed in a responsible charge of the work; or

(c) with a doctorate degree, a specific record of one year of active professional practice

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in geological work of a character satisfactory to the division, indicating the applicant is competent to be placed in a responsible charge of the work; and

~~[(6)]~~ (5) after January 1, 2004, meet the examination requirement established by rule by the division in collaboration with the board.

Section ~~{116}~~117. Section **58-76-502** is amended to read:

58-76-502. Penalty for unlawful conduct.

(1) (a) If, upon inspection or investigation, the division concludes that a person has violated Section 58-76-501 or any rule or order issued with respect to Section 58-76-501, and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(i) A person who violates Subsections 58-1-501(1)(a) through (d) or Section 58-76-501 or any rule or order issued with respect to Section 58-76-501, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (1) and may, in addition to or in lieu of, be ordered to cease and desist from violating Subsections 58-1-501(1)(a) through (d) or Section 58-76-501 or any rule or order issued with respect to this section.

(ii) Except for a cease and desist order, the licensure sanctions cited in Section 58-76-401 may not be assessed through a citation.

(b) A citation shall:

(i) be in writing;

(ii) describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(iii) clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iv) clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(c) The division may issue a notice in lieu of a citation.

(d) Each citation issued under this section, or a copy of each citation, may be served

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upon any person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure and may be made personally or upon the person's agent by a division investigator or by any person specially designated by the director or by mail.

(e) If within 20 calendar days from the service of the citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review. The period to contest a citation may be extended by the division for cause.

(f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(h) No citation may be issued under this section after the expiration of ~~[six months following the occurrence of any violation]~~ one year following the date on which the violation that is the subject of the citation is reported to the division.

(i) The director or the director's designee shall assess fines according to the following:

(i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to \$1,000;

(ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000;

and

(iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000 for each day of continued offense.

(2) An action initiated for a first or second offense which has not yet resulted in a final order of the division shall not preclude initiation of any subsequent action for a second or subsequent offense during the pendency of any preceding action. The final order on a subsequent action shall be considered a second or subsequent offense, respectively, provided the preceding action resulted in a first or second offense, respectively.

(3) (a) The director may collect a penalty that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

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(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section ~~{117}~~ 118. Section **58-77-302** is amended to read:

58-77-302. Qualifications for licensure.

Each applicant for licensure as a licensed direct-entry midwife shall:

- (1) submit an application in a form prescribed by the division;
- (2) pay a fee as determined by the department under Section 63J-1-504;
- ~~[(3) be of good moral character;]~~

~~[(4)]~~ (3) hold a Certified Professional Midwife certificate in good standing with the North American Registry of Midwives or equivalent certification approved by the division in collaboration with the board;

~~[(5)]~~ (4) hold current adult and infant CPR and newborn resuscitation certifications through an organization approved by the division in collaboration with the board; and

~~[(6)]~~ (5) provide documentation of successful completion of an approved pharmacology course as defined by division rule.

Section ~~{118}~~ 119. Section **58-78-302** is amended to read:

58-78-302. Qualifications for licensure -- Licensure by credential.

(1) Except as provided in Subsection (2), an applicant for licensure as a vocational rehabilitation counselor under this chapter shall:

- (a) submit an application in a form as prescribed by the division;
- (b) pay a fee determined by the department under Section 63J-1-504 to recover the costs of administering licensing requirements relating to vocational rehabilitation counselors;

~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) provide satisfactory evidence of having earned a master's degree in rehabilitation counseling or a related field;

~~[(e)]~~ (d) provide satisfactory evidence of having 4,000 hours of disability related work experience under the supervision of a licensed vocational rehabilitation counselor, except as otherwise provided in Subsection (2); and

~~[(f)]~~ (e) meet the examination requirement established by rule by the division in collaboration with the board.

- (2) The division may issue a license under this chapter to an individual who is licensed

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in another state or jurisdiction to practice vocational rehabilitation counseling if the division finds that the other state or jurisdiction has substantially the same or higher licensure requirements as this state.

Section ~~{119}~~120. Section **58-79-302** is amended to read:

58-79-302. Qualifications for licensure.

(1) An applicant for licensure as a hunting guide shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) produce satisfactory evidence of good moral character;]~~

~~[(d)]~~ (c) possess a high degree of skill and ability as a hunting guide;

~~[(e)]~~ (d) successfully complete basic education and training requirements established by rule by the division in collaboration with the board; and

~~[(f)]~~ (e) meet with the division and board if requested by the division or board.

(2) An applicant for licensure as an outfitter shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) produce satisfactory evidence of good moral character;]~~

~~[(d)]~~ (c) possess a high degree of skill and ability as an outfitter;

~~[(e)]~~ (d) successfully complete basic education and training requirements established by rule by the division in collaboration with the board; and

~~[(f)]~~ (e) meet with the division and board if requested by the division or board.

Section ~~{120}~~121. Section **58-84-201** is amended to read:

58-84-201. Qualifications for state certification.

(1) The division shall grant state certification to a person who qualifies under this chapter to engage in the practice of music therapy as a state certified music therapist.

(2) Each applicant for state certification as a state certified music therapist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

~~[(c) be of good moral character; and]~~

~~[(d)]~~ (c) provide satisfactory documentation that the applicant is board certified by, and in good standing with, the Certification Board for Music Therapists, or an equivalent board as

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determined by division rule.

Section ~~{121}~~122. Section **58-86-202** is amended to read:

58-86-202. Qualifications for state certification.

Each applicant for state certification as a state certified commercial interior designer shall:

- (1) submit an application in a form prescribed by the division;
- (2) pay a fee determined by the department under Section 63J-1-504; and
- (3) provide satisfactory evidence of ~~[(a) good moral character, and (b)]~~ having

qualified to take and having passed the examination of the National Council for Interior Design Qualification, or an equivalent body as determined by division rule.

Section ~~{122}~~123. Section **58-86-302** is amended to read:

58-86-302. Penalty for unlawful conduct.

(1) If upon inspection or investigation the division concludes that a person has violated Subsections 58-1-501(1)(a) through (d), Section 58-86-301, or a rule or order issued with respect to Section 58-86-301, and that disciplinary action is appropriate, the director or the director's designee may:

- (a) issue a citation to the person according to this chapter and any pertinent rules;
- (b) attempt to negotiate a stipulated settlement; or
- (c) notify the person to appear at an adjudicative proceeding conducted under Title

63G, Chapter 4, Administrative Procedures Act.

(2) A person who violates Subsections 58-1-501(1)(a) through (d), Section 58-86-301, or a rule or order issued with respect to Section 58-86-301, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this chapter and may, in addition to or in lieu of the fine, be ordered to cease and desist from violating Subsections 58-1-501(1)(a) through (d), Section 58-86-301, or a rule or order issued with respect to Section 58-86-301.

(3) A citation issued under this chapter shall:

- (a) be in writing;
- (b) describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

- (c) clearly state that the recipient must notify the division in writing within 20 calendar

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days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(d) clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(4) The division may issue a notice in lieu of a citation.

(5) A citation issued under this section, or a copy of the citation, may be served upon a person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure and may be made by mail or may be made personally or upon the person's agent by a division investigator or by a person specially designated by the director.

(6) (a) If within 20 calendar days from the service of the citation the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(b) The period to contest a citation may be extended by the division for cause.

(7) The division may refuse to issue or renew or may suspend, revoke, or place on probation the state certification of a state certified commercial interior designer who fails to comply with a citation after the citation becomes final.

(8) The failure of an applicant for state certification to comply with a citation after the citation becomes final is a ground for denial of state certification.

(9) No citation may be issued under this section after the expiration of [~~six months following the occurrence of a violation~~] one year following the date on which the violation that is the subject of the citation is reported to the division.

(10) The director or the director's designee shall assess fines according to the following:

(a) for a first offense handled pursuant to this section, a fine of up to \$1,000;

(b) for a second offense handled pursuant to this section, a fine of up to \$2,000; and

(c) for any subsequent offense handled pursuant to this section, a fine of up to \$2,000 for each day of continued offense.

(11) An action initiated for a first or second offense that has not yet resulted in a final order of the division does not preclude initiation of a subsequent action for a second or subsequent offense during the pendency of a preceding action.

(12) (a) A penalty that is not paid may be collected by the director by either referring

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the matter to a collection agency or by bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect the penalty.

(c) In an action brought to enforce the provisions of this section, reasonable attorney fees and costs shall be awarded to the division.

Section ~~{123}~~124. Section **63G-2-305** is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement

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proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

- (i) an invitation for bids;
- (ii) a request for proposals;
- (iii) a request for quotes;
- (iv) a grant; or
- (v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of

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property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

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(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

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(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in

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accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an

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institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

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(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

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- (a) the safety of the general public; or
- (b) the security of:
 - (i) governmental property;
 - (ii) governmental programs; or
 - (iii) the property of a private person who provides the Division of Emergency

Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

- (i) the nature of the law, ordinance, rule, or order; and
- (ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

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(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(58) information requested by and provided to the 911 Division under Section 63H-7a-302;

(59) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or

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allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under [~~Subsection~~] Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) [or] and (4);

(63) a record described in Section 63G-12-210;

(64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(65) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to,

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evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(66) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(d); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(67) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist; and

(68) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

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(69) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(70) work papers as defined in Section 31A-2-204;

(71) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(72) a record submitted to the Insurance Department in accordance with Section 31A-37-201; and

(73) a record described in Section 31A-37-503.

(74) any record created by the Division of Occupational and Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii); and

(75) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride.

Section ~~{124}~~125. Section **78B-3-416** is amended to read:

78B-3-416. Division to provide panel -- Exemption -- Procedures -- Statute of limitations tolled -- Composition of panel -- Expenses -- Division authorized to set license fees.

(1) (a) The division shall provide a hearing panel in alleged medical liability cases against health care providers as defined in Section 78B-3-403, except dentists.

(b) (i) The division shall establish procedures for prelitigation consideration of medical liability claims for damages arising out of the provision of or alleged failure to provide health care.

(ii) The division may establish rules necessary to administer the process and procedures related to prelitigation hearings and the conduct of prelitigation hearings in accordance with Sections 78B-3-416 through 78B-3-420.

(c) The proceedings are informal, nonbinding, and are not subject to Title 63G, Chapter 4, Administrative Procedures Act, but are compulsory as a condition precedent to commencing litigation.

(d) Proceedings conducted under authority of this section are confidential, privileged, and immune from civil process.

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(e) The division may not provide more than one hearing panel for each alleged medical liability case against a health care provider.

(2) (a) The party initiating a medical liability action shall file a request for prelitigation panel review with the division within 60 days after the service of a statutory notice of intent to commence action under Section 78B-3-412.

(b) The request shall include a copy of the notice of intent to commence action. The request shall be mailed to all health care providers named in the notice and request.

(3) (a) The filing of a request for prelitigation panel review under this section tolls the applicable statute of limitations until the later of:

(i) 60 days following the division's issuance of:

(A) an opinion by the prelitigation panel; or

(B) a certificate of compliance under Section 78B-3-418; or

(ii) the expiration of the time for holding a hearing under Subsection (3)(b)(ii).

(b) The division shall:

(i) send any opinion issued by the panel to all parties by regular mail; and

(ii) complete a prelitigation hearing under this section within:

(A) 180 days after the filing of the request for prelitigation panel review; or

(B) any longer period as agreed upon in writing by all parties to the review.

(c) If the prelitigation hearing has not been completed within the time limits established in Subsection (3)(b)(ii), the claimant shall:

(i) file an affidavit of merit under the provisions of Section 78B-3-423; or

(ii) file an affidavit with the division within 180 days of the request for pre-litigation review, in accordance with Subsection (3)(d), alleging that the respondent has failed to reasonably cooperate in scheduling the hearing.

(d) If the claimant files an affidavit under Subsection (3)(c)(ii):

(i) within 15 days of the filing of the affidavit under Subsection (3)(c)(ii), the division shall determine whether either the respondent or the claimant failed to reasonably cooperate in the scheduling of a pre-litigation hearing; and

(ii) (A) if the determination is that the respondent failed to reasonably cooperate in the scheduling of a hearing, and the claimant did not fail to reasonably cooperate, the division shall, issue a certificate of compliance for the claimant in accordance with Section 78B-3-418;

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or

(B) if the division makes a determination other than the determination in Subsection (3)(d)(ii)(A), the claimant shall file an affidavit of merit in accordance with Section 78B-3-423, within 30 days of the determination of the division under this Subsection (3).

(e) (i) The claimant and any respondent may agree by written stipulation that no useful purpose would be served by convening a prelitigation panel under this section.

(ii) When the stipulation is filed with the division, the division shall within 10 days after receipt issue a certificate of compliance under Section 78B-3-418, as it concerns the stipulating respondent, and stating that the claimant has complied with all conditions precedent to the commencement of litigation regarding the claim.

(4) The division shall provide for and appoint an appropriate panel or panels to hear complaints of medical liability and damages, made by or on behalf of any patient who is an alleged victim of medical liability. The panels are composed of:

(a) one member who is a resident lawyer currently licensed and in good standing to practice law in this state and who shall serve as chairman of the panel, who is appointed by the division from among qualified individuals who have registered with the division indicating a willingness to serve as panel members, and a willingness to comply with the rules of professional conduct governing lawyers in the state, and who has completed division training regarding conduct of panel hearings;

(b) (i) one ~~[member who is a]~~ or more members who are licensed health care ~~[provider]~~ providers listed under Section 78B-3-403, who ~~[is]~~ are practicing and knowledgeable in the same specialty as the proposed defendant, and who ~~[is]~~ are appointed by the division in accordance with Subsection (5); or

(ii) in claims against only ~~[hospitals or their]~~ a health care facility or the facility's employees, one member who is an individual currently serving in a ~~[hospital]~~ health care facility administration position directly related to ~~[hospital]~~ health care facility operations or conduct that includes responsibility for the area of practice that is the subject of the liability claim, and who is appointed by the division; and

(c) a lay panelist who is not a lawyer, doctor, hospital employee, or other health care provider, and who is a responsible citizen of the state, selected and appointed by the division from among individuals who have completed division training with respect to panel hearings.

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(5) (a) Each person listed as a health care provider in Section 78B-3-403 and practicing under a license issued by the state, is obligated as a condition of holding that license to participate as a member of a medical liability prelitigation panel at reasonable times, places, and intervals, upon issuance, with advance notice given in a reasonable time frame, by the division of an Order to Participate as a Medical Liability Prelitigation Panel Member.

(b) A licensee may be excused from appearance and participation as a panel member upon the division finding participation by the licensee will create an unreasonable burden or hardship upon the licensee.

(c) A licensee whom the division finds failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed \$5,000.

(d) A licensee whom the division finds intentionally or repeatedly failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed \$5,000, and is guilty of unprofessional conduct.

(e) All fines collected under Subsections (5)(c) and (d) shall be deposited in the Physicians Education Fund created in Section 58-67a-1.

(f) The director of the division may collect a fine that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(g) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a fine.

(h) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a fine.

(6) Each person selected as a panel member shall certify, under oath, that he has no bias or conflict of interest with respect to any matter under consideration.

(7) A member of the prelitigation hearing panel may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

SB0023S02 compared with SB0023S01

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) (a) In addition to the actual cost of administering the licensure of health care providers, the division may set license fees of health care providers within the limits established by law equal to their proportionate costs of administering prelitigation panels.

(b) The claimant bears none of the costs of administering the prelitigation panel except under Section 78B-3-420.